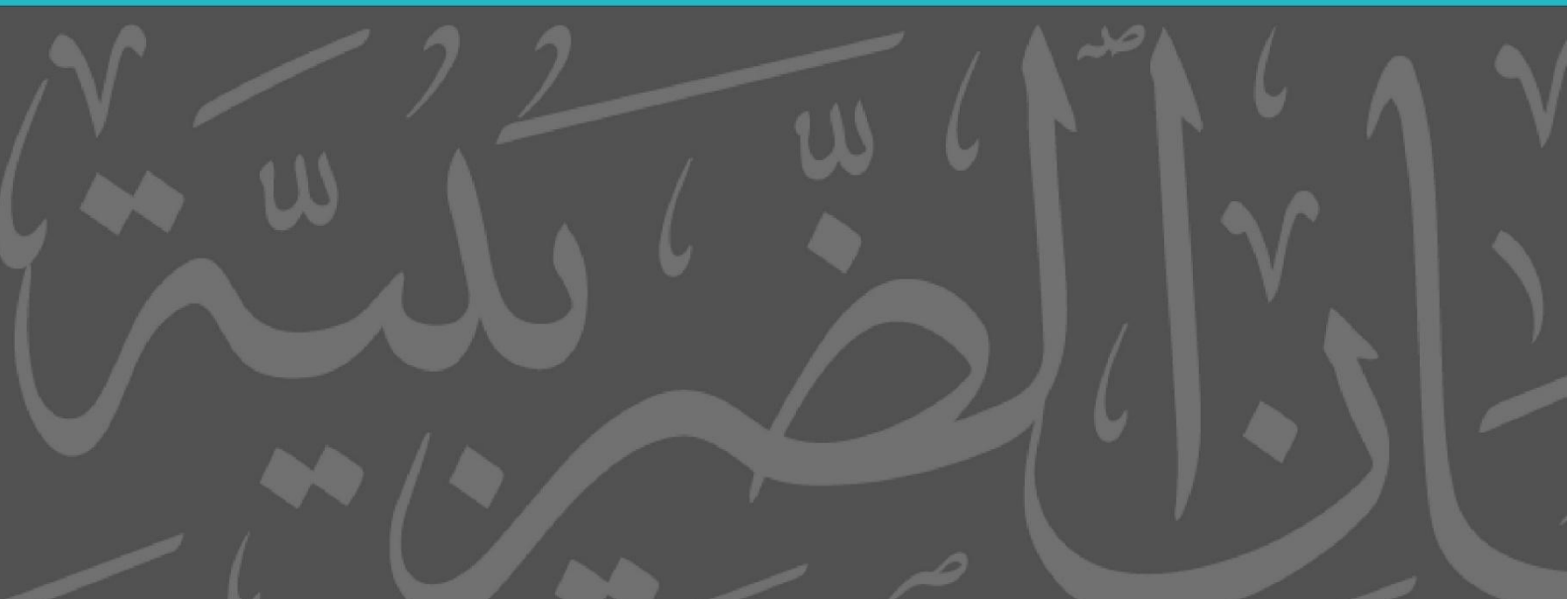




الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

**Compendium of Decisions Issued by the
Zakat and Tax Committees
for the Year 2024
(Zakat)
volume I**





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Volume I**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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Introduction

Praise be to Allah, the Lord of the Worlds, and prayers and peace be upon the most honorable messengers and the Last Prophet, our Prophet Muhammad, and upon his family, companions and followers.

It is needless to say that the efforts made by the courts and judicial Committees and the Decisions issued by them constitute a priceless jurisprudential and judicial wealth, and a result that should be given attention and care. In light of the commercial and industrial revolution that Saudi Arabia is experiencing under Saudi Vision 2030, many issues have arisen for many people in relation to zakat and tax matters. Based on the social responsibility pursued by the General Secretariat of the Zakat, Tax and Customs Committees, it has sought to establish a solid foundation and reference for committee members, Taxpayers and interested parties by publishing the final zakat decisions issued by the Zakat and Tax Committees for the year 2024, This will contribute effectively to the resolution of zakat disputes, thereby reducing the length of proceedings. These records will clarify the decisions taken by the committees, which will shorten the length of litigation for those involved, reduce the burden on the judges, and achieve the principle of transparency pursued by the General Secretariat. In addition, it makes the practical aspects available to those concerned with legal and regulatory research, particularly academic and training institutions and others.

We ask Allah, the Almighty, to make our work purely for Him, and to support our efforts and endeavors for what is good, as He is indeed a gracious benefactor.



Speech of His Excellency the Secretary-General of the Zakat, Tax and Customs Committees

Praise be to Allah alone.

Based on the vision and values of the General Secretariat of the Zakat, Tax and Customs Committees, which has taken upon itself the responsibility of excelling in resolving zakat, tax and customs disputes, adopting innovative and effective methods, promoting transparency and impartiality, and developing cooperation between the parties of the zakat, tax and customs law, and playing an effective role in raising the efficiency of legal review, thereby contributing to the achievement of the objectives of Saudi Vision 2030 through the empowerment of swift justice and the adoption of the values of transparency and innovation, by supporting the Zakat, Tax and Customs Committees in the swift adjudication of disputes brought before them, providing support and assistance to committees at all stages by conducting studies and research, and assisting those responsible for clarifying regulations, decisions and judicial precedents and updating them periodically.

The General Secretariat also placed special emphasis on the Final Decisions issued by the Committees, as they represent a summary of the established jurisprudence and are characterized by their constant possibility of development and change according to the developments in the real world, because their decisions are aimed at resolving disputes before the judicial committees.

Knowing them also limits disputes and disputes, which is a prevention, protection and assistance to them in their position before the committees, including the project of classifying and categorizing the zakat decisions issued by the zakat and tax committees.

This prestigious status of the Decisions calls for working to extract and disseminate them to the Public; in order to achieve the principle of transparency, highlight the ongoing efforts, and enrich the scientific arena; to make it a fertile ground for scholars, specialists, and research centers.

The Secretariat's role in disseminating these Decisions is an affirmation of its relentless endeavor to achieve all that would raise the level of justice as befits it, thanks to the support and guidance of the blessed leadership, which spares no effort in its generous support for the legislative and regulatory framework.

In conclusion, I would like to thank the Custodian of the Two Holy Mosques King Salman bin Abdulaziz and His Royal Highness Crown Prince Mohammed bin Salman bin Abdulaziz, Prime Minister, for their unlimited care and support for judicial activities in various fields. I would also like to thank the staff of the General Secretariat for their outstanding efforts in issuing this publication, which I hope will achieve its objectives and be a qualitative addition in the legal field.

Secretary-General

Abdullah bin Abdulrahman Al-Suhaibani



Methodology

The General Secretariat took care to select rulings that were comprehensive in nature and relevant to the merits to achieve the desired outcome. Given the importance of describing the cases before the zakat, tax and customs committees and their impact on the reasoning and basis for the decision, as this is the outcome sought by the parties to the case, Given the different facts and circumstances of zakat cases, it was necessary to categorize the final zakat decisions issued by the zakat and tax committees for the year 2024 so that researchers could review the committees' opinions on those defenses.

Based on the role of the General Secretariat of the Zakat, Tax and Customs Committees in adopting and applying the principles of continuous improvement and development in the management of zakat, tax and customs disputes, with the aim of enabling the swift resolution of such disputes, care and attention has been given to classifying and publishing the final zakat decisions issued by the zakat and tax committees. Accordingly, it was necessary to develop a comprehensive plan to publish these decisions in an easy and accessible manner. The process was divided into several stages, as follows:

- Zakat decisions issued by the Zakat and Tax Committees were inventoried accurately during 2024.
- Keywords have been set to make it easier to search through them.
- The name of the circuit issuing the decision, the number of the decision, and the date of issuance were listed.
- A summary of the case which summarizes the most important parts of the case was developed.
- Ensuring the deletion of all data indicating the parties to the lawsuit or other parties without affecting the Decision.
- Verifying the integrity of the Decision from a linguistic and spelling perspective.
- Categorising the Decisions by subject matter and placing them under the most relevant category.
- In categorizing and indexing the resolutions thematically, the Secretariat relied on the topics of the Law and its executive regulations, so that the resolutions are listed according to their appearance in the Law and its executive regulations.



- The Secretariat relied on the methodology of excluding similar decisions, as the similarity criterion is that the terms of the decisions and the requests of the lawsuit and its judgment are the same, even if the parties differ.
- Adhere to the text of the decision, including its facts, reasons and operative parts, without any addition or modification except for spelling and grammatical errors.



Procedural Zakat Decisions Issued by the Zakat and Tax Committees



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-167912

Case No. Z-2023-167912

Keywords:

Zakat-Zakat Assessment- procedural-Appeal Not Accepted

Summary:

The Taxpayer's appeal against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (Z-2021-66235), where his appeal lies on the clause (Owner's Current), the clause (Accrued Expenses), and the clause (Trade Creditors). The Appellate Committee established from the case documents that the Taxpayer was informed of the decision of the Adjudication Circuit through the automated system of the General Secretariat of Zakat, Tax and Customs Committees (Hayyad) on 11/12/2022, and filed an appeal on 05/01/2023, which means that the appeal was filed after the expiration of the statutory period. This means that the appeal is not accepted procedurally.

Document:

- Paragraph (2) of Article (40) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal was heard on 05/01/2023, from ... Identity number (...) In his capacity as the statutory representative of the appellant company under the Memorandum of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2332) issued in Case No. (Z-2021-66235) related to the 2017 Zakat assessment, filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1) Reject the plaintiff's objection with respect to the owner's neighbor clause.
2. Modify the defendant's decision with respect to the clause of accrued expenses.
3. Modify the Defendant's decision with respect to the trade receivables clause.



Since this decision was not accepted by the Taxpayer (Company ...), he filed an appeal list in which he demanded the reversal and annulment of the decision of the Adjudication Circuit.

On Monday, 22/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated 21/4/1441 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

After reviewing the working rules of the committees for adjudicating tax violations and disputes issued by Royal Decree No. (26040) dated 21/4/1441 AH. And related regulations. The Circuit considers the merits of the dispute, and since the period prescribed for appealing the decisions issued by the Circuits of the Tax Violations and Disputes Adjudication Committee in accordance with the text of paragraph (2) of Article (40) of the working rules of the Tax Violations and Disputes Adjudication Committees is (30) days starting from the day following the date specified for receiving the decision, and since it is proven from the documents of the case the Taxpayer was informed of the decision of the Adjudication Circuit through the automated system of the General Secretariat of Zakat, Tax and Customs Committees (Hayyad) on 11/12/2022, and filed an appeal on 05/01/2023, which makes the appeal submitted after the expiration of the statutory period, which leads the Circuit to conclude that the appeal is inadmissible procedurally because it was submitted after the expiration of the statutory period.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

Not accepting the appeal procedurally submitted by the Taxpayer/company commercial Register No. (...), distinctive number (...), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2332) issued in Case No. (Z-2021-66235) related to the Zakat assessment for the year 2017AD.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR-2024-168831

Case No. Z-2023-168831

Keywords:

Zakat-Estimated Assessment- procedural-Amount of claim less than 50K-Dismissal of appeal on the basis of form

Summary:

The Taxpayer's objection to the decision of the First Circuit of Income Tax Violations and Disputes in Dammam (IZD-2022-2561), where the Taxpayer's appeal lies on the estimated Zakat assessment. Whereas the Appellate Committee proved from the case documents that the amount in dispute did not exceed (fifty thousand riyals), and whereas Article (42) of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. 26040 dated 21/4/1441 AH stipulates that: "The decisions of the dismissal committee shall be finalized in the following cases: 1- Claims whose value does not exceed fifty thousand riyals. This means that the appeal is not accepted procedurally.

Document:

- Article (42) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal filed on 11/01/2023, from ..., National ID No. (...) Was considered in its capacity as the owner of the appellant organization, the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam, Case No. (IZD-2022-2561) issued in Case No. (Z-2021-82763) related to the estimated Zakat assessment for the year 1439H, filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Resolution Circuit ruled as follows:

- Rejecting the plaintiff's objection regarding the estimated Zakat assessment for 1439 AH.



Since this decision was not accepted by the Taxpayer (... Schools), he filed an appeal list in which he demanded that the decision of the Adjudication Circuit be reversed and annulled.

On Sunday, 28/01/2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated 21/4/1441 AH: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit found no reason to require the presence of the parties to the appeal, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

After reviewing the working rules of the committees for adjudicating tax violations and disputes issued by Royal Decree No. (26040) dated 21/4/1441 AH. And related regulations. Whereas it is evident from the decision that is the subject of the appeal and from the case documents that the amount in dispute did not exceed (fifty thousand riyals), and whereas Article 42 of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. 26040 dated 21/4/1441 A.H. stipulates that "The decisions of the dismissal committee shall be finalized in the following cases: 1- Claims whose value does not exceed (fifty thousand riyals)", and since the value of this case did not exceed fifty thousand riyals, this circuit concludes that the decision of the Adjudication Circuit has acquired final status, and therefore, this circuit decides to reject the Taxpayer's appeal procedurally.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

Not accepting the appeal procedurally, submitted by the Taxpayer / schools ..., commercial registration (...), unique number (...) Against the decision of the First Circuit of Income Tax Violations and Disputes in Dammam (IZD-2022-2561) issued in Case No.(Z-2021-82763) regarding the estimated Zakat assessment for the year 1439 AH, in order for the decision of the Circuit of Determination to acquire final status.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-192873

Case No. Z-2023-192873

Keywords:

Zakat-Zakat assessment- procedura -Non-jurisdictional-acceptance of appeal procedurally

Summary:

The Taxpayer's objection to the decision of the First Circuit for adjudicating income tax violations and disputes in Riyadh (IFR-2023-168942) regarding the Zakat assessment for the year 1440 A.H. whereas it was proven to the Appellate Committee that the decision of the Adjudication Circuit that is the subject of the petition is not final during the consideration of the petition by the Adjudication Circuit and is subject to objection at the appeal level, the Adjudication Circuit erred in its judgment and should have dismissed the case and ruled that it has no jurisdiction to consider the petition based on Article (76) of the Sharia Procedure Law, which stipulates that: "The defense of the court's lack of jurisdiction... It may be pleaded at any stage of the proceedings and shall be ruled on by the court sua sponte." this means accepting the appeal procedurally and annulling the decision of the Adjudication Circuit for lack of jurisdiction.

Document:

- Article (47,49,51) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)
- Article (76) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)

Facts:

The appeal was heard on: 27/04/2023, from/..., National ID No. (...) In his capacity as the owner of the appellant organization under the commercial registry, on the decision of the First Circuit for adjudicating income tax violations and disputes in Riyadh city, No. (IFR-2023-168942) issued in case No. (Z-2023-168942) related to the Zakat assessment for the year 1440 AH, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the Adjudication Circuit decision ruled as follows:



The petition for reconsideration filed by ...(distinctive number ...) Is inadmissible.

This decision was not acceptable to the Taxpayer (the ... Organization), so he filed an appeal list, which was reviewed by the Circuit and included the following statement: The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

On Sunday, 07/07/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated 8/4/1445AH: after reviewing the appeal request, the pleadings submitted, and the papers and documents in the case file, and after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



The Circuit considered the merits of the dispute, and after reviewing the papers and documents contained in the case file, and where Article 47 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) dated 21/04/1441 AH stipulates that: the decisions of the Appellate Committee shall be final and not subject to appeal to any other judicial body." after reviewing the relevant cases, a decision was issued by this circuit in the appeal case No. (Z-2021-46764), which stated: "First: Acceptance of the appeal procedurally from the appellant Taxpayer/ corporation ..., commercial register (...), distinctive number (...) Against the decision of the first authority for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2021-198) issued in case number (Z-2020-5725) related to the Zakat assessment for the year 2017. Secondly: On the merits: on 11/01/2023, the Taxpayer's appeal was rejected and the decision of the Adjudication Circuit was upheld, in accordance with the reasons and reasons contained in this decision." This decision was issued on 11/01/2023, based on Article (49) of the Zakat and Tax Committees Work Rules, which stipulates that "any of the parties to the case may request reconsideration of the final decisions issued by either of the two committees," and based on Article (51) of the same rules, which stipulates that "the Circuit issuing the final decision against which the petitioner is appealing shall consider and decide on the request for reconsideration based on the above, and since the deciding factor in considering the request for reconsideration is the finality of the decision, and since the decision of the Adjudication Circuit, which is the subject of the petition, was not final during the Adjudication Circuit's consideration of the petition and is subject to objection at the appeal level, the Adjudication Circuit erred in its ruling and should not have considered the case and ruled that it has no jurisdiction to consider the petition based on Article (76) of the Sharia Procedure Law which stipulates that it should not consider the petition: "The defense of the court's lack of jurisdiction... It may be raised at any stage of the proceedings and the court shall rule on its own motion." Accordingly, the Circuit concludes that



the appeal should be accepted procedurally, and that the decision of the Appeals Circuit should be annulled and the jurisdictional jurisdiction of the Court of Cassation over the case should be ruled on the merits.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the appellant Taxpayer/ corporation ..., commercial register (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Riyadh with number (IFR-2023-168942) issued in case number (IFR-2023-168942) related to the zakat assessment for the year 1440 AH.

Secondly: On the merits:

Cancel the decision of the Adjudication Circuit for lack of jurisdiction.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-170845

Case No. Z-2023-170845

Keywords:

Zakat – Zakat assessment – procedural – Previously ruled on – Appeal accepted on procedural grounds

Summary:

The Zakat, Tax and Customs Authority's objection to the decision of the Third Circuit for adjudicating income tax violations and disputes in Riyadh (IFR-2022-6645) regarding the Zakat assessment for the years 2007 to 2012. The Appellate Committee found that the merits of the case was previously decided by the First Appeals Circuit for Income Tax Violations and Disputes by decision No. (IR-2024-170843) issued in appeal No. (Z-2023-170843). This means that the appeal is accepted in form and in substance, and the case cannot be heard because it has already been adjudicated.

Document:

- Article (76) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)

Facts:

The appeal was heard on: 19/01/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh, No. (IFR-2022-6645) issued in Case No. (Z-2021-36562) regarding the Zakat assessment for the years 2007 to 2012, in the case filed by the Defendant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

Accept the plaintiff's objection..... , Commercial Register No. (...) The decision of the Defendant/Zakat, Tax and Customs Authority is upheld procedurally, and the Defendant's decision is overturned On the merits.



This decision was not acceptable to the appellant (the Zakat, Tax and Customs Authority), so it filed a list of appeals, which was reviewed by the Circuit and included the following statement: The Authority requests that its appeal be accepted and that the decision of the Adjudication Circuit be overturned.

On Thursday, 15/2/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article XV, Clause 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated 21/4/1441 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Since the examination of the jurisdiction to hear this case is one of the preliminary issues before considering its merits, the Circuit must determine the extent of its jurisdiction to hear the case, and once it finds that it is outside its jurisdiction, it must rule on its own initiative that the case cannot be heard, and Article (76) of the Sharia Procedure Law stipulates that: "... The defense of inadmissibility of the case due to its prior adjudication may be raised at any stage of the case, and the court shall rule on it sua sponte." Whereas it is established that the merits of the case has already been decided by the First Appeals Circuit for Income Tax Violations and Disputes by decision No. (IR-2024-170843) issued in appeal No. (Z-2023-170843) since it is well established in jurisprudence and jurisprudence that it is not permissible to consider a case that has already been decided by a final judgment unless it is overturned or reconsidered in accordance with the law, as this would undermine the authority of judicial rulings, destabilize their stability and endless sequences, and weaken the status of the judiciary before the public, in addition to the confusion it causes in implementation and differences in application, the inadmissibility of the case because of its previous adjudication this is nothing more than the negative effect of the authority of res judicata, which prevents the same dispute that has been resolved by a final judicial ruling from being revisited before any other court in a new suit in which the same dispute is raised, provided that both the previous and subsequent suits meet the unity of the litigants, venue and cause, which leads the Circuit to reach the ruling contained in its operative part and to adjudicate.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the appellant, the Zakat, Tax and Customs Authority, against the decision of the third division regarding violations and disputes of income tax in Riyadh with



number (IFR-2022-6645) issued in case number (Z-2021-36562) related to the zakat assessment for the years 2016 to 2018.

Secondly: On the merits:

The case is inadmissible due to res judicata.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-115158

Case No. Z-2022-115158

Keywords:

Zakat-Zakat assessment-procedural-Filing a case without standing-accepting the Authority's appeal procedurally-Disallowing the Taxpayer's appeal procedurally

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the First Circuit for adjudicating income tax violations and disputes in Dammam (IZD-2022-533) regarding the Zakat assessment for the years 2014 and 2015. The Appellate Committee found that the Taxpayer is a licensed lawyer who submitted and signed the appeal application on his own stationery, while he was required to submit applications and regulations on his own stationery based on Article (13/01) of the Executive Regulations of the Lawyer's Law. As for the Authority's appeal, and upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. This means that the Taxpayer's appeal is inadmissible on the merits and the Authority's appeal is admissible on the merits.

Document:

- Article (7) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)
- Article (13/1) of [the Executive Regulations of the Lawyers Law promulgated by Royal Decree No. M/38 dated 28/7/1422 AH.](#)

Facts:

The appeal filed on 12/04/2022, from/... National ID number (...) As agent for the appellant company under Agency No. (...) License to practice law No. (...) And the Zakat, Tax and Customs Authority (ZTCA), on the



decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (IZD-2022-533) issued in Case No. (Z-2020-30506) related to the Zakat assessment for the years 2014 and 2015, in the case filed by the appellant against the ZTCA, in which the Adjudication Circuit's decision ruled as follows: The appellant's case is filed against the Zakat, Tax and Customs Authority (ZTCA):

- 1 annulment of the defendant's decision regarding the 2014 Zakat assessment.
- 2 loans and financing sources in excess of the current year and loans that financed fixed assets:
 - A- overturning the defendant's 2014 decision.
 - B- Plaintiff's 2015 objection denied.
- 3 regarding the non-deductibility of investment in a company (...):
 - A- overturning the defendant's 2014 decision.
 - B- Proof of end of dispute for 2015.
- 4 recognize the end of the dispute regarding the 2014 spare parts inventory clause.
- 5 regarding the fuel and oil inventory clause that is not intended for sale:
 - A- overturning the defendant's 2014 decision.
 - B- Plaintiff's 2015 objection denied.
- 6 dismissing the plaintiff's objection with respect to the project payments clause (...) For 2015.
- 7 defendant's decision in relation to a claims clause from ... For 2015.

This decision was not accepted by the Taxpayer (Company ...), who filed a list of appeals, which was reviewed by the Circuit and included the substance that the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit on the clauses under appeal be reversed. This decision was also not accepted by the Authority, which filed a list of appeals, which was reviewed by the Circuit and included the substance that the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Tuesday, on: on 20/02/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; and by calling on the opponents, the ... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...). (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445 A.H., the defendant's representative was asked what she



wished to add, and she stated that she adheres to what was previously submitted in this case. When the plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the hearing and deliberations.

Grounds:



After examining the case file and ascertaining the status of the parties to the lawsuit is a preliminary matter that must be decided before entering into the merits of the case, the Circuit reviewed the submitted appeal list, and found that the applicant is a licensed lawyer who submitted and signed the appeal request on his own stationery, while he was required to submit requests and regulations on his own stationery based on Article (13/01) of the Executive Regulations of the Lawyers Law , which stipulates that "a lawyer must take his own papers to submit his writings to the authorities, and include his name, headquarters name, and the name of the main office, and the name of the lawyer's headquarters based on Article(7) of the Rules of Procedure of the Tax Disputes and Violations Adjudication Committees, which stipulates that "the representation of the parties to the case shall be in accordance with the provisions of the Lawyers Law and its Executive Regulations." Since the appellant did not comply with the necessary conditions for valid representation, the Circuit concludes that the appeal is inadmissible because it was filed by a person without standing.

Whereas, with regard to the Authority's appeal, upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal is procedurally accepted because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, and after reviewing the Authority's appeal, and since there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since it is established that the decision under appeal regarding the dispute regarding the clauses under appeal was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Procedurally:

1- Inadmissibility of the appeal procedurally by the Taxpayer / Company ..., Commercial Register (...), Unique Number (...) Against the decision of the First Circuit of Income Tax Violations and Disputes in Dammam (IZD-2022-533) issued in Case No.(Z-2020-30506) related to the Zakat assessment for the years 2014 and 2015, due to the fact that it was filed without status.

Accepting the appeal procedurally from its submitter/ Zakat, Tax and Customs Authority, against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam with the number (IZD-2022-533) issued in case number (Z-2020-30506) related to the zakat assessment for the year 2015.

Secondly: On the merits:

1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the 2014 Zakat assessment (statute of limitations) and its subordinate clauses.

2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Claims of ... For 2015AD).



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-206810

Case No. Z-2023-206810

Keywords:

Zakat-Zakat Assessment -procedural-Denial of Reconsideration Petition

Summary:

The Taxpayer's objection to the decision of the First Appeals Circuit for Income Tax Violations and Disputes (IR-2023-98388) regarding the 2018 Zakat assessment. The Appellate Committee found that the petitioner requested the annulment of the Committee's decision and argued (paragraph (1/d) and paragraph (1/e) of Article (200) of the Shari'a Procedure Law), and considering the reasons included in the petition request, it was found that what was stated in it does not correspond to the paragraphs in Article (200) of the Shari'a Procedure Law. This means that the petition for reconsideration is inadmissible.

Document:

- Article (200) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)

Facts:

The petition filed on 17/9/2023 by /..., National ID No. (...) Was considered as an agent for the appellant company under agency No. (...), on the decision of the First Appellate Circuit for Income Tax Violations and Disputes (IR-2023-98388) issued in Case No. (Z-2022-98388) related to the 2018 Zakat assessment, filed by the appellant against the Zakat, Tax and Customs Authority, in which the Appellate Circuit's decision ruled as follows:

First: Acceptance of the appeal procedurally from the Taxpayer/Company ..., commercial register (...), distinctive number (...). Against the decision of the first authority for adjudicating violations and disputes of income tax in Riyadh with number (IZD-2022-297) issued in case number (Z-2020-59212) related to the Zakat assessment for the year 2018.



Second: On the Merits:

Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit, according to the reasons and rationale provided in this decision.

Unhappy with this decision, the Taxpayer (...) Filed a petition for reconsideration, which was reviewed by the Circuit and included a request to reverse and annul the Appeals Circuit's decision.

On Sunday, 18/2/2024 the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause (2) of Article (15) of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated 21/4/1441 AH: after reviewing the petition, examining the contents of the case file, and deliberating according to the law, and finding no reason to require the presence of the parties to the petition, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



After reviewing the reasons contained in the request for reconsideration, the Appellate Committee found that the petitioner requests the annulment of the Committee's decision and argues (paragraph (1/d) and paragraph (1/e) of Article (200) of the Sharia Procedure Law). In considering the reasons contained in the petition request, the Appellate Committee found that what is stated therein does not correspond to the paragraphs in Article (200) of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH, which states that: 1- Any of the parties has the right to request a reconsideration of the final judgments in the following cases: A - If the ruling was based on documents that were later found to be forged, or was based on a testimony issued - by the competent authority after the ruling - that it was a false testimony. B- If the applicant obtained conclusive documents in the case after the ruling, it was impossible for him to present them before the ruling. G - If the opponent commits fraud that could affect the ruling. D - If the ruling decided on something that the litigants did not request or ruled more than what they requested. H - If the wording of the ruling contradicts itself. And - if the ruling is in absentia. Z - If the ruling is issued against someone who was not properly represented in the case.. 2- A person against whom the judgment is conclusive and who has not entered or intervened in the case has the right to seek reconsideration of the final judgments." This means that the petition should not be accepted.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

Inadmissibility of the petition for reconsideration filed by the Taxpayer/company ..., commercial registration (...), unique number (...) Against the decision of the First Appeals Circuit for Income Tax Violations and Disputes (IR-2023-98388) issued in Case No.(Z-2022-98388) regarding the 2018AD Zakat assessment.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-177175

Case No. Z-2023-177175

Keywords:

Zakat- Estimated Assessment-procedural-not hearing the case-not accepting the appeal procedurally

Summary:

The Taxpayer's objection to the decision of the Second Circuit for adjudicating income tax violations and disputes in Riyadh (ISR-2022-1761) regarding the estimated Zakat assessment for the year 1435 AH. The Appellate Committee established from the case documents that the Taxpayer was informed of the decision of the Adjudication Circuit through the automated system of the General Secretariat of Zakat, Tax and Customs Committees (Hayyad) on 09/01/2023, and filed an appeal on 09/02/2023, which means that the appeal was filed after the expiration of the statutory period. This means that the appeal is not accepted procedurally.

Document:

- Article (40/2) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal filed on 09/02/2023, from/... National ID number (...) In his capacity as the owner of the appellant organization, on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1761) issued in Case No. (Z-2022-132578) related to the estimated Zakat assessment for the year 1435 AH, filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Not hearing the case filed by the plaintiff (...), National ID No. (...), owner of (...), commercial registration No. (...), against the defendant/Zakat, Tax and Customs Authority, as stated in the reasons.



Since this decision was not accepted by the Taxpayer (the ... Organization), he filed an appeal, asking for the reversal and annulment of the decision of the Adjudication Circuit.

On Wednesday, 24/4/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated 08/04/1445 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

After reviewing the working rules of the committees for adjudicating tax violations and disputes issued by Royal Decree No. (25711) dated 08/4/1445AH. And related regulations.

The Circuit considers the merits of the dispute, and since the period prescribed for appealing the decisions issued by the Circuits of the Tax Violations and Disputes Adjudication Committee in accordance with the text of paragraph (2) of Article (40) of the working rules of the Tax Violations and Disputes Adjudication Committees is (30) days starting from the day following the date specified for receiving the decision, and since it is proven from the documents of the case the Taxpayer was informed of the decision of the Adjudication Circuit via the automated system of the General Secretariat for Zakat, Tax and Customs Committees (Hayyad) on 09/01/2023, and filed an appeal on 09/02/2023, which makes the appeal submitted after the expiration of the statutory period, which leads the Circuit to conclude that the appeal is not accepted procedurally because it was submitted after the expiration of the statutory period.

Decision:

Not accepting the appeal procedurally, submitted by the Taxpayer/institution of ... Commercial Register No. (...), distinctive number (...), against the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022-1761) issued in Case No. (Z-2022-132578) related to the estimated Zakat assessment for the year 1435 AH, for submitting it after the expiration of the legally prescribed period.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-189221

Case No. Z-2023-189221

Keywords:

Zakat- Zakat Assessment -procedural-not fulfilling the requirements of the law-appeal not accepted

Summary:

The Taxpayer's objection to the decision of the Third Circuit for adjudicating income tax violations and disputes in Riyadh (IFR-2022-6171) regarding the Zakat assessment for the years 1441 A.H. and 1442 A.H. the General Secretariat of the Zakat, Tax and Customs Committees requested the Taxpayer to submit an appeal list explaining his requests and the reasons for his objection, but the Taxpayer did not respond to this request. This means that the appeal is not accepted procedurally.

Document:

- Article (43) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal filed on 18/03/2023 by (...), National ID No. (...), in her capacity as the owner of the appellant organization under the commercial register, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2022-6171) issued in Case No. (Z-2022-97826) related to the Zakat assessment for the years 1441AH and 1442H, filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: "The appellant shall not be liable for the Zakat, Tax and Customs Authority:

The case is inadmissible in procedurally.

On Wednesday, 24/4/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article



15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated 8/4/1445 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

After reviewing the working rules of the committees for adjudicating tax violations and disputes issued by Royal Decree No. (26040) dated 21/4/1441 AH. And related regulations.

The Circuit examined the merits of the dispute and found that the Taxpayer submitted his appeal against the Circuit's decision through the website portal of the General Secretariat of Zakat, Tax and Customs Committees (Hayyad) and did not fulfill the required data to submit the appeal in accordance with Article (43) of the Rules of Work of the Tax Violations and Disputes Resolution Committees, which stipulates that "The appeal request shall be submitted by a newspaper addressed to the Appellate Committee through the General Secretariat in accordance with the form prepared for that purpose..." paragraph (c) of Article (2) of the Executive Regulations for Appeal Procedures issued by Ministerial Decision No. (5134) dated 21/09/1440 AH stipulates that "The memorandum of objection shall be submitted to the court of first instance, including the following data: article (13) of the same regulation stipulates that "if the appeal request does not fulfill the data stipulated in Article 2, paragraph (C/1) of the regulation, the court shall rule it inadmissible." The General Secretariat of the Zakat, Tax and Customs Committees requested the Taxpayer to submit an appeal list explaining his requests and reasons for his objection, but the Taxpayer did not respond to that request, which led the Circuit to conclude that the appeal was inadmissible procedurally because it did not fulfill the requirements prescribed by law.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

Not accepting the appeal procedurally, submitted by the Taxpayer / organization ..., Commercial Register No. (...), distinctive number (...) Against the decision of the Third Circuit to adjudicate income tax violations and disputes in Riyadh (IFR-2022-6171) issued in Case No.(Z-2022-97826) related to the Zakat assessment for the years 1441 AH and 1442 AH, in accordance with the reasons and arguments contained in this decision.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-167902

Case No. Z-2023-167902

Keywords:

Zakat-Zakat Assessment -complaint dismissed-appeal not accepted procedurally

Summary:

The Taxpayer's objection to the decision of the First Circuit to adjudicate income tax violations and disputes in Dammam No. (IZD-2022-2593) regarding the Zakat assessment for the years 2009 and 2010. The Appellate Committee found that the decision to deem the case as not having been filed does not constitute a decision that has a procedural or substantive impact On the merits of the dispute to be appealed, given that the person against whom a decision was issued to dismiss the case as not having been filed may file a case with a new entry in the adjudication Circuit. This means that the appeal is not accepted procedurally.

Document:

- Article (20) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal filed on 05/01/2023, by ... Company, commercial registration (...), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2593) issued in Case No. (Z-2021-69359) related to the Zakat assessment for the years 2009 and 2010, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Dismissal of the lawsuit filed by the plaintiff/company ... , Commercial Register No. (...) Against the defendant/Zakat, Tax and Customs Authority.



As this decision was not acceptable to the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit and included the following: The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit on the clauses that are the subject of his appeal.

On Wednesday, 24/01/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated 21/4/1441 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

After reviewing the working rules of the committees for adjudicating tax violations and disputes issued by Royal Decree No. (26040) dated 21/4/1441 AH. And related regulations.

The Circuit considered the merits of the dispute, and after reviewing the challenged decision that was issued to strike out the case and deem it as if it never existed, and where Article (20) of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes stipulates that "If the plaintiff fails to appear at any session that has been notified to him on the date set for its consideration and does not present an excuse acceptable to the Circuit, it must adjudicate the case if it is ready to adjudicate it. 2 if the case is not ripe for adjudication, the Circuit shall strike out the case, and if the period of thirty (30) days from the date of striking out the case expires and the plaintiff does not request to proceed with the case after it has been struck out or does not appear after the case has been reopened at any other session, the case shall be considered as if it was not filed, and the plaintiff may - without prejudice to the time limit for hearing the case - file a case with a new entry." the decision to deem the case as not having been filed is not a decision that has a procedural or substantive impact On the merits of the dispute to be appealed, as the person against whom a decision was issued to dismiss the case as not having been filed may file a case with a new entry with the Adjudication Circuit, which determines that the appeal is inadmissible by this Circuit.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

Not accepting the appeal procedurally from the Taxpayer / Company ..., Commercial Register (...), against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City



No. (IZD-2022-2593) issued in Case No. (Z-2021-69359) related to the Zakat assessment for the years 2009 and 2010AD.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-167484

Case No. Z-2023-167484

Keywords:

Zakat-Zakat assessment - procedural -Supporting the dismissal of the case on the basis of form-Appeal accepted on the basis of form

Summary:

The Taxpayer's objection to the decision of the Third Circuit for adjudicating income tax violations and disputes in Riyadh (IFR-2022-6596) related to the Zakat assessment for the year 1434 A.H. The decision of the Adjudication Circuit ruled that the objection is inadmissible from a procedural point of view. The Appellate Committee found that the decision under appeal regarding the dispute regarding the contested clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of the decision. This means that the appeal is accepted procedurally and the decision of the Adjudication Circuit is upheld in substance.

Document:

- [Regulations for the operation of Zakat, tax, and customs committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)

Facts:

The appeal was heard on: 01/01/2023 AD, from (...), National ID No. (...), on the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh City (IFR-2022-6596) issued in Case No. (Z-2022-138728) regarding the Zakat assessment for the year 1434 AH, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

"Not accepting the objection on the merits."



This decision was not acceptable to the Taxpayer (...), so he filed a list of appeals, which was reviewed by the Circuit and included the following statement: The Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit be overturned.

On Sunday, on: 21/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of Article 15, Clause No.(2) of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated 21/4/1441 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, and after reviewing the appeal, and since there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was in accordance with the valid reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... National ID number (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6596) issued in case number (Z-2022-138728) related to the Zakat assessment for the year 1434 AH.



Secondly: On the merits:

Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit, according to the reasons and rationale provided in this decision.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-191502

Case No. Z-2024-191502

Keywords:

Zakat-Zakat assessment-proceduralities-No shop-Appeal accepted procedurally by the Authority-Appeal accepted procedurally by the Taxpayer

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-03) regarding the 2019 Zakat assessment. Whereas, the Appellate Committee found that the Authority notified the Taxpayer on 03/04/2022 "within the statutory deadline of (90) days" that it canceled its decision dated 07/11/2021 for the purpose of re-examination and assessment and to issue its decision in accordance with the financial statements prepared for a special purpose for 2019, and explained to the Taxpayer that he has the right to object to the assessment after its issuance, and that he has the right to object to the assessment after its issuance when the Taxpayer escalated his case with the Secretariat on 04/07/2022 AD, the Authority notified him on 14/11/2022 AD again, confirming that the result of the objection is a re-examination for the purpose of re-examination, and that under the re-examination decision, the previous decision becomes null and void, it is clear that there is no decision from the Authority and that the case is based on a null and void decision. This means accepting the Authority's and the Taxpayer's appeal procedurally and dismissing the Authority's and the Taxpayer's appeal in substance.

Document:

- [Regulations for the operation of Zakat, tax, and customs committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)



Facts:



The appeal filed on 04/04/2023, by (...), National ID No. (...), as agent for the appellant company under agency No. (...), was considered and the Zakat, Tax and Customs Authority (ZTA), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2023-03) issued in Case No. (Z-2022-136110) related to the 2019 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: rejecting the plaintiff's objection to the provision disallowing investment in real estate for development and sale as a deduction from the 2019 zakat base.

Second: accepting the claimant's objection to the investment in local entities clause for 2019.

Third: the plaintiff's objection to the investment clause in the ... In Mecca for 2019.

Fourth: the plaintiff's objection to the investment clause in the ... In Mecca for 2019.

Fifth: rejected the plaintiff's objection to the provision disallowing restricted cash as a deduction from the 2019 zakat base.

Sixth: rejecting the plaintiff's objection to the clause of liabilities against leases added to the Zakat base for 2019.

Seventh: rejecting the plaintiff's objection to the clause of adding liabilities/receivables to related parties to the Zakat base for 2019.

Eighth: accepting the plaintiff's objection to the reserve clause for advance payments to some founders that were not allowed as a deduction from the Zakat base for 2019.

Ninth: rejecting the plaintiff's objection to the liabilities and other payables clause added to the Zakat base for 2019.

Tenth: defendant's action on the Other Amendments Clause for 2019.

Eleventh: the plaintiff's objection to the disallowance of contractual fees and penalties for 2019 is sustained.

Twelfth: disregard the material error clause in the zakat for 2019.

Thirteenth: ten: plaintiff's objection to the disallowance of tax deductions for 2019 is denied.

This decision was not accepted by the Taxpayer (Company ...), who filed a list of appeals, which was reviewed by the Circuit and included the substance that the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit on the clauses under appeal be reversed. This decision was also not accepted by the Authority, which filed a list of appeals, which was reviewed by the Circuit and included



the substance that the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Tuesday, on: on 13/2/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause No. (2) of Article 15 of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; and by calling on the opponents, she/he attended ... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) I attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445 AH., the representative of the Authority was asked what she would like to add, and she stated that she adheres to what was previously submitted in this case. When the Taxpayer's agent was presented with this, she replied that she maintained her previous submissions in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the hearing and deliberations.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Taxpayer's appeal and the Authority, and where the Authority notified the Taxpayer on 03/04/2022 AD "within the statutory deadline of (90) days" that it canceled its decision dated 07/11/2021 AD for the purpose of re-examination and assessment and to issue its decision in accordance with the financial statements prepared for a special purpose for 2019 AD, and explained to the Taxpayer that he has the right to object to the assessment after its issuance when the Taxpayer escalated his case with the Secretariat on 04/07/2022 AD , the Authority notified him on 14/11/2022 AD again, confirming that the result of the objection is a re-examination, and that under the re-examination decision, the previous decision becomes null and void, it is clear that there is no decision from the Authority and that the lawsuit is based on a null and void decision. With regard to the Taxpayer's request to dismiss the case for the year 2019AD, where he indicated that the Authority stated that there is no assessment for the year 2019AD, and therefore it is understood from the Authority's action by canceling the assessment that it accepted the company's objection and canceled its assessment in its entirety for the year under appeal, and where the Authority canceled the decision for the purpose of re-examination and assessment, as it clarified this to the Taxpayer and that he has the right to object again to the assessment after it was issued, and therefore there



is no validity to the Taxpayer's statement that the Authority accepted the objection, which leads the Circuit to dismiss the case for lack of place and consider the decision null and void.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2023-03) issued in case number (Z-2022-136110) related to the zakat assessment for the year 2019AD.

Secondly: in terms of subject matter:

- 1- Dismissing the Authority's appeal.
- 2- Dismiss the Taxpayer's appeal.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-187825

Case No. Z-2023-187825

Keywords:

Zakat-Zakat assessing-procedural-Decision becomes final-Disallowance of appeal procedurally

Summary:

The Taxpayer's objection to the decision of the First Appeals Circuit for Income Tax Violations and Disputes (IR-2022-1510) regarding the 2016AD Zakat assessment. The Appellate Committee found that the appeal in question was filed against a reconsideration decision issued by this Circuit, and that the decisions of the Appellate Committee are final and not subject to appeal to any other body. This means that the appeal is not accepted procedurally.

Document:

- Article (47) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal filed on 16/03/2023AD by ... Against the decision of the First Appellate Circuit for Income Tax Violations and Disputes No. (IR-2023-168238) issued in Case No. (Z-2023-168238) related to the Zakat assessment for 2016AD, filed by the appellant against the Zakat, Tax and Customs Authority, was considered, in which the Appellate Circuit's decision ruled as follows:

Inadmissibility of the petition for reconsideration filed by ..., national identity number (...), unique number (...) Against the decision of the First Appeals Circuit for Income Tax Violations and Disputes (IR-2022-1510) issued in Case No. (Z-2021-59154) regarding the Zakat assessment for 2016AD, from the procedural point of view, according to the reasons and arguments contained in this decision.

This decision was not accepted by the Taxpayer (...) He filed a list of appeals in which he demanded that the Adjudication Circuit's decision be reversed and annulled.



On Wednesday, 24/42024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



The Circuit considered the merits of the dispute, and after reviewing the papers and documents contained in the case file, and where Article (47) of the working rules of the committees for resolving tax violations and disputes issued by Royal Order No. 26040 dated 21/4/1441 AH stipulates that: the decisions of the Appellate Committee shall be final and not subject to appeal to any other judicial body." based on the foregoing, and given that the appeal in question was filed against a reconsideration decision issued by this Circuit, and given that the decisions of the Appellate Committee are final and not subject to appeal before any other body, the Circuit concludes that the appeal is inadmissible procedurally pauperis.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

The appeal is inadmissible procedurally, and the petitioner (...), national ID (...), unique number (...) Against the decision of the First Appeals Circuit for Income Tax Violations and Disputes (IR-2023-168238) issued in Case No.(Z-2023-168238) regarding the 2016AD Zakat assessment.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-201438

Case No. Z-2023-201438

Keywords:

Zakat-Zakat assessment-procedural-appeal accepted procedurally

Summary:

The Taxpayer's objection to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-98985) regarding the Zakat assessment for the years 2019AD and 2020AD. The Appellate Committee found that the Authority canceled the disputed assessment and notified the Taxpayer that it was issuing new assessment s for the purpose of re-examination, which shows that the administrative decision was flawed procedurally because it was canceled by the issuing authority, and not flawed on the basis of reason. This means accepting the appeal procedurally and dismissing the case in substance.

Document:

- [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)
- Article (20) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Article (21/1) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on 07/06/2023AD , from ..., National ID No. (...) As agent for the appellant company under Agency No. (...) The appeal filed by the Zakat, Tax and Customs Authority on 08/06/2023AD against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-98985) issued in Case No. (Z-2022-98985) related to the Zakat assessment for the years 2019AD and



2020AD, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

The plaintiff/company's objection was rejected.... (unique number...) On the decisions of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue in the lawsuit.

This decision was not accepted by the Taxpayer (Company ...), who filed a list of appeals, which was reviewed by the Circuit and included the substance that the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit on the clauses under appeal be reversed. This decision was also not accepted by the Authority, which filed a list of appeals, which was reviewed by the Circuit and included the substance that the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Tuesday, on: on 20/02/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; and by calling on the opponents, the ... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...). National ID number (...) In her capacity as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs, No. (...) On 19/3/1445 A.H., when the defendant's representative was asked what she wished to add, she stated that she adheres to what was previously submitted in this case. When the plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the hearing and deliberations.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the appeal by the Taxpayer and the Authority concerning the clause (failure to state the reasons for the amendment for the years 2019 and 2020AD), where the dispute lies in the Taxpayer's argument that the assessment issued by the Authority is unfounded, and the Authority's argument that it cancelled the assessments subject to objection for the purpose of re-examination and assessment. Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH stipulates that 'the Authority shall issue the assessment including its approval of the return



or its amendment, stating the reasons for the amendment. The Taxpayer may object to the assessment in accordance with the provisions of Chapter (7) of the Regulation.' Paragraph (1) of Article (21) of the same Regulation also stipulates that 'the Authority may correct errors in the application of any of the provisions of the Regulation or related regulations within (five) years from the date of expiry of the deadline for submitting the return.' Based on the foregoing, and referring to the case file and the facts and documents contained therein, it appears that the Authority cancelled the disputed assessments and notified the Taxpayer thereof in connection with the issuance of new assessments for the purpose of re-examination, which shows that the administrative decision is formally flawed due to its cancellation by the issuing authority, and not flawed in terms of its grounds. This is not affected by the agent's argument that the cancelled assessment was justified because the dispute ceased to exist when the administrative authority cancelled its decision. The court therefore dismisses the case and considers the Authority's assessment to be null and void

With regard to the rest of the clauses in the lawsuit, and since this circuit concluded in the first clause that the assessment of the Authority was canceled and considered as if it was not there, and since the locus is absent in these clauses, and since the dependent is inseparable from the dependent in the judgment, and since if the original falls, the branch falls, the Circuit concludes to dismiss the appeal regarding the rest of the clauses in the lawsuit, and therefore the Circuit concludes to dismiss the appeal regarding the remaining clauses in the lawsuit.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...) Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2023-98985) issued in case number (Z-2022-98985) related to the zakat assessment for the years 2019AD and 2020AD.

Second: On the Merits

Dismiss the case.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2023-144225

Case No. Z-2022-144225

Keywords:

Zakat- Zakat assessment-procedurality-proof of appellant's waiver

Summary:

The Taxpayer's objection to the decision of the First Circuit for adjudicating income tax violations and disputes in Jeddah governorate (ISR-2022-1680) regarding the Zakat assessment for the years 2005AD to 2008AD. The Appellate Committee confirmed the Taxpayer's request to leave the appeal as stated in the letter issued by it, which included: "We would like to inform your Honorable Secretariat that the company wishes to withdraw the case filed with your Secretariat No. (Z-2022-144225) regarding the appeal against the Authority's decision for the above-mentioned financial years..." the effect of this is to establish the appellant's waiver.

Document:

- [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Article (70/1) of [the executive Regulations of the Sharia Procedures Law issued by the Minister of Justice Decision No. \(39933\) dated 19/05/1435 A.H](#)

Facts:

The appeal was heard on: 14/09/2022AD, from/..., National ID No. (...) In his capacity as agent for the appellant company under agency No. (...), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate (ISR-2022-1680) issued in Case No. (Z-2020-31226) regarding the Zakat assessment for the years 2005AD to 2008AD, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



- 1- The Circuit does not have jurisdiction over the Zakat assessment for 2005AD and 2006AD.
- 2- Rejecting the plaintiff's objection to the Murabaha financing contracts clause for the year 2007AD.
- 3- Rejecting the plaintiff's objection to the related party clause for the years 2007AD and 2008AD.
- 4- Rejecting the plaintiff's objection to the long term notes receivable clause for the years 2007AD and 2008AD.
- 5- Rejecting the plaintiff's objection to the deferred receivables revenue clause for 2007AD and 2008AD.
- 6- Rejecting the plaintiff's objection to the provision for 2007AD and 2008AD.
- 7- Rejecting the plaintiff's objection to the remuneration clause for the year 2007AD.
- 8- Rejecting the plaintiff's objection to the 2007AD benefits clause.
- 9- Disregarding other clauses for 2007 and 2008AD.

As this decision was not acceptable to the appellant (...), he filed a list of appeals, which was reviewed by the Circuit and included that the Authority requests the acceptance of its appeal and the reversal of the decision of the Adjudication Circuit.

On Monday, 12/4/2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Clause (2) of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the lawsuit is set, it is necessary to monitor the content of the lawsuit and the answer before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the lawsuit or some of it is among those agreed upon." Based on the above, and where it was proven to this circuit the Taxpayer's request to leave the appeal as stated in the letter issued by the company, which included "We wish to inform your honorable secretariat that the company wishes to



withdraw the case filed with your secretariat No (Z-2022-144225) regarding the grievance of the Authority decision for the financial years referred to above..." this means that the Circuit must prove that the appellant has waived her right to appeal.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

Confirmation of the waiver of the appellant/commercial register number (...), distinctive number (...), of its right to appeal against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (ISR-2022-1680) issued in Case No. (Z-2020-31226) regarding the Zakat assessment for the years 2005AD to 2008AD, in accordance with the reasons and arguments contained in this decision.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-127348

Case No. Z-2023-127348

Keywords:

Zakat-Zakat Assessment -procedural-establishing the end of the dispute-accepting the appeal procedurally

Summary:

The Taxpayer's appeal against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-3640), where his appeal is based on the clause (deduction of deferred expenses paid for 2015AD). The Appellate Committee found that the dispute over the Taxpayer's appeal on the above-mentioned clause is over as stated in the letter issued by the Taxpayer in the response memorandum, which includes: "The company requests your honorable circuit to prove that the dispute with the Authority is over as stated in the above-mentioned clauses and according to the Authority's response memorandum No. (3)." this means that the appeal is accepted procedurally and in substance, the dispute is proven to be over.

Document:

- [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Article (70/1) of [the executive Regulations of the Sharia Procedures Law issued by the Minister of Justice Decision No. \(39933\) dated 05/19/1435 A.H](#)

Facts:

The appeal was heard on: 25/04/2022 AD, from / ..., National ID No. (...), as agent for the appellant company under agency No. (...) And Lawyer's License No. (...), on the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (IFR-2022-3640) issued in Case No. (Z-2021-55466)



related to the 2015 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) To the decision of the defendant/Zakat, Tax and Customs Authority in terms of form, and rejecting the plaintiff's objection in terms of substance.

This decision was not acceptable to the Taxpayer (Company ...), so he filed a list of appeals, which was reviewed by the Circuit and included the following statement: The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

On Tuesday, 28/11/2023AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/4/1441 AH.; At the call of the parties, Mr. ..., National ID No. (...), appeared as the appellant's agent by virtue of agency No. (...), and Mr. ... (National ID No. ...), in her capacity as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs with the number (...) On 19/3/1445 A.H., upon reviewing the case file, it was found that there was a request to stop the proceedings in the case due to signs of settlement between the appellant and the appellant against her, and the parties request to stop the proceedings until the settlement decision is issued in the case under consideration: 1. A lawsuit may be suspended based on the agreement of the parties to the lawsuit not to proceed with it for a period not exceeding one hundred and eighty days from the date the Circuit recognizes their agreement. If the parties to the lawsuit do not resume proceedings within the ten days following the expiration of the deadline, the plaintiff shall be deemed to have abandoned the lawsuit, and the Circuit decided to suspend the lawsuit in accordance with Article XLIII of the Rules of Procedure of the Committees.

On Tuesday, 07/05/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated: 21/ 04/1441 AH; and by calling on the litigants, he attended / ... National ID No. (...), as agent for the appellant by virtue of agency No. (...). (National ID No. ...), in her capacity as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/03/1445 A.H., at this hearing, the Circuit found that the license to plead for the legal personality is not valid, so the Circuit decided to grant the appellant a deadline of (5) working days ending on 14/05/2024AD, and the next hearing will be on 21/05/2024 AD.



On Tuesday, 21/5/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH.; Calling on the opponents, Mr. ... National ID No. (...), as agent for the appellant by virtue of agency No. (...). (National ID No. ...), in her capacity as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445 A.H., the representative of the appellant was asked what she wished to add, and she stated that she adheres to what was previously submitted in this case. When this was brought to the attention of the appellant's agent, he replied that he was adhering to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the hearing and deliberations.

Grounds:

With regard to the Taxpayer's appeal regarding the clause (deduction of deferred expenses paid for 2015), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, it is necessary to monitor the content of the case and the answer before recording the agreement, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, and where it is proven that the dispute over the Taxpayer's appeal on the above clause has ended as stated in the letter from the company in the response memorandum containing the words "The company requests your honorable circuit to prove that the dispute with the Authority as stated in the above clauses and in accordance with the Authority's response note No. (3) is over. this requires the Circuit to prove the end of the dispute regarding the appeal in question.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), distinctive number (...) Against the decision of the third circuit for adjudicating violations and disputes of



income tax in Riyadh with number (IFR-2022-3640) issued in case number (Z-2021-55466) related to the Zakat assessment for the year 2018.

Secondly: On the merits:

Recognize the end of the dispute regarding the Taxpayer's appeal of the 2015AD deferred expense deduction.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-194362

Case No. Z-2023-194362

Keywords:

Zakat - Zakat - Zakat assessment - procedural - Lack of attribute - Accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the second circuit regarding income tax violations in Riyadh number (ISR-2023-167490), where his appeal regarding the (zakat assessments for the years from 2014AD to 2018AD) is that the Schools Company (...) The private company was converted into a branch of the company (...) On 19/05/2015AD, it was registered as a branch of the company (...) Whose financial statements for the year 2014AD end on 30/06/2015AD, and that the last independent financial statement for the Schools Company (...) The private company before the conversion is the financial statement for the year 2013AD, and the due zakat has been paid on it. And since the Appellate Committee has established that the assessment decisions were issued against an entity that has no legal status due to its conversion into a branch of a joint-stock company, the assessment decisions were issued after the company's conversion in the absence of a legal entity that can be assessed under the provisions of zakat collection; this shows the invalidity of the authority's assessment decisions due to the lack of a condition of the decision represented in the realization of the status of the person to whom it was addressed. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Article (15/1) of [Rules of Procedure for the Committees for the Resolution of Tax Violations and Disputes, issued by Royal Decree No. \(26040\) dated 04/21/1441 A.H](#)

Facts:

The appeal was heard on: 04/05/2023AD, from/... National ID number (...) As an agent for the appellant company under agency No. (...), on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2023-167490) issued in Case No. (Z-167490-2023) regarding the



Zakat fees for the years 2014AD to 2018AD, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Not hearing the lawsuit filed by the plaintiff/company ... Commercial Registration No. (...), against the defendant/Zakat, Tax and Customs Authority, as stated in the reasons.

This decision was not accepted by the Taxpayer (a school company ... (Eligibility), submitted a list of appeals that included the following:

The Taxpayer challenges the decision of the Appeals Circuit, claiming that a school company ... The private company was converted into a branch of the company (...) On 19/05/2015AD, it was registered as a branch of the company (...) Whose financial statements for the year 2014 end on 30/06/2015AD, and that the last independent financial statement for the Schools Company (...) The private company before the conversion is the financial statement for the year 2013AD, and the due zakat has been paid on it.

On Sunday, 14/07/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the zakat for the years 2014AD to 2018AD is that the ... The private company was converted into a branch of the company (...) On 19/05/2015AD, it was registered as a branch of the company (...) Whose financial statements for the year 2014AD end on 30/06/2015AD, and that the last independent financial statement for the Schools Company (...) The private company before the conversion is the financial statement for the year 2013AD, and the due zakat has been paid on it. The private company (a limited liability company - commercial registration number ...) with all its rights and obligations to a branch of the company (...) (a closed joint-stock company - commercial registration number ...) by virtue of the partners' decision dated 01/08/1436AH according to what is stated in the document issued by the Ministry of Commerce number (...) And dated 27/06/1440 AH, where the dispute in the zakat assessment



for the years from 2014AD to 2019AD was issued on 28/10/2020, 29/10/2020, 05/05/2020, and 05/02/2020AD, and since the assessment decisions were issued against an entity that has no legal status due to its conversion into a branch of a joint-stock company, the assessment decisions were issued after the company's conversion in the absence of a legal entity that can be assessed under the provisions of zakat collection; this shows the invalidity of the authority's assessment decisions due to the lack of a condition of the decision represented in the realization of the status of the person to whom it was addressed, which necessitates the circuit to accept the Taxpayer's appeal and cancel the decision of the adjudicating circuit and cancel the authority's procedure. Accepting the appeal procedurally from the Taxpayer/ Schools Company (...)

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: the private company, commercial registration (...), unique number (...) Against the decision of the second circuit regarding violations and disputes of income tax in Riyadh number (ISR-2023-167490) issued in case number (Z-2023-167490) related to the zakat assessments for the years from 2014 to 2018. Accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit and canceling the authority's procedure.

Secondly: On the merits:

Accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit and canceling the authority's procedure.



Subjective Zakat Decisions

Issued by the Zakat and Tax Committees

Additions to the Zakat Base



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-171159

Case No. Z-2023-171159

Keywords:

Zakat - Elements to be added to the Zakat base - Adding the investment revaluation reserve to the Zakat base - Accepting Authority's appeal

Summary:

The Zakat, Tax and Customs Authority's appeal against the decision of the First Circuit for adjudicating income tax violations and disputes in Riyadh (IFR-2022-2255), where its appeal is based on the clause (Investment Revaluation Reserve for the years 2016AD and 2017AD) and indicates that the reserve should be added to the Zakat base, as this clause is related to the first clause and its impact on the base is zero. Whereas, the Appellate Committee found by referring to the financial statements, specifically Note No. 6, that the clause in dispute relates to available-for-sale investments represented by the valuation adjustment, as it appears from the Authority's procedure to accept the discount of available-for-sale investments with the year-end balance (the investments will be mentioned in Clause 2 of the Taxpayer's appeal), which was not affected by the reduction in the value of the investment with the revaluation reserve, and as the Authority's procedure included the increase in the value of the investments within the discounts with the corresponding addition to the Zakat base, based on paragraph (h) mentioned above . The implication is that the appeal of the authority is partially accepted and the decision of the adjudication committee is amended.

Document:

- [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 24/01/2023AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-2255) issued in Case



No. (Z-2021-78124) related to the Zakat assessment for the years 2016AD and 2017AD, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: annulment of the decision of the defendant/Zakat, Tax and Customs Authority against the plaintiff/...Company. (unique number...) Related to the provision for other-than-temporary impairment of available-for-sale investments at issue.

Secondly: modification of the Defendant/Zakat, Tax and Customs Authority's action against the Plaintiff/...Company. (unique number...) For the investment revaluation reserve clause in question, as explained in the reasons.

Third: rejecting the other objections of the plaintiff/company ... Company... (unique number...) On the decisions of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

As the Authority objects to the decision of the Appeals Circuit, it claims that with regard to the clause (Provision for an other-than-temporary decline in available-for-sale investments) and the clause (Revaluation reserve for 2016AD and 2017AD), as the appellant (the Authority) requests the annulment of the Circuit's decision on this clause on the basis that it added the balances of the investment revaluation reserve in the amount of SR 75,078,280 and SR 70,166,730 to the Zakat base for the years 2016AD and 2017AD, respectively. This is in accordance with the provisions of paragraph (c) of Article (4/2) of the Executive Regulations governing the collection of Zakat, and as for the conclusion of the decision, it is contrary to the statutory text explained above, as this clause is related to the first clause and its impact on the zero base, as it was added to the positive elements independently of the Zakat, with the value of the investments deducted (deducted by the end of the period) from the Zakat base under deductions, which was done by assessment, respectively the differences resulting from the treatment of the clause of investments in subsidiaries and associates, where the Authority did not accept the deduction of investments in the name of one of the partners (book value 76,334,157 riyals, with a book value of 87,524,122 riyals, for the years 2016AD and 2017AD, respectively), and the Authority confirms the correctness and regularity of its procedure, while no response was received from the Defendant (the Taxpayer) despite being informed of the Authority's appeal regulations, as reference was made to what the Defendant argued before the adjudication committee, where he indicated that the clause in dispute relates to investments within long-term fixed assets where, based on the valuation of the company's available-for-sale investments, the adjusted value of those investments was formed. The Taxpayer indicates that he discounted the investments after reducing them by the value of the reserve, so if the Authority adds the amount of the reserve, the



procedure will become invalid since the amount was added twice, once as an addition and the second time as an adjustment to the value of the investment.

On Monday, 06/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

Whereas, with regard to the Authority's appeal on the clause (Provision for an other-than-temporary decline in available-for-sale investments), the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the dispute regarding the contested clauses is in accordance with the valid reasons on which it is based and sufficient to carry its judgment the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, which is why this Circuit concludes to reject the Authority's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached on the clauses at issue in the case, bearing in mind its reasons.

Whereas, regarding the Authority's appeal on the clause (Revaluation Reserve for 2016 and 2017AD), and based on paragraph (h) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438H, which stipulates that "For Zakat purposes, the results of the revaluation of securities shall be taken into account in terms of profit or loss according to the market value." Based on the above, and since the dispute between the two parties is limited to adding the revaluation reserve to the Zakat base, the Authority appeals the decision and points out that the reserve should be added to the Zakat



base because this clause is related to the first clause and its impact on the Zakat base this clause is related to the first clause and its impact on the zero base, as it was added to the positive elements independently to the Zakat base, with its deduction within the value of the discounted investments (discounted with the balance of the last period) from the Zakat base with discounts, which is what was related to it, while the Taxpayer argues that he discounted the investments after reducing them with the value of the reserve, and based on the above and by referring to the financial statements financial Statements, specifically Note 6, it turns out that the clause in dispute relates to available-for-sale investments, which is the valuation adjustment, as the Authority's procedure shows that it accepted the discount of available-for-sale investments with the year-end balance (the investments will be mentioned in clause 2 of the Taxpayer's appeal), which is not affected by the reduction in the value of the investment with the revaluation reserve, as the Authority's procedure included the increase in the value of the investments within the discounts and the corresponding increase in the Zakat base, based on paragraph (h) above, which means that the Circuit must partially accept the Authority's appeal and amend the decision of the Adjudication Circuit (regarding the clause investment revaluation reserve for 2019 and 2017AD).

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-2255) issued in case number (Z-2021-78124) related to the Zakat assessment for the year 2016AD and 2017AD.

Secondly: On the merits:

- 1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the provision for an other-than-temporary decline in available-for-sale investments.
- 2- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (Investment Revaluation Reserve for the years 2016 and 2017AD).



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-178723

Case No. Z-2023-178723

Keywords:

Zakat – Additions to the zakat base – Adding the increase in capital to the zakat base – Acceptance of the authority's appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the Third Circuit regarding violations and disputes of income tax in Riyadh No. (IFR-2022-6884), where its appeal lies on the clause (the increase in capital) due to the existence of a financing amount used to finance capital works under execution. And since the Appellate Committee confirmed by reviewing the financial statements that the Taxpayer indicated that the entire financing amount is used to finance capital works under execution, and since a person is held accountable for his declaration. The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 16/02/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (IFR-2022-6884) issued in Case No. (ZI2021--67596) related to the Zakat assessment for 2015 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



Accepting the objection on the procedural side, and on the substantive side, modifying the defendant's decision.

Whereas this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (increase in capital), the Authority stated that it added the clause to the zakat base because the increase in capital is subject to zakat, and during the objection phase with the Authority, a meeting was held with the Taxpayer's representatives on 01/08/2021AD and they reported that the amount of the increase in capital of (9,821,219) riyals did not fall due, and a letter was submitted to the Authority stating that the Authority's procedure in the Zakat assessment leads to a bending in Zakat, as the amount was added twice, once in the capital increase in the amount of (71,860,000) riyals and once in the related parties (62,038,781 + 9,821,219) riyals, which is the same total capital increase and adds that the capital increase was on 6/25/2015AD according to the memorandum of association and the certificate of the legal accountant, and accordingly, the Authority clarifies that the late term capital of (72,000,000) SAR (first term balance (140,000) SAR) has been added due to the fact that the increase was financed from the balance due to related parties, and by reviewing the financial statements, it appears that there is funding for the capital increase provided by the partner / ... (71,860,000) riyals (and that this financing is provided to support the company's business and finance additions to the capital works under implementation), and according to the Taxpayer's statement received by e-mail on 25/8/1442 AH that part of the capital increase amount of (9,821. 219) riyals, other than the opening balance due to the partner, is a source of financing the capital works under implementation, other than the opening balance due to the partner, is a source of funding for capital works in progress, and since the Taxpayer states that part of the capital increase was added twice to the vessel within the capital and within the balance due to the partner, we state that the Authority's action regarding the treatment of the balance due to the partner was to add the balance of the last (lowest) period (39,991,526) SAR based on Article 4, Clause 1, Paragraph (2) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates the addition of (the current account credited to the owner or partner at the beginning or end of the year, whichever is less, as well as the increase in the current account if its source is equity or financing of a Acquisition asset), thus the increase in capital during the year, which is derived from equity (the balance due to the partner at the beginning of the period (62.038.781 SAR) in addition to the amount of (9,821,219 SAR) for financing capital works in progress does not require the turnover to be added to the Zakat base, and the certificate of the legal accountant shows that the increase in capital during the year from (140,000) SAR to (72,000,000) SAR was a deduction from the account. therefore, the Authority confirms the validity of its procedure based on Article 4, Clause 1, Paragraph (1) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH. From the elements of the Zakat base (the capital that has turned over, as well as the increase in it even if it has not turned over if the source of this increase is one of the elements of equity or was a financing for one of the assets the Authority



maintains the validity and soundness of its procedure, and the Circuit issued the decision that is the subject of the appeal and where the Circuit's decision was issued to modify the Defendant's procedure as the Authority did not provide proof of its claim and the Authority responds after reviewing the reasons for the Circuit's decision, it turns out that it agrees with the Authority's procedure regarding the treatment of the additional capital in accordance with Article 4 paragraph (I/1) of the Executive Regulations for Zakat Collection, as for the related parties and the transfer to capital worth 9,821,219 riyals, as the Authority did not provide proof of its financing for a decree, the Authority answers that the Authority relied on the attached points, in addition to the above, the plaintiff's response to the draft Zakat assessment by email dated April 7, 2021 AD indicates that it is to finance capital works under implementation, so the Authority's viewpoint is valid and remaining and its origin has not been lost, so in what legal manner did the Circuit violate what the work has settled, which makes the Circuit's conclusion contrary to the legal requirement, and therefore the Authority confirms the correctness and integrity of its procedure and requests that its appeal be accepted and that the decision of the Adjudication Circuit regarding the clause subject of its appeal be overturned.

On Sunday 14/4/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause (2) of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Reasons:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, with respect to the Authority's appeal regarding the capital increase clause, the Authority's appeal is to appeal the Adjudication Circuit's acceptance of the Claimant's objection regarding the disputed clause, as she claims that the amount of the financing is used to finance capital works in progress. Based on clause (First/1) of Article (4) of the executive regulation for collecting zakat issued by the ministerial decision No. (2082) dated 1/06/1438 AH which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 1- The capital that has passed a year, as well as the increase in it even if a year has not passed if the source of this increase is one of the elements of equity or was financing for an asset



deducted from the zakat base" and based on paragraph (3) of Article (20) which states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, it is clear from the regulatory texts above that the increase in capital is added to the zakat base when a year has passed on it or if its source is from equity clauses or used to finance one of the assets deducted from the zakat base, as it is evident from reviewing the financial statements that there is an amount due to related parties which is the partner, and the financing amount is used as mentioned in financing capital works under execution, in addition to the authority providing a response from the Taxpayer on the draft zakat assessment indicating that the amount of (9,821,219) riyals was added to the capital to finance capital works under execution, and it is also evident from the financial statements that the financing provided by the partner was provided to support the company's works and to finance additions to capital works under execution, and the Taxpayer also indicated that the capital works under execution that took place during the year 2015AD amounted to a total of (48,158,852) riyals, and after reviewing the financial statements, it became clear that the Taxpayer indicated that the entire financing amount is used to finance capital works under execution, and since a person is held accountable for his declaration, the circuit concludes with the acceptance of the authority's appeal and the cancellation of the decision of the adjudicating circuit regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6884) issued in case number (ZI-2021-67596) related to the Zakat assessment for the year 2015 AD.

Secondly: On the merits:

Acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit regarding clause (the increase in capital).



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR -2024-191284

Case No. Z-2023-191284

Keywords:

Zakat – Additions to the zakat base – Adding the carried forward balance from the end-of-service provision
– Acceptance of the authority's appeal – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection and the Zakat, Tax and Customs Authority to the decision of the Third Circuit regarding violations and disputes of income tax in Riyadh No. (ITR-2022-6304), where the Taxpayer's appeal lies on the clause (due to related parties) due to his request for a set-off between the credit balance of the (...) Company. With an amount of (2,375,250) riyals and a debit balance of (5,656,000) riyals, and the clause (creditors) to claim the total balance at the beginning of the period after deducting the deductions in total. The authority's appeal lies on the clause (due to related parties) in that the amount due to related parties (credit) that has passed a year represents an amount of (2,729,668) riyals, and the clause (end-of-service provision (accrued/rolled over) to add what has passed a year. And since it was established for the Appellate Committee that the Taxpayer acknowledged the passing of a year on the amount (393,690) riyals, the authority and the adjudicating circuit agree on the amount acknowledged by the Taxpayer, and upon reviewing the movement of the end-of-service provision, the accrued end-of-service provision is (70,061) riyals which is added to the net accounting profit, and since the decision of the adjudicating committee was based solely on the carried forward balance. This means accepting the appeal of the authority and accepting the appeal of the Taxpayer.

Document:

- Paragraph (1) of article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 31/3/2023AD, from ..., National ID No. (...) Was considered as the statutory representative of the appellant company under the Memorandum of Association and the amendment resolution, and the appeal filed by the Zakat, Tax and Customs Authority on 02/04/2023AD against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City No. (ITR-2022-6304) issued in Case No. (Z-2021-79879) regarding the Zakat assessment for the year 2016AD, in the suit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

- 1- Annulment of the defendant's decision with regard to the clause (End of Service Allowance - Component/Managed -).
2. Modification of the Defendant's decision with respect to the clause "Due to related parties".
3. Reject the plaintiff's objection with respect to the "creditors" clause.
- 4- Rejecting the plaintiff's objection with respect to the clause "Accrued expenses and professional fees".
- 5- Canceling the defendant's decision regarding the "Doubtful Debts" clause.

This decision was not accepted by the Taxpayer (Company ...).the Taxpayer's appeal is regarding an clause (due to related parties). The Taxpayer explained that based on the judicial principles and details, this clause should be deducted from the Zakat base since the debt (SR 5,656,000) does not exist with the appellant and she is unable to collect it, as rulings were issued based on high orders that made it impossible for the appellant to collect one riyal of the value of this clause; so how can he request Zakat on money not in the hands of the Taxpayer. The budget showing the balance of this clause was submitted in the objection submitted to the Authority on 06/09/2021 AD, and the appellant reserved her right to submit any additional documents for clarification if the Circuit requests, and the balance at the beginning of the period for this clause is (3,697,568) riyals and the amount paid during the year is (2,445,689) riyals, and therefore the decision ruled that what has passed is (1,251,879) riyals instead of (2,729,668) riyals.our objection to not deducting the amount of (2,375,250) from the base for this clause is as follows: the amount represents a credit balance to a sister company (a ...) exclusively resulting from the software subcontract for the ... The appellant hired a sister company to carry out works related to this contract in the Medina area for the amount of SAR (5,656,000) referred to above; therefore, this debt owed by the appellant to the sister company is indivisibly related to what is owed to her from related parties, as both amounts (creditor and debtor) arise from one project and one contract. Based on the judicial principles and details, the principle is to deduct this clause from the Zakat base, as this balance results exclusively from the appellant's contract for supplying programs, and because the appellant's dues for this contract were settled by royal rulings and orders, and because these royal rulings and orders emphasized that the appellant is not entitled to any



amounts and that it is impossible for the appellant to collect one riyal of the contract value as mentioned above, the balance owed to the company ... Because the basis for calculating zakat is the presence of money in the hands of the Taxpayer, judicial principles have established that even if there are errors in accounting guidance, this does not lead to the entitlement to zakat on money that is not in the hands of the Taxpayer. Regarding the Taxpayer's appeal regarding the clause (creditors), the Taxpayer explained that there was no statement showing the movement during the fiscal year in this clause, the decision was issued based on the balances of the beginning and the end of the period, whichever is less, and since it is clear from the attached statement that the balance of the first period is (1,182,361) riyals and what was paid during the year (389,552.23) riyals, so the balance on which the Taxpayer has turned is (792,809) riyals and not (1,182,361) riyals, and therefore the Taxpayer claims, this decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (due to related parties), the Authority stated that it added these amounts to the turnover through the financial statements and when studying the objection and reviewing the financial statements so that it is clear from them the turnover, as for the receivable from related parties owed (5,656,000) through this, it is clear that the relationship between the Taxpayer and a sister company and not between the partners to be deducted within the negative Zakat base within the limits of his share of retained earnings is a commercial relationship, so we confirm the validity of the Authority's assessment and reject the Taxpayer's objection, based on Article IV/1 - Paragraph (5) of the Executive Regulations for Zakat Collection, which stipulates that (government and commercial loans and the like from other funding sources such as creditors, payment papers, overdraft account that are in the hands of the Taxpayer in accordance with the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. In addition, based on Article 20(3), which states: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and if the Taxpayer is unable to prove the validity of his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." The Authority maintains the validity and regularity of its procedure. The Circuit issuing the decision under appeal modified the Authority's decision on the grounds that the Authority did not provide evidence to the contrary. The Authority responds that the Circuit's conclusion is incorrect because the Authority calculated the turnover of the clause due to related parties and the related party was taken separately, and it was found that the amount on which the turnover occurred is (2,729,668) SAR, and based on what was explained above, your Honorable Circuit finds the correctness of the Authority's action. With regard to Authority's appeal regarding the clause (End of Service Allowance (Component/Revolving)), Authority informs your esteemed Circuit that the component severance allowance was added in the amount of (70,061) riyals and the revolving allowance was added in the amount of (393,690) riyals, totaling (463,751) riyals according to the Taxpayer's statement as shown below and the clause was not amended and the issuing circuit confirmed



through its reasons for its decision on this clause that the Authority's action was correct, stating that the amount of (393,690) riyals that came due is (393). therefore, the Authority requests that the operative part of the decision be amended to "rejecting the plaintiff's objection and upholding the defendant's action." Therefore, the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit on the clauses subject to its appeal be reversed.

On Thursday, on: 30/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated 8/4/1445AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal regarding the clause (due to related parties), and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/06/1438 AH, which states that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. J- What has been used in commercial transactions and has passed a year on it. Based on the above, the Circuit considered the appeal filed by the Authority, and where it argued that the balance due to related parties (creditors) that has lapsed represents (2,729,668) riyals. Upon reviewing the documents attached to the case file (Exhibit No. (8)), the Circuit found that according to the movement of the accounts, the turnover on the amount of SAR (2,729,668) was calculated independently for each company. Therefore, the Circuit concludes that the Authority's appeal regarding the balance due to related parties (creditors) of SAR (2,729,668) should be accepted and the decision of the Adjudication Circuit on this clause should be annulled.

With regard to the Taxpayer's appeal regarding the clause (due to related parties), and based on paragraph (1/5) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082)



dated 1/06/1438 AH, which states that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:...5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. J- What has been used in commercial transactions and has passed a year on it. Based on the above, the Circuit considered the Taxpayer's appeal regarding the balance due from related parties (debtor) in the amount of SAR (5,656,000), Whereas, the Taxpayer argues that the credit balance of the sister company, the company ... Is exclusively the result of the subcontracting of the software supply contract for the project ... In the Madinah region, amounting to (5,656,000) riyals. He states that the company hired a sister company to carry out work related to this contract. By reviewing the documents attached to the case file, it is clear that the Taxpayer is demanding a set-off between the credit balance of the company ... In the amount of (2,375,250) riyals and the debit balance in the amount of (5,656,000) riyals, and by referring to the attached documents, it is clear that the amount (5,656,000) riyals, such as bad debts, and accordingly, the Circuit ends up accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding this clause.

With regard to the Authority's appeal regarding the End of Service Allowance (Component/Rotor) clause, the Authority's appeal lies in the appeal against the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, as it claims to add what has already passed the hawl. Based on paragraph (9) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." Based on the above, the zakat treatment for provisions is represented by adding the balance formed during the year to the net accounting profit, and adding the beginning balance after deducting the user to the elements subject to the zakat base to reach what has been carried forward, and upon reviewing the documents submitted in the case file, the Taxpayer acknowledged that the year has passed on the amount of (393,690) riyals, and the authority and the adjudication circuit agree on the amount acknowledged by the Taxpayer. Upon reviewing the end-of-service provision movement, the amount formed from the end-of-service provision is (70,061) riyals, which is added to the net accounting profit. Since the decision of the adjudication committee was based solely on the carried forward balance, the circuit concludes to partially accept the authority's appeal and amend the adjudication circuit's decision regarding this clause.

With regard to the Taxpayer's appeal regarding the (creditors) clause, the Taxpayer's appeal is to appeal the dismissal of his objection regarding the disputed clause, as he claims to have submitted supporting documents. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and



other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. J- What has been used in commercial transactions and has passed a year on it. Based on the above, the clause of creditors is one of the components of the Zakat base, provided that it is turned around or used to finance the assets deducted from the Zakat base without the requirement of turning around, and upon reviewing the documents submitted in the case file, it appears that the Taxpayer submitted a detailed statement for the clause of creditors for 2016AD, and it is clear that it is consistent with the balances of the financial statements and the Authority's claim that the balances are not consistent has no merit, and based on the detailed statement submitted, it is clear that the total amount that turned around is (978,555.4) riyals. SAR and not (792,809) SAR, and where the Taxpayer claims the total balance at the beginning of the period after deducting the deductions from the total, and where this procedure is incorrect and unreliable and each liability must be considered separately, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Dispute Resolution Circuit regarding this clause.

With regard to the Taxpayer's and the Authority's appeal regarding the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, since in upholding the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the adjudication Circuit in its conclusion on the remaining clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ITR-2022-6304) issued in case number (Z-2021-79879) related to the zakat assessment for the year 2016AD.

Second: On the Merits:

1- Accepting the appeals of both parties and canceling the decision of the adjudication circuit regarding the clause (due to related parties).



- 2- Partially accepting the authority's appeal and amending the decision of the adjudication circuit regarding the clause (end-of-service provision (formed/carried forward)).
- 3- Rejecting the authority's appeal and upholding the decision of the adjudication circuit regarding the clause (doubtful debts).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (accrued expenses and professional fees).
- 5- Partially accepting the Taxpayer's appeal and amending the decision of the adjudication circuit regarding the clause (creditors).



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR-2024-161337

Case No. Z-2023-2022

Keywords:

Zakat - Additions to the zakat base - Adding commissions and follow-up fees related to loans to the Zakat base - Accepting the Authority's appeal - Accepting the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) appealed the decision of the First Circuit for adjudicating income tax violations and disputes in the city of Dammam No. (IZD-2022-2160) for the years 2019AD and 2020AD, where the Taxpayer's appeal lies on the clause (social insurance difference) on the Authority's failure to specify the nature of the documents supporting the request, the clause (adding financing liabilities for asset additions and accrued expenses) on the Authority's failure to provide the basis for the assessment, the clause (adding short-term loans) on the fact that the loans did not exceed one year, and the clause (long-term employee benefits) on deducting the cost of the home ownership program for employees, based on the funding from sources subject to zakat. The Authority's appeal lies on the clause (Adding commissions and follow-up fees related to loans) on the addition of commissions and loan follow-up fees to the Zakat base, emphasizing that these fees are part of the costs associated with the profits earned from the loans, which requires them to be added in accordance with the Zakat regulations. The Taxpayer is demanding that the addition of these fees to the Zakat base be canceled, noting that they are not part of the Zakat revenue. This means accepting the Authority's appeal on the clause (adding commissions and follow-up fees related to loans), and accepting the Taxpayer's appeal on the clause (long-term employee benefits).

Document:

- Paragraph (1) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (7) of Article (6) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



- Paragraph(3) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:



The appeal filed on 11/16/2022AD, from /... As the Chairman of the Board at the company ... The appeal filed on 11/17/2022AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City (IZD-2022-2160) issued in Case No. (Z-2022-112956) related to the Zakat assessment for the years 2019AD and 2020AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed against the Zakat, Tax and Customs Authority:

Canceling the defendant's decision regarding the clause of adding commissions and follow-up fees related to loans, and rejecting the other requests.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (social insurance difference added to the net profit for 2019AD), the appellant (the Taxpayer) requests to cancel the Circuit's decision on this clause on the grounds that the Authority did not specify the nature of the documents supporting its request, and the company does not agree with the Authority's assessment due to the difference in the bases for declaring salaries and wages in the financial statements and information from the social insurance certificate, and therefore, if the Authority provides reasons for its action, the company will exercise its right to provide the appropriate response, and requests the cancellation of the Authority's assessment on the clause, whereas the response of the Defendant (the Authority) stated that it refunded the overcharged social insurance difference by comparing the social insurance charged to the Taxpayer's accounts according to the trial balance with the social insurance according to the data of the General Organization for Social Insurance, and in response to the statement in the Taxpayer's list that the Authority did not provide the basis for the assessment, the Authority answers that the clause was mentioned in the assessment sent to the Taxpayer on 22/9/2021 AD, and the Authority's procedure was explained in detail to the Taxpayer during the hearing held on 01/02/2022 AD and he was notified of the assessment and the reasons for rejecting the objection to the clause, so the statement is incorrect in the appeal list, accordingly, the Authority relied on the data of the General Organization for Social Insurance, which represents a third-party document showing the salaries of Saudis and foreigners subject to social insurance, especially since it is the party responsible for collecting the value of social insurance, and by comparing the load on the declaration with the insurance data at 12% of the wages of Saudi participants and 2% of the wages of non-Saudi participants, the Authority rejected the Taxpayer's



objection, whereas the Authority bases its procedure on the provisions of paragraphs (2-4) of Article (9) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, and where the adjudication decision concluded in favor of the Authority's procedure, as the Authority presented the method of calculating the difference in the social insurance expense, as for the Taxpayer's objection regarding the failure to inform him of the method of calculating the difference in the expense in the assessment issued to him and the authority's mere reference to the existence of a difference in the expense, we believe that this does not affect the Taxpayer's right to object and he had to provide proof of the expense from his point of view, as the burden of proof of the validity of the declaration according to the text of the article of the regulation is on the Taxpayer, and it also appears that there was a meeting between the authority and the Taxpayer to discuss the terms of the assessment, so the Circuit believes that his request does not affect the validity of the authority's action.

With regard to the clause "Adding liabilities to finance asset additions, adding accrued expenses and adding other credit balances for 2019", the appellant (the Taxpayer) requests to cancel the Circuit's decision on this clause on the grounds that he disagrees with the Authority's assessment and requests the Authority to provide the basis for its assessment, as he points out that the Authority assumed that some of the payable balances are used to finance the deductible assets, he emphasizes that the company has sufficient cash that can be used to finance the deductible assets and that the company has added all credit balances due for more than a year to the base, so if the Authority does not provide a specific calculation method, then it is clear that it is only assumptions by the Authority, while the response of the Defendant (the Authority) states that with regard to the obligations to finance asset additions, the Authority explains that before the assessment, it requested a statement of the suppliers of asset additions and spare parts, and with the Taxpayer's submission of the requested statement, the Authority added the balances of asset suppliers and spare parts suppliers by taking the balance of the first or last period, whichever is less, in exchange for financing assets and spare parts deducted from the Zakat base, and the Taxpayer confirmed in his response to the assessment on 30/9/2021 that only SR (4,820,936) should be added, but the Authority added an amount of (5,013,756), as for the accrued expenses, the Authority clarifies that it has added the clause of advance payments to the balance of the first or last period, whichever is lower, and the clause of dividends payable has been added because no proof has been provided that the accrued dividends are deposited in a separate bank account. During the hearing session held on 01/02/2022, the details of the clause were clarified to the Taxpayer. The Taxpayer was provided with a detailed explanation of the clause, and the authority inquired about dividend distributions. The Taxpayer clarified that the dividends had been deposited into bank accounts that are separate from the company's accounts. Accordingly, the Authority requested certificates from the banks where the dividends were deposited, confirming the amounts of the dividends, their balances at the end of the objection period, and the account numbers into which the dividends were deposited—demonstrating that these accounts are independent of the company's and are not under its control. Additionally, the Authority requested an analytical statement of advance payments



indicating the client's name, the opening and closing balances, as well as the debit and credit movements, in order to determine the beginning or ending balance for each client individually. The Authority confirms that the calculation details were explained to the Taxpayer several times before issuing the assessment, and once again during the hearing session. The Authority reiterated the requested data and emphasized the necessity of submitting it, as per the email sent to the Taxpayer on 10/02/2022AD. Since the Taxpayer failed to provide any of the requested data, the Authority rejected the objection. Regarding the Taxpayer's claim in his appeal that the Authority did not clarify the calculation basis, such a statement is baseless and cannot be relied upon, as the Authority included the clause based on the data provided by the Taxpayer. Moreover, the clause appeared in the assessment sent to the Taxpayer on 22/09/2021AD, and he was furnished with a copy of the final assessment detailing the tax base components on 08/11/2021AD. The matter was also explained again during the objection review and in the objection outcome notification. The adjudicating committee concluded in favor of the Authority, noting that it relied on the supplier statement for asset and spare parts additions submitted by the Taxpayer and on the financial statement balances for the other clauses due to the Taxpayer's failure to submit detailed account movements and documents related to the dividend distributions.

With regard to the clause (adding short-term loans to the Zakat base for 2019), the appellant (the Taxpayer) requests that the Circuit's decision on this clause be annulled on the grounds that the balance has not remained outstanding for more than one year and that the Authority's procedure of taking the balance of short-term loans, whichever is less, is incorrect, as he states that if the Authority's objective in adding short-term loans is to finance the company's assets, it is an incorrect assumption because the company's cash is able to finance the assets, he states that the Authority added short-term loans to the base without taking into account the third paragraph of Article 4 of the Executive Regulations of 1440 AH, which clearly stipulates that debts must be long-term in order to be added, and therefore he demands that the Authority's action be canceled, whereas, the response of the Defendant (the Authority) stated that before the assessment procedure, it requested a detailed statement of short-term loans, and it was found from the statement provided by the Taxpayer that the short-term loans are revolving loans, meaning that the loans are renewed immediately after their expiration and repayments and additions to the loans are made continuously during the year in light of the above, and in light of the fact that short-term loans are revolving in nature, the Authority rejected the Taxpayer's objection based on paragraph (B/3) of Article (4) of the Executive Regulations for the Collection of Zakat for the year 1440 AH, whereas, the adjudication decision concluded in favor of the Authority's action, as by reviewing the detailed movement of short-term loans and by tracking the movement of these loans, it was found that they are renewable and continuous, as the loan is obtained from the bank and after a short period of time, this loan is repaid and on a date close to the date on which the repayment is made, a loan of the same value is obtained, which shows that this loan is in essence a long-term loan.



With regard to the clause (not deducting long-term employee benefits from the Zakat base for 2019).the appellant (the Taxpayer) is requesting that the Circuit's decision on this clause be overturned. He states that the company incurred specific expenditures on the home ownership program related to its employees, which is a residential scheme dedicated to the company's Saudi employees, where homes were granted to eligible employees according to certain criteria, according to Note 8 to the financial statements, he points out that the Authority did not allow the deduction of the value used for unallocated units and deferred cost and states that the value used for unallocated units, which are fixed assets of the company, are re-reported in the company's balance sheet and have been classified within operating fixed assets, however, the reclassification in the lists should not affect the deduction for Zakat purposes, the Company confirms that it operates a home ownership program whereby the Company builds homes for its eligible employees and recovers the housing allowance plus 17% of the employees' base salary and the unrecovered portion of the cost from the employees is deferred and amortized over the life of the program, homes under construction are capitalized as part of the "under construction" line clause and once completed, the housing units are allocated to eligible Saudi employees or to fixed assets as part of other assets owned by the company and the cost of these homes transferred to employees is reported within the home ownership receivables account and the down payment and installments paid by the employees are deducted against the said receivables, he states that the company funds the home ownership program for employees from equity or other sources that are already subject to Zakat, and therefore the corresponding funds in the assets should be deductible under the Zakat regulations and emphasizes that the company has no intention of selling these units, while in the response of the Defendant (the Authority) it stated that it did not accept the deduction of long-term employee benefits as there is no provision in the executive regulations for the collection of Zakat issued in 1440 AH authorizing their deduction, the Authority clarifies that the nature of the clause is not in any way similar to the fixed assets used in the activity in terms of deduction from the Zakat base, and the Zakat Collection Executive Regulation issued by Ministerial Decision No. 2216 dated 7/7/1440 AH stipulates that the fixed assets must be used in the activity, and the regulation allows the deduction of assets financed to the lessee only in construction, operation and conversion projects, in accordance with the provisions of paragraphs (a - d/1) of Article (5) of Zakatd/1) of Article (5) of the same regulation, therefore, receivables arising from housing ownership programs cannot be considered as fixed assets, therefore, since the clause is not considered among the elements or clauses that are deducted from the base and is not considered one of the assets consumed in the activity according to Article (5) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, and there is no clause within the deductions of this name or of the same nature, the Authority maintains the validity and soundness of its procedure, and notes that the Authority's procedure was supported by decision No. IR-2021-37 issued by the First Appeals Circuit for Income Tax Violations and Disputes, whereas, the adjudication decision concluded to uphold the Authority's action, as it turns out that the clause that the Taxpayer claims to deduct is not considered an asset intended for the company's use, but are



considered loans granted to employees and are not deducted from the Zakat base. "The Authority indicates to your esteemed circuit that the Taxpayer is not subject to the provisions of the Ministerial Decision on adding and amending some paragraphs of the articles of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, concerning the determination of clauses that may be deducted from the Zakat base, which stipulates that: "a. Add subparagraphs (e) and (f) to article V, paragraph 1, to read as follows: (e) Employee housing owned by the Taxpayer. (f) Housing loans paid to employees through the Employee Housing Support Program, if their contracts include a statement that the financing was through Hassan loan or forward sale without the company accruing any financial profits or fees in excess of the principal amount of the financing:

1- The Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, stipulates in the third clause as follows: "The regulation attached to this decision shall apply to fiscal years beginning on and after 1/ 1/ 2019 for all Taxpayers."

2-Ministerial Decision No. 58705 dated 21/9/1444 AH clarified the scope of its application in clause (II), as it reads as follows: "This decision shall be communicated to those necessary to enforce it, and it shall be enforced from the date of its issuance." Since the decision clarified that it is enforced from the date of its issuance, and the ministerial decision did not indicate that it applies to cases in which an administrative decision was issued with retroactive effect, it is proven that the date of the assessment issued by the Authority on the Taxpayer is dated 04/11/2021AD corresponding to 29/03/1443 AH, i.e. Before the date of issuance of the aforementioned ministerial decision.

3- We find that the amendment contained in paragraph (a) of Ministerial Decision No. 58705 dated 21/9/1444AH on adding and amending some paragraphs of the articles of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, which stipulates: "A- Subparagraphs (e) and (f) shall be added to paragraph (1) of Article (V), with the following text: (e) Employee housing owned by the Taxpayer."

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (adding commissions and follow-up fees related to loans to the Zakat base for 2019AD), the appellant (the Authority) requests the annulment of the Circuit's decision on this clause and the Authority explains that the income statement was charged with interest costs of approximately 16 million "interest costs for loan discounting and borrowing" according to Note (20-4), accordingly, it appears that the amount of commissions and fees in essence arises from the accounting measurement according to the effective interest rate method, and from the Zakat point of view, it follows the origin of the loan from which it arose, which is the long-term loan, and what confirms this is that it is classified in the financial statements as a



single clause and not classified by the Taxpayer as short-term accrued loan interest, whereas in the Defendant's (the Taxpayer) response, the company asserts that these balances did not remain due for more than one year and therefore the Authority's action to add them to the base is incorrect, and points out that there is no relevance to the Authority's reference to the accounting policy as in Note (3-12) and financing costs Note (20-4) according to the income statement because the basis adopted by the Authority in adding the amounts is their maturity for more than one year, and where Adjudication Decision concluded to cancel the Authority's action, whereas, upon reviewing Note (3-12) of the Taxpayer's financial statements related to loans, which shows that the amortization of the costs of the loans to which they relate and the capitalization of costs that relate to subsequent financial periods are recognized within the expenses of the year, and upon reviewing Annex 5 in the case file containing the movement of these expenses, it is clear that the entire balance of the first period of these bank expenses has been paid, and therefore there are no amounts due.

On Tuesday, 28/11/2023AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/ 04/1441AH; and by calling on the litigants, he attended / ... National ID No. (...), as agent for the appellant under agency No. (...). (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) dated 19/03/1445AH. After examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and a decision on its substance, so the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits of the Taxpayer's appeal regarding the clause (not deducting long-term employee benefits from the Zakat base and canceling the Circuit's decision), and based on paragraph (e) of the first paragraph of Article 5 of the Executive Regulations for Zakat Collection issued by Decision No. (2216) of 07/07/1440 AH, as amended by Decision No. (58705) of 21/09/1444 AH, which stipulates that: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 1- Net fixed



assets and their equivalents, including, but not limited to, the following: e. Employee housing owned by the Taxpayer." based on the seventh paragraph of Article 6 of the Executive Regulations for Zakat Collection issued by Resolution No. (2216) of 07/07/1440AH, as amended by Resolution No. (58705) of 21/09/1444 AH, which stipulates that "The Zakat base is calculated by adding the clauses listed in Article (4) of the Regulation, minus the clauses listed in Article (5) of the Regulation, in accordance with the following controls: 7- With regard to employee housing support programs, the price of the housing unit borne by the employee must not exceed its actual cost to the Taxpayer, and the employee must not bear any additional amounts against the loan, including cases in which the contract is terminated before completing its term."

Based on the above, the dispute lies in the fact that the Authority did not accept the long-term employee benefits represented by the housing support program provided by the Taxpayer to his employees because there is no provision in the Zakat Collection Executive Regulations issued in 1440 AH. Authorizing its deduction, with reference to the case file and what it contains, and since the dispute is centered on the lack of a text authorizing the deduction of the clause, a review of the Executive Regulations for the Collection of Zakat issued by Resolution No. (2216) of 07/07/1440 AH, as amended by Resolution No. (58705) dated 21/09/1444 AH, shows that paragraph (e) was added to the first paragraph of Article 5 authorizing the deduction of employee housing owned by the Taxpayer and paragraph 7 to Article 6, which clarifies the controls of the deduction, therefore, since the amendment was issued while the litigation is ongoing between the parties and the ministerial decision did not stipulate the years to which the decision applies and only mentioned "effective from the date of its issuance," and since the amendment applies to the regulation of 1440 AH, which is applicable to the case in question, the amendment may be applied to the clause, and the regulation before the amendment did not contain an explanation of the correct treatment of the clause, so the amendment has created a new fact regarding employee housing, and the decision, as mentioned above, did not provide for exceptions stating that it will not apply retroactively, and therefore, upon reviewing the case file, where paragraph seven of Article Six of the executive regulation stipulates - the company's policy for the home ownership program. - a sample of contracts for employees who obtained homes under the Homeownership Program. The controls stipulate that the price of the housing unit borne by the employee must not exceed its actual cost to the Taxpayer and that the employee must not bear any additional amounts for the loan, including cases in which the contract is terminated before completing its term, and that the contracts concluded with the employees show that the employee pays the same total cost incurred by the company for the house, and there was no term in these contracts indicating a profit intention from the company for this project, and therefore, as it turns out that the mentioned controls applied to the Taxpayer, which means that the appeal must be accepted regarding the non-deduction of employee benefits.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make



it unnecessary to introduce anything new, since in upholding the decision with the contents of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached, taking into account its reasons in the remaining clauses under appeal.

Regarding the Authority's appeal on the rest of the clause (adding commissions and follow-up fees related to loans to the Zakat base for 2019AD), based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, which stipulates that "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: Government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: A- If the debts owed by the Taxpayer or other sources of funding have a duration of three hundred and fifty-four (354) days or more overlapping during the zakat year and the following year, they are added to the zakat base according to the number of days for each zakat year. B- The zakat year for debts does not cease with their renewal or rescheduling with the same creditor, or by replacing these debts with other debts or sources of funding that finance what these debts were financing. (c) The addition of what is mentioned in this paragraph shall not exceed the total amount deducted from the base in accordance with Article (5) of the Regulations." article 4, paragraph (10) also stipulates the following: "Any clause of liabilities and equity that financed an clause deducted from the zakat base."

Based on the above, as the dispute centers around adding commissions and follow-up fees related to loans to the Zakat base, where the Taxpayer believes that these costs related to loans have not yet reached the end of the year, while the Authority believes that these costs are part of the loans and are treated as loans and the loan balances are taken according to the financial statements, and by referring to the case file and its contents, the amount of the dispute is (1,407,160) SAR, resulting from the difference between what the Taxpayer added and the Authority's calculation of the loans, as the Taxpayer added loans in the amount of (727,889,840) riyals, while according to the Authority's assessment , the clause (729,297,000) riyals, including commissions and loan fees in the amount of (1,407,160) riyals, and by reviewing the audited financial statements, specifically Note (16-2) related to long-term loans, it appears that what was declared for long-term loans amounted to (729,297,000) riyals, which is the same amount added by the Authority, including commissions, so the Taxpayer declared them within one clause, also, with reference to the



explanations of the loans (16), it appears that the long-term loans financed a deductible asset "harvesting factories", and since the disputed commissions take the judgment of the related loan, and where paragraph (10) of Article (4) mentioned above stipulates that the Zakat base for the Taxpayer who maintains commercial books consists of all his funds subject to Zakat collection, including any clause of liabilities and equity that financed an clause deducted from the Zakat base, this does not affect the Taxpayer's point that there is no relevance to the Authority's reference to the accounting policy as in Note (3-12) and financing costs as in Note (20-4), whereas, a review of the interest costs of discounting loans and borrowing declared within the income statement in the amount of (16) million shows that they include commissions in the amount of (1,407,160) riyals, according to the detailed movement of loan commissions, as the total interest costs of discounting loans and borrowing in the income statement are the additions according to the indicated movement, which the Taxpayer requested to be deducted within the income statement, which means that the appeal regarding the addition of commissions and follow-up fees related to loans to the Zakat base should be accepted and the decision of the Circuit should be canceled. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IZD-2022-2160) issued in case number (Z-2022-112956) related to the zakat assessment for the years 2019 and 2020AD.

Secondly: On the merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (adding commissions and follow-up fees related to loans to the Zakat base for the year 2019AD).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (social insurance difference added to the net profit for 2019AD).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Adding funding obligations for asset additions, adding accrued expenses and adding other credits for 2019AD).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (adding short-term loans to the Zakat base for 2019AD).
- 5- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting long-term employee benefits from the Zakat base for 2019AD).



Committee for adjudicating tax violations and disputes
Third Circuit to adjudicate income tax violations and disputes
In Riyadh

Decision No. ITR-2024-178620

Case No. Z-2023-178620

Keywords:

Zakat - Additions to the zakat base - Addition of Accrued Surplus Distributions - Rejection of Taxpayer's Objection

Summary:

The Taxpayer's objection to the zakat assessments for the years 2015 to 2018AD. Where the Taxpayer's objection lies on several clauses including: clause (Adding the accrued surplus distributions for the years 2015 and 2016AD) on the addition of the accumulated surplus of insurance operations distributable to policyholders to the Zakat base for the aforementioned two years, whereas, the basis for the permissibility of deducting the distributable surplus is to provide proof of its exit from the company's liability in a separate account over which the company has no authority, and the clause (not deducting the full value of investments) on the Authority's refusal to deduct local investments, trading portfolios and real estate with multiple values as it is for the channel, and the clause (not deducting the solvency margin) lies in requiring the Taxpayer to deduct the solvency margin from the Zakat base as it is considered a reserved money that may not be disposed of. And since it has been established to the circuit regarding the clause (adding due surplus distributions) that the Taxpayer did not attach what proves his retention of the insurance surplus related to policyholders in a separate account, and regarding the clause (non-deduction of the full value of investments) that the Taxpayer did not provide the movement on the shares to prove the absence of sale movements during the year to prove that it is for personal use and that the investment in the funds invested is considered as commercial offerings and cannot be deducted from the zakat base, and regarding the clause (non-deduction of the solvency margin) that the solvency margin is an operational ratio that cannot in any case be classified as one of the clauses of financial statements but is an analytical ratio used to judge the company's solvency.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)



- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The facts of this lawsuit summarize that the plaintiff/company... Commercial Registration No. (...), filed her objection to the Zakat Taxes for the years 2015 to 2018AD, limiting her objection to the following clauses: first clause: (2015 amortization difference), second clause: (Balance of Retained Earnings for 2017), third clause: (Zakat Allowance): the plaintiff's objection lies in the defendant's decision to add the zakat provision to the zakat base for the years 2015 to 2017 in the amount of (9,7343,588) SAR, (12,312,752) SAR, (15,366,170) SAR, and (17,926,170) SAR, and the plaintiff believes that the component of the Zakat provision is not a deductible expense, in addition to the fact that the user cannot be deducted either, as it is not a deductible expense, and therefore the Zakat profit does not consist of charging the user of the provision, to subject the provision to Zakat within the Zakat profit, and that reintroducing it into the Zakat base will lead to a Zakat bend in the calculation of the base. Fourth clause: (Add the accrued surplus distributions for 2015 and 2016): the plaintiff's objection lies in the defendant's decision to add the accrued surplus distributions for the years 2015 and 2016 to the Zakat base in an amount of SAR (2,984,395) and SAR (4,307,062), respectively. The plaintiff states that these amounts are not subject to Zakat as they belong to policyholders, and that they represent accrued amounts reserved for the benefit of policyholders, and that they represent accrued amounts reserved for the benefit of policyholders

The policies are not disposable, as per the Authority's application to all insurance companies not to subject this clause to Zakat. Fifth clause: (Deducting the full value of investments for the years 2015 to 2018): the plaintiff's objection to the defendant's decision lies in not allowing the full value of the investments to be deducted from the zakat base for the years 2015 to 2018 in the following amounts: (25,629,650) SAR, (23,747,119) SAR, (89,585,314) SAR and (108,841,206) SAR, respectively respectively, the plaintiff explains that the investments deducted in her declarations are local companies and investments in trading portfolios or real estate, based on the provisions of paragraph (2/4/a) of Article (4) of the Zakat Collection Regulation for 1438 AH, as it allowed the deduction of investments subject to Zakat collection in the Kingdom, in addition to not deducting the investment in a company.... Sixth clause: (Not deducting the solvency margin from the Zakat base for the years 2015-2017AD): the plaintiff's objection to the defendant's decision lies in not allowing the deduction of the solvency margin for the years 2015-2017 adfrom the zakat base in the amounts of (87,000,000) Saudi riyals, (75,000,000) Saudi riyals and (75,000,000) Saudi riyals, The Plaintiff contended that it is necessary to address the Shariah aspects of Zakat in relation to this clause, given the absence of a definitive provision in the amended Zakat Regulations that



independently governs the Solvency Margin. The Plaintiff explained that, in the context of deducting the Solvency Margin from the Zakat base for cooperative insurance companies, if Shariah rulings serve as the basis for Zakat treatment of the solvency margin, then the regulatory provisions established by the Saudi Arabian Monetary Authority (SAMA) in the Implementing Regulations of the Cooperative Insurance Companies Control Law — issued under Royal Decree No. (M/32) dated 2/6/1424H — must serve as the foundation for determining the nature, characteristics, and requirements of the margin, which in turn inform its Zakat treatment. From a Shariah perspective, the solvency margin is to be considered purpose-bound funds, akin to professional tools or business-use assets, and thus falls under the legal interpretation stated in Fatwa No. 12756, which deals with non-disposable assets. From a regulatory perspective, the Solvency Margin is considered a reserved amount that may not be disposed of, in accordance with the SAMA regulations, as it represents the minimum amount required to be retained by the company to meet contractual obligations from baseessential claims and other liabilities. The Solvency Margin serves as a safeguard for policyholders in cases where claims exceed underwritten premiums or where reinsurers fail or go bankrupt. Accordingly, the Plaintiff argued that the correct Shariah-based treatment of the Solvency Margin is that it must be deducted from the Zakat base, as it qualifies as a business-use asset in the cooperative insurance context, and as a restricted, purpose-bound fund, thus subject to the relevant Shariah rulings. The Plaintiff also pointed to restrictions on the rotation and investment of funds in insurance companies, where the Central Bank requires a minimum of 40% of investments to be allocated to long-term local bank deposits and government bonds — assets that are deemed to be business-use holdings, retained for the life of the company and not subject to disposal, except for any excess above the mandatory minimum. seventh clause: (Not deducting the user from the allowance for the year 2015): the plaintiff's objection lies in the defendant's decision to add the first period allocations to the Zakat base for the year 2015 (SAR 120,231), and states that not deducting the user from the profit despite the addition of the component violates the calculation of the Zakat base, and if the component is added, the user must be deducted under the same clause from the profit, and deducting the user from the profit is to determine what remains of the allocation and consider it as financing. It requests the annulment of the defendant's decision that is the subject of the lawsuit.

The case was presented to the defendant: she replied; First: (2015 amortization difference), Second: (Balance of retained earnings for 2017AD): defendant has indicated its acceptance of Plaintiff's requests in these clauses. Third: (Zakat Allowance): she explains that she added the Zakat provision to the beginning balance of the period after deducting its utilization for the years 2015 to 2018AD as follows: (A table showing the calculation is attached.) With regard to what the plaintiff indicated in her claim that there is a bend in the submission, she answers that the component is not added to the net profit, because the net profit was adjusted before the zakat expense and the addition of the allowance to the balance of the first period after deducting the user, due to the turn of the year, and her procedure is based on paragraph (9/1) of Article (4) of the Executive Regulations of the Zakat Law issued by Ministerial Resolution No. 2082 for



1438 AH. Fourth: (Add the accrued surplus distributions for 2015 and 2016AD): the defendant states that it added the policyholders' share of the insurance surplus to the Zakat base due to the turn of the year on the added balance, in accordance with paragraph (2.e) of Article (70) of the Executive Regulations of the Cooperative Insurance Companies Control Law issued by Royal Decree No. (M/32) dated 2/6/1424H, which stipulates: "The distribution of the net surplus , either by distributing 10% to the insured directly or by reducing their premiums for the following year (the percentage of the surplus that the Taxpayer is required not to add to the Zakat base) and then transferring 90% to the shareholders' income statement." because insurance companies are obligated to distribute 10% of the net insurance surplus to customers, while it became clear that the plaintiff did not distribute this surplus and the insured's premiums were not reduced in the following year, as evidenced by the presence of the amount in the financial statements for more than one year and the turning of the year. During the hearing held with the plaintiff, the defendant explained that these profits are in a special account that the company cannot dispose of. In light of this, she asked the plaintiff to provide her with a certificate from the bank stating that they are in a special account and the documents that support this, so the plaintiff attached a statement from It shows a balance of SAR (638,924.14), and the type of account is current, and she did not provide documents and a certificate from the bank to support her objection. In response to the plaintiff's claim that the money is seized and there is no full ownership, this is not true, as the plaintiff has full access to the existing bank accounts

These amounts are accessible and can be utilized (funds utilized and available for use). Fifth: (Not deducting the full value of investments for the years 2015 to 2018AD): the Authority responds that it did not accept the deduction of investments for the fiscal years 2015 to 2018AD, based on paragraph (4c) of clause (2) of Article (4) of the Executive Regulations of the Zakat Collection Law issued by Ministerial Resolution No. (2082) for the year 1438H, as follows (Table attached) At the objection stage, the Authority requested the plaintiff to submit the supporting documents as follows:

- Analysis of the investments clause showing the company name - beginning balance - additions - deductions - distributions - profits and losses - and the ending balance.
- Reconcile the investments with the financial statements, indicating the type of shares, bonds and sukuk, investment funds and real estate.

The plaintiff provided an Excel file showing only the balance of the last period and the name of the company invested in, and through the analysis document and financial statements, it turned out that the investments are (local stock portfolios - units of investment funds - real estate - investment in ... Company) therefore, the Defendant partially accepted the deduction of investments worth SAR (1,923,078) for the disputed years, because they are investments in ... Company as for investments in stock portfolios or real estate funds the investor intends to invest in these funds or portfolios that are managed by an intermediary and is aware of the nature of the business and activities of these funds or portfolios, and that it is based on flipping and trading money (buying and selling) and not acquiring, and therefore investing in the portfolios of these



funds is considered to be in the category of offers of trade, which may not be deducted from the Zakat base, and this does not change the duration of the investment in the fund or its classification in the financial statements this does not change the duration of the investment in the fund or its classification in the financial statements, but rather the nature of the investment, and based on the fact that the purpose of these funds or portfolios is trading, the investment in them is considered a current asset that is classified as an offer of trade, therefore, it affirms that the plaintiff is not entitled to deduct it from the Zakat base for the years in question. Vi: (Not deducting the solvency margin from the Zakat base for the years 2015-2017AD): stating that it did not deduct the solvency margin because it is not a deductible element according to Article (4) Clause (2) of the Zakat Collection Regulation issued by Ministerial Decision (2082) dated 01/06/1438AH. The solvency margin is an operational ratio that measures the company's financial solvency and is not an element of the financial statements, as stipulated in Article 66 of the Executive Regulations of the Law on the Control of Companies ... Issued by Ministerial Decision No. (596/1) dated 1/3/1425AH, stipulates that a company practicing general and health insurance must maintain a solvency margin by adopting the highest of the following three methods: the solvency margin is essentially an operational ratio that cannot in any way be categorized as a financial statement clause and does not appear in the company's financial statements, nor is it a restricted part of the capital. As for the plaintiff's statement that the company's hand is tied to the development of the solvency margin, it is not true. The matter does not exceed the fact that the Central Bank has determined for insurance companies more secure investment channels and instruments in order to preserve the rights of shareholders and insurers, and the solvency margin is one of the controls of the work in the field of cooperative insurance in the Kingdom and known to the company before it applied for a license to practice the activity in the Kingdom, and there is no provision in the executive regulations for collecting zakat to deduct the solvency margin from the zakat base, and since no addition or deduction except by text, it rejected the plaintiff's objection. Seventh: (Not deducting the user from the allowance for the year 2015): it clarifies that the user is deducted from the first period allowance and the difference is added to the Zakat base, because this is the correct treatment, which is mentioned in paragraph (9/1) of Article (4) of the Executive Regulations of the Zakat Law issued by Ministerial Decision No. (2082) of 1438AH, which states: "The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." whereas the component of the allocations during the year is added to the net profit as a non-deductible expense, as this is the correct treatment, which is in accordance with Article (6) paragraph (6) of the aforementioned Executive Regulations, which stipulates "non-deductible expenses, including (6) all allocations with the exception of: A- Provision for doubtful debts to banks provided that the bank submits a certificate from its board of directors specifying the amount of doubtful debts and that the Saudi Arabian Monetary Authority approves that. (b) Unearned premiums reserve and existing risk reserves in insurance (and/or reinsurance) companies (technical reserves)



provided that they are returned to the Zakat base in the following Zakat year and that their determination is in accordance with the professional standards followed in this activity." it asks for a judgment of dismissal.

On Wednesday, 14/6/2023AD, the Circuit held its session remotely to hear the case, and by calling on the litigants, the ... National ID No. (...), as agent for the plaintiff under agency No. (...), as representative of the defendant/Zakat, Tax and Customs Authority, ... National ID number (...) Under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1443) dated 15/10/1443 AH. At the hearing, the plaintiff's representative requested that the proceedings be suspended due to the existence of a settlement request with the Authority, and by presenting it to the defendant's representative, he responded: my client has no objection to suspending the proceedings, so the Circuit decided to suspend the proceedings for (one hundred and eighty) days in accordance with Article 31 of the Rules of Procedure of the Tax Disputes and Violations Adjudication Committees

On 17/12/2023AD, the case was initiated, and on Wednesday, 03/01/2024AD, the Circuit held its session remotely to hear the case, and by calling on the litigants, ... Identity number (...) As agent for the plaintiff under agency number (...) He attended/... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs, no: under authorization No. (.../.../.../.../...), dated 19/03/1445AH. When the plaintiff's agent was asked about the lawsuit, he answered in accordance with the regulations previously filed with the General Secretariat of the Tax Committees. When the defendant's representative was confronted with this, he replied that he was sticking to the response previously filed with the General Secretariat of the Tax Committees. Asked what they would like to add, both parties said no. Therefore, the Circuit decided to close the argument.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Decree No. (.../.../...) And its executive regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its amendments, and after reviewing the Income Tax Law issued by Royal Decree No.(M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its amendments and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425AH and its amendments, and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 8/4/1445AH. And relevant laws and regulations.

In terms of form: since the plaintiff aims to cancel the defendant's decision regarding the Zakat assessments for the years 2015 to 2018, and since the plaintiff filed Case No. (Z-2021-41128) on 10/03/2021AD, which was closed for incomplete documents on 01/04/2021AD, and since the date of filing the case is considered as the date of filing the grievance before the Secretariat, while she was informed of the partial rejection notice on 24/02/2021AD, the grievance was filed within the statutory period stipulated in Article (2) of the



working rules of the Tax Disputes and Violations Resolution Committees: "The Authority shall decide on the objection within ninety days from the date of its submission. If the decision to reject the objection is issued or the ninety-day period elapses without a decision, the Taxpayer may, within thirty days from the date on which he is informed of the rejection of his objection before the Authority or the expiration of the ninety-day period without a decision, do any of the following: Within thirty days from the date on which he is informed of the rejection of his objection before the Authority or the expiration of the ninety-day period without a decision:

(1) if the Taxpayer rejects the internal committee's decision on settlement or if the period specified in the settlement rules expires without reaching a settlement, the Taxpayer may file a grievance case against the Authority's decision before the adjudication committee within thirty days from the date on which he was informed of the internal committee's decision or the period specified in the settlement rules expired without reaching a settlement, and his case shall not include what may have been settled with the internal committee.

(2) File a grievance directly with the dismissal committee." therefore, the Circuit must accept the case procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests and defenses raised by the parties, and found that the dispute lies in the following:

First: (2015 amortization difference) and (2017 retained earnings balance):

Article (33) of the working rules of the Tax Disputes and Violations Adjudication Committees stipulates that: "The decisions of the adjudication Circuits shall acquire final status in the following cases:

3- The parties to the case agree to reconciliation or acknowledge reconciliation before the adjudication Circuits."

The Circuit has established that the dispute ended with the defendant's acceptance of the plaintiff's requests as stated in the letter issued by the defendant in the reply memorandum attached to the case file, which leads the Circuit to conclude that the dispute has ended with regard to this clause.

Secondly: (Zakat Allowance):

Paragraph (1) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year."

Whereas, allocations by their accounting nature mean that the company has a future obligation that it did not pay during the fiscal year in which the obligation is due, so they are added to the base as an offset against



the Taxpayer's funds, as the Taxpayer's obligation means that the money is still in his hand, and there is no difference in this matter between what has been allocated to pay Zakat or otherwise, and whereas, those allocated amounts have passed the hawl and are in the plaintiff's possession, and therefore the fact that these amounts remain with the company for another year should result in the duty of Zakat on them for that year, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

Third: clause (Adding accrued surplus distributions for 2015 and 2016AD):

Whereas paragraph (2.e) of Article (70) of the Executive Regulations of the Cooperative Insurance Companies Control Law issued by Royal Decree No. (M/32) dated 2/6/1424AH stipulates that "Distribution of the net surplus, either by distributing 10% directly to the insured or by reducing their premiums for the following year and then transferring 90% to the shareholders' income statement." paragraph (9) of the policy on distribution of surplus insurance operations issued by the Central Bank of Saudi Arabia stipulates that: "9- The insurance company must deposit the amounts of surplus insurance operations in a bank account separate from the rest of the company's bank accounts." based on Article 35 of the Surplus Distribution Policy, which states: "The amount of unclaimed surplus for more than 5 years is returned to the insurance operations income statement. If the customer claims the amount after 5 years, the amount is paid and deducted from the insurance income statement. The insurance company must keep records of the accrued surplus for 10 years and after 10 years, the company must seek approval from the Saudi Central Bank to dispose of any amounts accrued in the insurance operations income statement." whereas, the dispute between the parties is in adding the accumulated surplus of insurance operations distributable to policyholders to the Zakat base for the years 2015AD and 2016AD, and where the basis for the permissibility of deducting the distributable surplus is to provide proof of its exit from the company's liability in an independent account over which the company has no authority, like the profits under distribution, and referring to the case file and the defenses and documents it contains shows that the plaintiff did not submit the Central Bank policy regarding the accumulated surplus, and a bank statement was submitted ... This was confirmed by the defendant in its reply memorandum, and with reference to the financial statements available on the Tadawul website (the lists for 2018AD and 2019AD were examined because the years in dispute were not available on the basis of verification), it appears that the net insurance surplus appears in the statement of income from insurance operations separately, but the notes to the financial statements did not clarify whether the company keeps the surplus of policyholders in a separate bank account, and although the policy of the Saudi Central Bank in the surplus of insurance operations makes it clear that the company cannot dispose of the surplus in any way despite the fact that the Saudi Central Bank's policy on surplus insurance operations makes it categorically clear that the company cannot dispose of the surplus in any form whatsoever, the dispute over this clause is a documentary dispute and the fact that the plaintiff did not attach proof that it keeps the insurance surplus related to policyholders in



a separate account, which leads the Circuit to reject the plaintiff's objection and support the defendant's action with regard to this clause.

Fourth: the clause (not deducting the full value of investments for the years 2015AD to 2018AD):

Based on paragraph (4/A) of Article (4) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 1/6/1438AH on: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base."

Article 20, paragraph 3, of the Act states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."

A: investments in Tadawul shares (local companies):

Two basic conditions must be met for investments to be considered as Acquisition offerings and may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on those investments. A review of the documents attached to the case file reveals that the plaintiff did not submit the movement on the shares to prove that there were no sales transactions during the year, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

B: investments in funds:

Whereas, two basic conditions must be met for investments to be considered as offers of trade and may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on those investments, and whereas investment funds are characterized by the collection of different amounts issued for investment in various fields, and the fund has a financial liability independent of the issuing investment entity consequently, the investment in these funds is considered a trade offer and may not be deducted from the zakat base. This does not change the duration of the investment in the fund, but rather the nature of the investment, as they are funds for trading and not for reading, which leads the Circuit to reject the plaintiff's objection and uphold the defendant's action with regard to this clause.

C: investing in a company... :

Article (33) of the working rules of the Tax Disputes and Violations Adjudication Committees stipulates that: "The decisions of the adjudication Circuits shall acquire final status in the following cases:



3- The parties to the case agree to reconciliation or acknowledge reconciliation before the adjudication Circuits."

The Circuit has established that the dispute ended with the defendant's acceptance of the plaintiff's requests as stated in the letter issued by the defendant in the reply memorandum attached to the case file, which leads the Circuit to conclude that the dispute has ended with regard to this clause.

Fifth: clause (not deducting the solvency margin from the Zakat base for the years 2015AD-2017AD):

Whereas, the dispute lies in the plaintiff's claim to deduct the solvency margin from the Zakat base, as it is a reserved money that may not be disposed of, in accordance with the Monetary Authority's regulations and in accordance with Fatwa No. (12756) regarding funds that cannot be disposed of and that reserved funds are not subject to Zakat, and whereas the basis for the obligation of Zakat is the general rules of collection and the Sharia fatwas issued in this regard, as well as Zakat collection regulations, trade offers and explanatory circulars. Regarding the claim that the company's hand is tied regarding the solvency margin, this claim is incorrect, as it does not exceed the fact that the Saudi Central Bank has specified certain investment channels and tools for these companies for the purpose of preserving the rights of shareholders, and building reserves to support the company's financial position and achieve the required solvency margin according to the Cooperative Insurance Companies Control Law and its executive regulations, and it is known that the solvency margin is an operational ratio that cannot in any case be classified as one of the clauses of financial statements but is an analytical ratio used to judge the company's solvency, which leads the circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

Sixth: clause (Non-deductibility of the user from the allocations for 2015AD):

Whereas paragraph (I) of Article (4) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year."

The Zakat treatment of provisions consists of deducting the user from the balance of the provisions at the beginning of the year and adding the result to the Zakat base with the addition of the component to the net profits. A review of the Zakat assessment shows that the defendant has deducted the user from the provisions during the year from the balance of the first period and added the remainder to the turnover, thus the Zakat treatment of the disputed clause is correct, and the plaintiff's reference to subjecting the balance of the provision twice is incorrect, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

For these reasons and after deliberation, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the plaintiff's objection/ Company ... , Commercial Registration No. (...), against the decision of the defendant/ Zakat, Tax and Customs Authority from a procedural perspective.

Second: On the Merits:

- 1- Proving the end of the dispute regarding the clause (consumption difference for the year 2015AD).
- 2- Proving the end of the dispute regarding the clause (retained earnings balance for the year 2017AD).
- 3- Rejection of the plaintiff's objection regarding the clause (adding the zakat provision for the years from 2015AD to 2017AD).
- 4- Rejection of the plaintiff's objection regarding the clause (adding due surplus distributions for the years 2015AD-2016AD).
- 5- Regarding the clause (non-deduction of the full value of investments for the years from 2015AD to 2018AD):
 - A - Rejection of the plaintiff's objection regarding the clause (investments in trading shares (local companies)).
 - B - Rejection of the plaintiff's objection regarding the clause (investments in funds).
 - C - Proving the end of the dispute regarding the clause investment in (Company ... For insurance services - valued at 1,923,078 Riyals).
- 6 - Rejection of the plaintiff's objection regarding the clause (non-deduction of the solvency margin from the zakat base for the years 2015AD-2017AD).
- 7 - The plaintiff's objection regarding the clause (the user not being deducted from the allocations for the year 2015AD) is rejected.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. ITR -2024-168661

Case No. Z-2023-168661

Keywords:

Zakat - Additions to the Zakat Base - Retained Earnings - Accepting the Authority's Appellate Committee

Summary:

The Zakat, Tax and Customs Authority (ZTA) objected to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2441), where its appeal lies on the clause (Net Fixed Assets for the year 2018AD) because the regulation was issued after the submission of the Taxpayer's declaration, and the clause (Retained Profits for 2017AD and 2018AD) according to the following reasons that upon reviewing the case papers, including dividends of (2,500,000 riyals for the year 2017 and dividends of (250,000) riyals for the year 2018AD, and where the Taxpayer provided supporting documents showing their distribution before the lunar calendar, which makes the Authority consider accepting the distributions according to the supported distributions, with regard to the remaining amount, the Taxpayer did not prove the submission of these profits, which must be added to the Zakat base. The Appellate Committee found that the Taxpayer submitted documents proving the distribution of profits before the turn of the lunar calendar in the amount of SAR 2,500,000 for 2017AD and SAR 250,000 for 2018AD, while with regard to the remaining amount of SAR 14,662,355 for 2017AD and SAR 18,105,648 for 2018AD, the Taxpayer did not prove the submission of these profits, which should be added to the Zakat base; accepting the Authority's appeal in part and amending the decision of the Dissolution Circuit.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (7) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 10/01/2023AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2441) issued in Case No. (Z-2021-65642) related to the Zakat assessment for the years 2015 to 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed against the ZTA:

- 1- Annulment of the decision of Defendant with respect to the 2015AD and 2016AD consumption differences.
- 2- Canceling the defendant's decision regarding the net fixed assets clause for the years 2015AD, 2016AD, and 2018AD.
- 3- Annulment of the Defendant's decision regarding the travel ticket allowance for the year 2017AD.
- 4- Annulment of the defendant's decision regarding the travel ticket allowance - the component - for the years 2015AD to 2018AD.
- 5- Canceling the defendant's decision regarding the retained earnings clause for 2017AD and 2018AD.
- 6- Annulment of the defendant's decision regarding the clause of goods received without invoices for the year 2018AD.
- 7- Canceling the defendant's decision regarding the clause transferred to the statutory reserve for the years 2015AD and 2016AD.
- 8- Proving the end of the disagreement regarding the Zakat allocation clause for 2015AD.
- 9- Proving the end of the dispute regarding the vacation allowance clause for the years 2015AD to 2018AD.
- 10- Proving the end of the dispute regarding the inventory allowance clause for 2015AD and 2016AD.
- 11- Recognizing the end of the dispute regarding the dye allocation clause and the difference in steel prices for the years 2017 adand 2018AD.
- 12- Recognizing the end of the dispute regarding the allowance for doubtful debts for the years 2015AD, 2016AD, and 2018AD.
- 13- Confirmation of the end of the dispute regarding the legal expenses clause for 2016AD.
- 14- Confirmation of the end of the dispute regarding the trade creditors clause for the years 2015AD to 2018AD.
- 15- Recognizing the end of the dispute regarding an clause due to related parties for the years 2015AD, 2017AD, and 2018AD.



- 16- Proving the end of the dispute regarding the accrued vacation expense balance for 2017AD.
- 17- Confirmation of the end of the dispute regarding the clause of advance payments received from customers for the years 2015AD to 2018AD.
- 18- Recognizing the end of the dispute regarding the employee benefits clause for 2015AD and 2016AD.
- 19- Proving the end of the dispute regarding other clauses accrued for the years 2016AD to 2018AD.
- 20- Recognizing the end of the dispute regarding the 2017AD short-term loans line clause
- 21- Recognizing the end of the dispute regarding the clause of profits on import differences for the years 2015AD to 2018AD.
- 22- Recognizing the end of the dispute regarding the clause of proposed dividends for 2018AD.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority objects to the decision of the Appealed Decision, claiming that with regard to the clause (Net Fixed Assets for 2018AD), the Circuit issuing the Appealed Decision annulled the Authority's action based on the principle of non-retroactivity of laws and that laws and regulations are not applied retroactively unless otherwise stated. The Authority states that the Taxpayer submitted his return and deducted the balance of net fixed assets according to the depreciation method using the decreasing premium, while the Authority did the assessment on the Taxpayer and deducted the assets according to the balance included in the financial statements in examining the objection, the Authority maintained its view that the Taxpayer is a Zakat Taxpayer, and with reference to the year referred to, it is clear that the details of the balance of the assets are as explained in the Authority's reply memorandum, and as for the Circuit's reasoning that the regulation was issued after the submission of the Taxpayer's declaration the Authority responds that this is incorrect, as the Defendant submitted its declaration for the year 2018 on 17/09/1440 AH and the Regulation was issued on 01/06/1438 AH, meaning that the treatment of that clause for that year must be an application of the Regulation in accordance with paragraph (2) and Article (4) paragraph (2/1). With regard to the clause (Retained Profits for 2017AD and 2018AD), the Authority claims that it related the Taxpayer to add the retained profits to the Zakat base for 2017AD and 2018AD in the amount of (17,162,355) riyals and (18,355,648) riyals, respectively, 648 riyals, respectively, representing the balance of the first period because the Taxpayer did not provide documentary proof of the distribution based on Article 4, paragraph (1/8) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, nor did the Taxpayer provide documentary proof of the distributions, represented by the partners' decision to distribute therefore, based on the above article, the Taxpayer's objection was rejected, and the Circuit canceled the Authority's action due to the Defendant's submission of the supporting documents. Accordingly, the Authority reviewed the case papers, including dividend distributions in the amount of (2,500,000 riyals for the year 2017AD and 250,000 riyals for the year



2018AD, where the Taxpayer provided supporting documents showing their distribution before the turn of the lunar calendar, which is why the Authority believes that the distributions should be accepted according to the supported distributions of 2,500,000 riyals for the year 2017AD and 250,000 riyals for the year 2018, as for the remaining amount, the Taxpayer did not prove the submission of these profits, which should be added to the Zakat base as detailed in the Authority's response memorandum. The Authority also objects to the clause (statutory reserve for 2015AD and 2016AD), and therefore, the Authority requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

On Sunday, 18/2/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits of the Authority's appeal regarding the clause (Net Fixed Assets for 2018AD), and where its appeal lies in the fact that the Taxpayer filed his return and deducted the balance of net fixed assets according to the depreciation method using the declining installment method, while the Authority related to the Taxpayer and deducted the assets according to the balance included in the financial statements, and that the Taxpayer is a Zakat Taxpayer the Authority adhered to its view that the Taxpayer is a Zakat Taxpayer, and that the Defendant filed his return for the year 2018AD on 17/09/1440 AH and the regulation was issued on 01/06/1438 AH, meaning that the treatment of this clause for that year should be in accordance with the regulation. Where paragraph 1/(Second) of Article (4) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438H states: "The following shall be deducted from the zakat base:" The net value of fixed assets (property assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." And where paragraph (2) of Article (7) of the executive regulation for the collection of



Zakat issued by Ministerial Decision (2082) dated 1/6/1438H states: "Fixed assets are depreciated according to the straight-line method, and their depreciation rate is as follows: ...". Based on the above, and since the authority's appeal revolves around what was stated in the circuit's reasoning that the regulation was issued after the Taxpayer submitted their declaration, the authority responds that this is incorrect as the Taxpayer submitted their declaration for the year 2018AD on 17/09/1440H and the Zakat regulation was issued on 01/06/1438H, meaning that the treatment of that clause for that year should be in accordance with the regulation as stated in Article Seven paragraph (Second) and Article Four paragraph (Second/1) of the executive regulation for the collection of Zakat. Upon reviewing the case file and the defenses and documents it contains, it is clear that what the authority referred to is correct as the year of dispute is 2018AD; therefore, the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438H should be applied, which leads the circuit to accept the authority's appeal and cancel the decision of the circuit regarding this clause.

With regard to the Authority's appeal regarding the clause (Retained Dividends for the years 2017AD and 2018AD), its appeal lies in reviewing the case documents, including dividends of (2,500,000) riyals for the year 2017AD and dividends of (250,000) riyals for the year 2018AD, where the Taxpayer provided supporting documents showing their distribution before the turn of the lunar calendar, so the Authority believes that the distributions should be accepted according to the supported distributions, as for the remaining amount, the Taxpayer did not prove the submission of these dividends, so they should be added to the Zakat base. And since paragraph (8) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." based on the above, and where the Authority's appeal lies on the Circuit's decision to cancel the Authority's action due to the submission of supporting documents by the Defendant, and after reviewing the case file and the defenses and documents it contains, it appears that the Taxpayer has submitted documents proving the distribution of profits before the turn of the lunar calendar in the amount of (2,500,000) riyals for 2017AD and (250,000) riyals for 2018AD, as for the remaining amount of SAR (14,662,355) for 2017AD and SAR (18,105,648) for 2018AD, the Taxpayer did not prove the submission of these profits, which must be added to the Zakat base, which concludes that the Circuit partially accepts the Authority's appeal and modifies the decision of the Adjudication Circuit in this clause.

Whereas, with regard to the Authority's appeal regarding the clause (statutory reserve for the years 2015AD and 2016AD), and after the Circuit's reflection On the merits of the dispute, and after the Circuit's review of the Authority's appeal, and where the Circuit may adopt the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with what these reasons contain, it is certain that it has not found any



objections to the decision that merit a response beyond what is contained in those reasons, and where this is the case and it is proven that the decision under appeal regarding the disputed clause was consistent with sound reasons that it was based on and sufficient to carry its judgment the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and where this Circuit found that the conclusion reached by the adjudication Circuit in its decision is correct and that the reasons on which it based its decision are sufficient to support that decision, and where this Circuit did not notice anything that warrants censure or comment in light of the defenses raised before it, which leads this Circuit to reject the Authority's appeal and uphold the decision of the adjudication Circuit in this clause on the basis of its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from its submitter/ Zakat, Tax and Customs Authority, against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam with the number (IZD-2022-2441) issued in case number (Z-2021-65642) related to the zakat assessment for the year 2015AD and 2018AD.

Secondly: On the merits:

- 1- Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (net fixed assets for the year 2018AD).
- 2- Acceptance of the authority's appeal partially and modification of the decision of the circuit regarding the clause (retained earnings for the years 2017AD and 2018AD).
- 3- Rejection of the authority's appeal and upholding the decision of the circuit regarding the clause (legal reserve for the years 2015AD and 2016AD).



Appellate Committee for Tax Violations and Disputes
Third Circuit to adjudicate income tax violations and disputes
In Riyadh

Decision No. ITR -2024-191855

Case No. Z-2023-191855

Keywords:

Zakat – Additions to the zakat base – Retained earnings – Partially accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh number (IFR-2023-113299), where the Taxpayer's appeal on the clause (retained earnings) is based on the equality of profit distributions and withdrawals during the year, indicating that these profits did not exist at the date of preparing the financial statements, and argues that the profits were recorded in the partners' current account according to their share in the capital and that the partners' withdrawals exceeded the profits. In the clause (partners' salaries), the Taxpayer requests the full deduction of partners' salaries, not just what is registered with social insurance, as the partners manage the company themselves. And since it was established to the Appellate Committee regarding the clause of retained earnings that one partner's withdrawals exceeded the distributed profits and thus did not pass the year, and another partner's withdrawals were after the year had passed, and regarding the clause of partners' salaries, it was established that the Taxpayer submitted an analytical summary of salaries and wages and that a fixed amount was allocated to each partner for management, transportation allowance, and allowances. Since the authority did not accept the deduction of the difference, it argues that the amount of the difference in salaries stated in the declaration and registered with social insurance is much less than the salaries of similar positions in other companies, and by calculating the non-deductible amount and dividing it among the partners, it appears that it equals the salaries of similar positions. This means that regarding the clause of retained earnings, the Taxpayer's appeal is partially accepted, and regarding the clause of partners' salaries, the Taxpayer's appeal is accepted.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)



- Article (70) [of the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (8) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (5) [of the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal was heard on: 10/04/2023, from/(.....), ID# (.....) In his capacity as the statutory representative of the appellant company under the Memorandum of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-113299) issued in Case No. (Z-2022-113299) related to the 2016 Zakat assessment in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Plaintiff's objection rejected/(.....) (.....) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

This decision was not acceptable to the Taxpayer (.....) He filed a list of appeals, which included the following:

With regard to the clause (retained earnings), the Taxpayer claims that the Board of Directors' decision to distribute the profits and the decision to distribute the profits to the partners' accounts were submitted, as well as a bank statement, which, according to the replying memorandum and the decision of the General Secretariat, was not reviewed, the partners' current account showing the distribution and the partners' withdrawals and their disposal of the distributed balance of the retained earnings, and since the partners' balance on the date of preparation of the financial statements (zero), the partners' current accounts were not shown in the submitted trial balance (if zero balances were shown in the balance sheet, the number of accounts would be very large and it would be difficult to download them electronically) the annex provided by the Zakat Authority and taken from our financial statements shows equal dividends and withdrawals during the year, which indicates that these profits did not exist on the date of preparation of the financial statements, but the Zakat Authority maintains the inclusion of this amount, which does not exist within the Zakat base, and regarding the clause (partners' salaries) the Taxpayer claims that the partners are the ones who manage the company themselves, and since Article 6 of the Executive Regulations, the text of which was mentioned in the reply note provided by the Authority, states that the partners' salaries and the remuneration of the Board of Directors are deducted, we point out that the partners did not receive any remuneration or allowances other than what was stated, the amount of the difference in salaries stated in the declaration and registered in the social insurance is much lower than the salaries of similar salaries in other companies, and we saw that the Authority adheres to the adaptation of the article, which allows the



deduction of the salaries and allowances of the owner of the establishment and the president, vice president and members of the board of directors provided that the salaries and allowances of the owner of the establishment are registered in the social insurance without mentioning the remuneration of the board of directors, and in this case, the owners of the establishment are the directors and members of the board of directors, and no other, so the Taxpayer requests the reversal of the decision of the Adjudication Circuit under appeal for all the above-mentioned reasons.

On Tuesday, 11/06/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated 8/4/1445AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (Retained Profits) and where the Taxpayer's appeal lies in the equality of dividends and withdrawals during the year, which indicates that these profits did not exist on the date of preparing the financial statements, and based on paragraph (8) of clause (1) of Article (4) of the Executive Regulations for Zakat Collection issued by Minister of Finance Decision No. (2082) dated 01/06/1438H, which stipulates the following: "The Taxpayer's appeal is based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for the Collection of Zakat: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of retained earnings from previous years at the end of the year." Based on the above, and since the dispute lies in adding the balance of retained earnings at the beginning of the period, the authority acknowledges adding the balance of (4,259,508) riyals to the Zakat base due to the lack of supporting documents. The Taxpayer argues that the profits were recorded in the partners' current account according to their share in the capital and that the partners' withdrawals exceeded the profits. Upon reviewing the documents, it is clear that the Taxpayer submitted a decision from the partners dated 23/2/2016AD to distribute the balance of retained earnings for the year ending 31/12/2015AD, as well as a bank statement in addition to an analytical statement for the partners' current



account for partners (Partner A and Partner B). Upon reviewing the analytical statements, it was found that profits of (425,951) riyals were transferred to Partner A's current account on 29/02/2016AD, and it is evident that Partner A's withdrawals exceeded the distributed profits and thus did not complete the year. Regarding Partner B, upon reviewing the analytical statement, it is clear that profits of (3,833,557) riyals were transferred to Partner B's current account on 29/02/2016AD, and it is evident that Partner B's withdrawals amounting to (813,815) riyals occurred after the year had completed, which leads the authority to accept the Taxpayer's appeal partially and add the amount of (813,815 riyals) that had completed the year, and amend the decision of the adjudication authority.

Whereas, with regard to the Taxpayer's appeal regarding the clause (Partners' salaries) and where the Taxpayer's appeal lies in his demand to deduct the entire salaries of the partners and not only what is registered with the social insurance because the partners are the ones who manage the company themselves, and based on paragraph (2) of Article 5 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438AH regarding the expenses that may be deducted, provided that: " The salaries and allowances of the owner of the establishment, whether it is a sole proprietorship, a capital company, or a partnership, as well as the bonuses paid to the chairman, vice-chairman, and members of the board of directors who are partners in the company, are considered deductible expenses provided that the salaries and allowances of the owner of the establishment are registered with social insurance." According to the above, it is clear that the zakat treatment for the clause of partners' salaries and wages is to accept the deduction of the salaries of the registered partners or owners in the General Organization for Social Insurance. Referring to the documents, it is clear that the Taxpayer submitted an analytical summary of the salaries and wages and that a fixed amount of (50,000) riyals per month was allocated to each partner for management, transportation allowance, housing, and communications. Since the authority did not accept the deduction of the difference amounting to (1,112,400) riyals, the Taxpayer argues that the difference in salaries mentioned in the declaration and registered with social insurance is much less than the salaries of similar positions in other companies. By calculating the non-deductible amount and dividing it among the partners, it appears that it equals the salaries of similar positions, which leads the circuit to accept the Taxpayer's appeal and overturn the decision of the division regarding this clause.

Whereas, with regard to the Taxpayer's appeal regarding the (salary difference) clause, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in supporting the decision with the contents of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment the issuing Circuit scrutinized the dispute and reached the conclusion it reached in the



operative part of its decision, and this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, which leads this Circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached in this clause at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial (.....), distinctive number (.....), against the decision of the first division regarding violations and disputes of income tax in Riyadh with number (IFR-2023-113299) issued in case number (Z-2022-113299) related to the zakat assessment for the year 2016.

Secondly: On the merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication authority regarding clause (salary differences).
- 2- Partially accepting the Taxpayer's appeal and amending the decision of the adjudication authority regarding clause (retained earnings).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the adjudication authority regarding clause (partners' salaries).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. ITR -2024-169448

Case No. Z-2023-169448

Keywords:

Zakat – Additions to the zakat base – Retained earnings – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first authority for adjudicating violations and disputes of income tax in Riyadh No. (IFR-2022-2154), where his appeal lies on clause (amount due to related parties) in order to claim the deduction of the debit balance of the partners within the limits of their share of retained earnings, and clause (retained earnings (b) adjustments for previous years) according to the following grounds that the authority did not adjust the balance of retained earnings by the value of adjustments for previous years amounting to (4,279,239) riyals. And since it has been established to the Appellate Committee that the Taxpayer submitted an extract from the system for the movement of previous adjustments amounting to (4,279,239) riyals, it is clear from the financial statements - partners' rights list - that the clause relates to adjustments for previous years. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (4/8) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 14/01/2023AD from ..., National ID No. (...) Was considered in his capacity as the Chairman of the Board of Directors of the appellant company by virtue of the resolution of the Transformative General Assembly, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City No. (IFR-2022-2154) issued in Case No. (Z-2021-73650) related to the 2017AD



Zakat assessment, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

The plaintiff/company's objection was rejected.... (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause (Due to Related Parties), the Appeals Circuit rejected the objection to the addition of the due to related parties in the amount of (32,359,116) SAR, , and explains that the three conditions in Article (4) of Clause (1) Paragraph (5) do not apply; as the balance due to related parties was used to finance related party debtors whose balance as of 31/12/2017AD amounted to SAR (106,589,691), and explains that the Authority's reliance is incorrect as related party debtors include balances totaling SAR (80,227,042) belonging to partners in a company.referred to in the attached analytical statement. With regard to the clause (Rounded profits (b) Adjustments for previous years) the Taxpayer claims that the Authority did not adjust the balance of the rounded profits by the value of previous years' adjustments in the amount of (4,279,239) riyals. The Taxpayer also objects to the clause (Long-term real estate investments) and the clause (Revolved profits (a) Dividends), and therefore, the Taxpayer requests that the decision of the Adjudication Circuit be reversed for the above-mentioned reasons.

On Thursday, 01/02/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated 21/4/1441AH: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (Due to Related Parties), and where his appeal is that the three conditions in Article (4) of Clause (1) Paragraph (5) do not apply; as the balance due to related parties was



used to finance related party receivables whose balance as of 12/31/2017AD amounted to SR (106,589,691), and explains that the Authority's reliance is incorrect as the debit balances to related parties include balances totaling SR (80,227,042) related to the partners in a company referred to in the attached analytical statement. Where paragraph (2) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: The following shall be deducted from the Zakat base: "5. The current account owed to the owner or partner subject to Zakat not exceeding their share of the profits carried forward." based on the above, and where it is clear that what the Taxpayer is claiming is the deduction of the debit balance of the partners to the extent of a share of the retained earnings, and upon reviewing the Authority's reply memorandum, it is clear that the Authority added the year in question in the amount of (32,359,116) riyals, as it does not belong to the partner companies in the company, and upon reviewing the memorandum of association, it is clear that (Company ..., Company ..., Company ..., Company ..., Company ...) Therefore, the correct procedure is to deduct the debit balance to the extent of each partner's percentage of the retained earnings balance based on the text of the above-mentioned article, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit in this clause by deducting the debit balance to the extent of each partner's percentage.

Whereas, regarding the Taxpayer's appeal regarding the clause (Rounded Profits (B) Adjustments for previous years), and where his appeal lies that the Authority did not adjust the balance of rounded profits by the value of previous years' adjustments in the amount of (4,279,239 riyals). And since paragraph (8) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of retained earnings from previous years at the end of the year." Paragraph (3) of Article (20) also stated: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and upon reviewing the case file and what it contains of defenses and documents; and since the Taxpayer submitted an extract from the system for the movement of previous adjustments amounting to (4,279,239) riyals, it is clear from the financial statements - partners' rights list - that the clause relates to adjustments for previous years, which leads the authority to accept the Taxpayer's appeal and cancel the decision of the adjudication authority in this clause.

Whereas, with regard to the remaining clauses at issue in the lawsuit, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that it did not find any objections to the



decision that merit a response beyond what was contained in these reasons since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the adjudication Circuit with respect to the remaining clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Riyadh with number (IFR-2022-2154) issued in case number (Z-2021-73650) related to the zakat assessment for the year 2017AD.

Secondly: On the merits:

1- Partially accepting the Taxpayer's appeal and amending the decision of the adjudication circuit regarding the clause (due to related parties) by deducting the outstanding balance according to the percentage of each partner.

2- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (long-term real estate investments).

3- Regarding the Taxpayer's appeal on the clause (carried forward profits):

A - Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (profit distributions).

B - Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the clause (settlements for previous years).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. ITR -2024-191941

Case No. Z-2023-191941

Keywords:

Zakat – Additions to the zakat base – carried forward profits – accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit regarding violations and disputes of income tax in Riyadh number (IFR-2023-115490), where his appeal is based on the clause (carried forward profits from 2016AD to 2018AD) to claim the deduction of the distributed profits from the zakat base. It was established to the Appellate Committee that the (year 2016AD) carried forward profits balance was (320,097) riyals, and the Taxpayer submitted payment vouchers on 10/03/2016AD, 15/06/2016AD, and 17/08/2016AD proving the total amount of (150,000) riyals was withdrawn from the Taxpayer's account before the end of the year, and (in 2018AD) the carried forward profits balance was (401,058) riyals, and the Taxpayer submitted payment vouchers on 25/03/2018AD, 28/03/2018AD, 05/05/2018AD, 10/07/2018AD, and 03/10/2018AD, proving the total amount was withdrawn from the Taxpayer's account before the end of the year, and based on the above, the amount that was due for the year 2016AD is (170,097) riyals. Consequently; partially accepting the Taxpayer's appeal and amending the decision of the adjudication circuit.

Document:

- Paragraph (8) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 10/04/2023AD, from /..., National ID No. (...) Was considered as the statutory representative of the appellant company under the Memorandum of Association, and the appeal filed by the Zakat, Tax and Customs Authority on 07/05/2023AD against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-115490) issued in Case No. (Z-2022-



115490) related to the Zakat assessment for the years 2009AD to 2018AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: annulment of the decisions of the defendant/Zakat, Tax and Customs Authority against the plaintiff/company ...(distinctive number ...) For the years 2009AD through 2015AD that are the subject of the lawsuit.

Secondly: rejecting the other objections of the plaintiff/company ... (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority relating to the assessments at issue in this case.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer claims that the Authority added carry-over profits from 2016AD to 2018AD without providing distribution documents, and we object to this procedure as these profits were distributed based on the decision of the Board of Directors at the end of the year and the supporting documents showing these distributions and the decision of the Board of Directors to distribute the profits are attached to you.

The Zakat, Tax and Customs Authority did not accept the decision, so it filed a list of appeals, which was reviewed by the Circuit and included a request to accept its appeal and overturn the decision of the Adjudication Circuit.

On Wednesday, on: 12/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated 8/4/1445AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the subject of the Taxpayer's appeal regarding the clause (Profits carried forward from 2016AD to 2018AD), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit



regarding this clause, as he claims that these profits were distributed based on the decision of the Board of Directors at the end of the year. Based on paragraph (8) of clause (1) of Article (4) of the executive regulation for collecting zakat issued by the Minister of Finance's decision number (2082) dated 01/06/1438AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." Based on the above, it is clear that the dispute between the parties in the case lies in the Taxpayer's request to deduct the distributed profits from the zakat base, and upon reviewing the documents submitted in the case file, it is evident that the Taxpayer submitted a decision from the partners to distribute the profits and also submitted payment vouchers showing the following: (In 2016AD) the carried forward profits balance was (320,097) riyals, and the Taxpayer submitted payment vouchers on 10/03/2016AD, 15/06/2016AD, and 17/08/2016AD proving the total amount of (150,000) riyals was withdrawn from the Taxpayer's account before the end of the year, and (in 2017AD) the carried forward profits balance was (1,060,235) riyals, and the Taxpayer submitted payment vouchers on 20/04/2017AD, 30/05/2017AD, 15/07/2017AD, and 20/10/2017AD proving the total amount of (820,097) riyals was withdrawn from the Taxpayer's account before the end of the year, and (in 2018AD) the carried forward profits balance was (401,058) riyals, and the Taxpayer submitted payment vouchers on 25/03/2018AD, 28/03/2018AD, 05/05/2018AD, 10/07/2018AD, and 03/10/2018AD, proving the total amount was withdrawn from the Taxpayer's account before the end of the year, and based on the above, the amount that was due for the year 2016AD is (170,097) riyals, and for the year 2017AD is (240,138) riyals, which leads the circuit to partially accept the Taxpayer's appeal and amend the decision of the adjudication circuit regarding this clause.

With regard to the Authority's appeal regarding the clause (Limitation 2009AD-2015AD) and related clauses, and where Article 70 of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has proven the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that it has left its appeal with regard to the above clause specifically and the procedures resulting from its appeal for this clause as per the terms of reference of the decision of the Disposition Circuit..." therefore, the Circuit must accept the abandonment of the litigation.



With regard to the Taxpayer's appeal on the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, since in upholding the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons; whereas it is established that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer/ Company..., commercial registration (...) , unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Riyadh number (IFR-2023-115490) issued in case number (Z-115490-2022) related to the zakat assessment for the years from 2009AD to 2018AD.

Secondly: On the merits:

- 1- acceptance of abandonment of litigation regarding the Authority's appeal (Limitation 2009AD-2015AD) and related clauses.
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (imports 2016AD-2018AD).
- 3- Partially accepting the Taxpayer's appeal and amending the decision of the adjudication circuit regarding the clause (carried forward profits from 2016AD to 2018AD).
- 4- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (suppliers 2016AD-2018AD) was upheld.
- 5- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (other debts and balances 2016AD) was upheld.
- 6- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (short-term loans 2016AD) was upheld.



- 7- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (accrued expenses 2016AD-2018AD) was upheld.
- 8- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (non-settlement of lands 2016AD-2018AD) was upheld.
- 9- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (non-settlement of investment in shared land with others (2016AD-2018AD) was upheld.
- 10- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (end-of-service provision carried forward (2018AD) was upheld.
- 11- The Taxpayer's appeal was rejected, and the decision of the adjudication committee regarding clause (bad debt expense 2017AD) was upheld.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. ITR -2024-179706

Case No. Z-2023-179706

Keywords:

Zakat – Additions to the zakat base – Retained earnings – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the Second Circuit for Settlement of Income Tax Violations and Disputes in Riyadh (ISR-2022-112850), where his appeal is based on the clause (rounded profits for the fiscal year 01/10/2019AD to 30/09/2020AD) because the dividends in question are amounts that legally came out of the Taxpayer's financial liability and appeared in the financial statements within the cash flow statement as dividends. The Appellate Committee found that the Taxpayer submitted (the partners' decision to distribute profits and bank statements) and it is clear from the partners' decision issued on 01/10/2019AD that the amount distributed is (5,000,000 riyals), and by comparing with the bank statements, it is clear that on 10/09/2020AD, profit distributions were transferred in favor of the partner (...) (3,500,000 riyals), and on 16/09/2020, (1,000,000 riyals) was transferred, meaning that the total amount distributed during the Taxpayer's fiscal year is (4,500,000 riyals), and that the amount that has come due to be added to the Zakat base is (500,000 riyals). Consequently; partially accepting the Taxpayer's appeal and amending the decision of the adjudication circuit.

Document:

- Paragraph (8) of article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 23/02/2023AD, from (...), National ID No. (...), as the statutory representative of the appellant company according to its articles of incorporation, on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-112850) issued in Case No. (Z-



2022-112850) related to the 2019 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Accepting the lawsuit filed by the plaintiff / Company ..., Commercial Registration No. (...), against the defendant / Zakat, Tax and Customs Authority, procedurally, and rejecting it in substance.

As this decision was not accepted by the Taxpayer (Company ...), he submitted a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (rounded profits for the fiscal year 01/10/2019AD to 30/09/2020AD), the Taxpayer explained that the dividends in question are amounts that legally came out of the company's financial assets and appeared in the financial statements within the cash flow statement as dividends, and therefore in this case it is a deduction from the Zakat base based on the following: First: misapplication of the applicable regulatory legislation: the ruling was based on the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH (corresponding to 19/03/2019 AD), where the Adjudication Circuit in the operative part of its decision relied on the following statutory articles: paragraph (5) of Article (4) of the regulation, which states: "The Zakat base for a Taxpayer who maintains commercial books shall consist of all his assets subject to the collection of Zakat, including the following: 5. The balance of rounded profits from previous years", paragraph (3) of Article (20) of the Regulations, which stipulates that the burden of proving the correctness of the clauses and any other data in the Taxpayer's declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary decision according to the Authority's view in light of the circumstances and facts related to the case and the information available to it: 1- In the Zakat General Guidance Manual (First Edition - September 2019AD) on the treatment of rounded profits added to the Zakat base, the Authority emphasized that dividends must be deducted: 1 zakat is added to the Zakat base with the beginning balance of the period minus the dividends paid during the Zakat year. With reference to the audited financial statements of the company on 30/09/2020AD, it is clear that dividends of (5,000,000) riyals were recorded as a cash outflow (negative) within the cash flows from financing activities, and they represent a deduction from the balance of retained earnings carried over from the first period within the statement of change in equity, which means that the dividends were out of the company's financial liability during the year, which confirms that they are not subject to Zakat. During the hearing, the adjudication committee did not direct any inquiries to the company or request any documents that would conclusively resolve the pending case. On the contrary, it issued its ruling by failing to provide the company with certain supporting documents, which means that it violated the following general principles: it is a well-established principle of litigation that the judiciary is limited by the requests made by the litigants, which are realized in light of the original request. The resolution of the dispute between the Taxpayer (the plaintiff) and the Authority requires taking into account the completeness and order of its zakat treatment to arrive at what may be calculated within the Taxpayer's zakat base and what



may be deducted from it. The reasons for a judicial verdict must include an answer to every request or plea made before the judicial circuit, the resolution of which may result in a change of opinion in the litigation, otherwise the verdict will be tainted by deficiency. It is concluded from the above that the adjudication committee's argument that the company did not provide documents does not justify its decision to reject the clause's deduction, as the adjudication committee did not investigate accurately and did not ask the company for any additional documents to avoid confusion and clarify the nature of the clause, but rather issued a ruling to reject its deduction without ascertaining its nature, which indicates that the decision under appeal did not properly characterize the incident and suffered from a deficiency in the corresponding reasoning. li: the dismissal committee's reliance on the plaintiff's (the company) failure to provide documents and the need to provide them is invalid: we would like to clarify to the Honorable Circuit that the clause claimed for deduction is not one of the clauses that cannot be deducted for the purposes of calculating Zakat, as stipulated in Article (6) of the Executive Regulations for the Collection of Zakat. Based on paragraph (2) of Article 190 of the Shari'a Procedures Law, which stipulates: "The Court of Appeal shall consider the appeal or audit request based on the documents in the file and the new arguments or evidence submitted by the parties to support the reasons for their objection presented in the memorandum, and shall rule after hearing the statements of the parties to the appeal or audit request - if it considers the appeal or audit request - to uphold or overturn the verdict in whole or in part and shall rule on what has been overturned the company shall attach to the Honorable Circuit all documents in support of its viewpoint, and accordingly, the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit regarding the clause he is appealing be reversed.

On Monday, 20/05/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No. (25711) and dated 8/4/1445AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



As for the Taxpayer's appeal regarding the clause (rounded profits for the fiscal year 01/10/2019AD to 30/09/2020AD), where the Taxpayer's appeal lies in the appeal against the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the dividends in question are amounts that legally came out of the Taxpayer's financial estate and appeared in the financial statements within the cash flow list as dividends, and therefore may be deducted from the Zakat base. Based on paragraph (8) of clause (1) of Article (4) of the executive regulation for collecting zakat issued by the Minister of Finance's decision number (2082) dated 01/06/1438 AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 8- The balance of carried forward profits from previous years at the end of the year." based on the above, and since the dispute over this clause is a documentary dispute, and with reference to the case file and the defenses and documents it contains, as the Taxpayer submitted (the partners' decision to distribute profits and bank statements) and it is clear from the partners' decision issued on 01/10/2019 that the amount distributed is (5,000,000 riyals), and through comparison with the bank statements, it is clear that on 10/09/2020, profit distributions were transferred in favor of the partner ... (3,500,000 riyals), and on 09/16/2020, (1,000,000 riyals) was transferred, meaning that the total amount distributed during the Taxpayer's fiscal year is (4,500,000 riyals), and that the amount that is due to be added to the Zakat base is (500,000 riyals), which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding the clause under appeal.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), distinctive number (...) Against the decision of the second circuit regarding violations and disputes of income tax in Riyadh No. (ISR-2022-112850) issued in case No. (Z-2022-112850) related to the zakat assessment for the year 2015. (...) Against the decision of the second circuit regarding violations and disputes of income tax in Riyadh No. (ISR-2022-112850) issued in case No. (Z-2022-112850) related to the zakat assessment for the year 2019AD.

Secondly: On the merits:

Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (rounded profits for the fiscal year 01/10/2019AD to 30/09/2020AD).



Appeals Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR-2024-170717

Case No. Z-2023-170717

Keywords:

Zakat - Additions to the zakat base - Difference in retained earnings - Partial acceptance of the Taxpayer's appeal - Acceptance of the Authority's appeal - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first division regarding violations and disputes of income tax in Jeddah Governorate number (IZJ-2022-2691), where the authority's appeal is on clause (discrepancy in the retained earnings amount) objecting to the division's decision that it added the retained earnings by an amount representing the opening balance after deducting actuarial losses, and on clause (addition of the carryover from the vacation provision) in objection to what the division decided regarding this clause; as the division amended the clause without stating the grounds for its amendment to the authority's decision and merely referred to the amendment of that clause, and the Taxpayer's appeal is on clause (not deducting the value of investments in equity instruments) in objection to what the division decided regarding this clause; as it claims that the authority did not deduct any of the financial investments in equity instruments. The appellate committee found regarding clause (discrepancy in the retained earnings amount) that the authority subjected the retained earnings balance that had completed a year, represented by the opening balance after deducting actuarial losses, and regarding clause (addition of the carryover from the vacation provision) the decision of the division to amend the authority's procedure is incorrect as it became clear that there was no amendment to the authority's procedure, and regarding clause (not deducting the value of investments in equity instruments) the committee found that there were no investment movements in some clauses of the declaration, which leads to; partially accepting the Taxpayer's appeal and accepting the authority's appeal.



Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (1,4,8) of Article (4) of [the executive regulations for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 19/01/2023 AD from / (...), National ID No. (...), in his capacity as Chairman of the Board of Directors under the Memorandum of Association, and the appeal filed on 01/02/2023 AD from / Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah governorate no. (IZJ-2022-2691) issued in Case No. (Z-2021-50222) related to the Zakat assessment for the year 2018 AD, in the suit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

- 1- Amending the defendant's action on the end-of-service allowance clause; according to the merits of the decision.
- 2- Rejecting the plaintiff's objection to the travel tickets clause.
- 3- Rejecting the plaintiff's objection to the ticket allowance.
- 4- Modifying the Defendant's action on the clause of vacation allowance; according to the merits of the decision.
- 5- Rejecting the plaintiff's objection to the tax deductions.
- 6- Rejecting the plaintiff's objection to the late payment penalties clause.
- 7- Rejecting the plaintiff's objection to the VAT clause Reverse Assignment.
- 8- Rejecting the plaintiff's objection to the Zakat expenses clause.



- 9- Rejecting the plaintiff's objection to the car ticket expenses clause.
- 10- Rejecting the plaintiff's objection to the VAT clause.
- 11- Amending the defendant's action on the retained earnings clause, according to the merits of the decision.
- 12- Rejecting the plaintiff's objection to the end-of-service severance pay provision.
- 13- Rejecting the plaintiff's objection to the rounded clause from the allowance for doubtful debts.
14. Rejecting the plaintiff's objection to the statutory reserve clause.
15. Reject the plaintiff's objection to the additional capital clause.
16. Reject the plaintiff's objection to the related parties clause.
- 17- Rejected the plaintiff's objection to the advance rentals clause.
- 18- Rejecting the plaintiff's objection to the other credits clause.
- 19- Amending the Defendant's action on the real estate investments clause; according to the merits of the decision.
- 20- Rejecting the plaintiff's objection to the clause Investments in Equity Instruments.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal lies with regard to the clause (Failure to deduct the value of investments in equity instruments) The Taxpayer explains that the Authority did not deduct any of the financial investments in equity instruments, while the correct figure deducted according to the declaration is (117,655,612) SAR, according to the documents provided for these investments, they are all in the shares of local companies subject to the collection of Zakat, the company deliberated with the Authority during the discussion of this point before the Authority issued the final assessment , and the Authority stated that the clause could not be deducted because it contains a large value movement within the financial statements, which means that these investments are for speculation and not for the purpose of channeling, and we respond to the Authority in this regard that most of this movement is a movement of fair value adjustments in accordance with international accounting standards and not a movement of sale and purchase in addition, the Authority has added to the



statutory text what is not in it, as the text of paragraph II/4/a is clear that the investment may be deducted if it is in a local enterprise subject to the collection of Zakat, and thus the regulation adopts the principle of non-zakat bending as the basis for deducting the investment, by deducting the investment representing part of the equity of another company that is subject to Sharia Zakat in the same year in the liability of the company issuing the investment, and therefore its deduction from the Zakat of the company owning the investment is mandatory, note that financial investments are mortgaged to a bank as a guarantee for financial facilities worth (SAR 50,000,000 from the Saudi Investment Bank. Accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (adding the roundabout from the vacation allowance). The Authority explains that the Circuit issuing the decision under appeal modified the clause and did not indicate the reasons for its modification of the Authority's decision, but only referred to the modification of that clause, and the Circuit's decision was severely flawed, which makes the decision flawed and must be reversed, as no appeal can be filed against a decision that does not include clear grounds that can be responded to and rebutted the judicial body, after determining that the case has become ready for adjudication, must issue a decisive ruling on the dispute, which is categorical in its indication and not subject to jurisprudence or interpretation, and where the decision under appeal stipulates the amendment of the Authority's decision without clarifying what is meant by the amendment in order to ensure the rights of the parties to the case alike, which the Authority believes that the litigation is not concluded in its substance and the Adjudication Circuit has not exhausted its mandate in the adjudication, therefore, Authority requests that this clause be returned to the decision-making circuit to remove this ambiguity, and with regard to the clause (difference in the amount of retained earnings), Authority explains that it added retained earnings in the amount of (1,491,686) riyals, which represents the balance of the first period after deducting the actuarial losses, which is the current balance, and by reviewing and referring to the list of changes in equity, it is clear that the Authority's procedure is correct, as for the Taxpayer's claim regarding the deduction of the transferred amount to the legal reserve of SAR 14,592 is incorrect, as the transfer is from the year's profit and not from the retained earnings, therefore, the Taxpayer's objection was rejected based on paragraph (8) of the first clause of Article



(4) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, and that the decision of the Circuit of Appeals referred to the modification of the Authority's procedure but did not clarify what is the modification to the Authority's procedure and its value. For the foregoing reasons, the decision of the Circuit of Determination of the clauses under appeal should be overturned.

On Sunday, on: 09/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal relates to the clause "Not deducting the value of investments in equity instruments." The Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the Authority did not deduct any of the financial investments in equity instruments, while the Defendant (the Authority) stated in its response that it did not deduct investments in equity instruments from the Zakat base that it did not deduct investments in equity instruments from the Zakat base, as the movement of the clause is shown in Note No. (7) of the financial statements and the existence of movement, which indicates that the purpose of trading, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "Investments in establishments within the Kingdom – participation with others - if those investments are subject to zakat collection under this regulation, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and since there must be two essential conditions for considering investments as representing capital assets and may be deducted from the zakat



base, which are the documented intention of the authorized person clarifying the intention of the investment, and the absence of sales transactions during the year on those investments, and upon reviewing the case file and what it contains of defenses and documents, it appears that the authority argues against the deduction of investments due to the existence of exclusion movements according to clarification number (7) in the financial statements, indicating that the purpose of the investments is trading and not for capital purposes, and since the Taxpayer argues that all investments are in shares of local companies subject to zakat collection, and that the majority of that movement is a movement for fair value adjustments and not a movement of buying and selling, and upon reviewing the attached documents in the case file, the Taxpayer attached the movement of investments in the portfolio (...) And the portfolio (...), and it became clear that there was no sale movement in investments (...) In the portfolio (....) In the amount of (584,000) riyals, and that the change in the value of the shares is due to fair value adjustments, which led the division to decide to deduct this investment from the zakat base. As for the portfolio (...) It became clear that there was no sale movement on the following investments: (... — ... - ...-...-...-...-...-...) Amounting to (81,909,360) riyals as the difference in the investment balance is due to additions to the investments, the Circuit decided to deduct these investments from the Zakat base. As for the shares of the company (....) In the portfolio (...) It became clear that there was a substantial exclusion movement on them during the year in question, and thus they are not deducted from the zakat base, and it also became clear from the analytical statement of investments included in the Taxpayer's appeal that there is an clause "cash" amounting to (23,585,223) riyals among the investments that the Taxpayer requests to deduct, and since this clause does not represent an investment and is not one of the deductible clauses, it follows that its deduction from the zakat base is not accepted, which leads the division to partially accept the Taxpayer's objection by deducting investments amounting to (82,493,360) riyals and amending the decision of the division regarding this clause.

Whereas, with regard to the Authority's appeal regarding the clause (adding the turnover from the vacation allowance), the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that the Circuit issuing the decision under appeal amended the clause and did not indicate the reasons for its amendment of the Authority's decision and merely referred to the amendment of that clause, while the Taxpayer argues that the Authority added the vacation expense to the profit and added the first period balance and subtracted the paid amount on the basis that it is the turnover, both procedures are incorrect, and based on paragraph (1/5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:". 5- Government and commercial loans and other sources of



financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on the above, and upon reviewing the case file, it is clear that the authority argues that the division that issued the decision subject to the appeal amended the clause without stating the grounds for its amendment, and upon reviewing the case number (Z-2021-50222) it is clear that a modified decision was issued regarding the disputed clause on 30/05/2024 AD, however, upon reviewing the modified decision, it became clear that it concluded to amend the authority's procedure by "accepting vacation expenses from the adjusted net profit of 144,531 riyals and adding the carryover to the zakat base after deducting the amount used of 435,702 riyals", and upon reviewing the authority's response memorandum before the division, it is clear that the authority added the vacation provision by the same amount (435,702) riyals, thus it becomes clear to the division that the conclusion of the division's decision to amend the authority's procedure is incorrect as it became clear that there was no amendment to the authority's procedure, which leads the division to accept the authority's objection and annul the decision of the division regarding this clause.

Whereas, with regard to the Authority's appeal regarding the clause (Difference in the amount of retained earnings) and where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; it claims that it added retained earnings in the amount of 1,491,686 riyals, which represents the balance of the first period after deducting the actuarial losses, while the Taxpayer argues that the retained earnings were declared according to the audited financial statements. Therefore, the company requests the cancellation of the Authority's action for this clause, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- Balance of profits carried forward from previous years at the end of the year. "Based on the above, and with reference to the documents and defenses in the case file, it appears that the Authority argues that the decision of the Circuit under appeal referred to the amendment of the Authority's procedure and did not clarify what the amendment is and what its value is, and with reference to Chapter Case No. (Z-2021-50222), it is clear that an amended decision was issued on 30/05/2024 AD to "add the retained earnings to the first period balance after deducting the actuarial losses", with reference to the Authority's reply memorandum before the adjudication, it is clear that the Authority subjected the retained earnings balance that has come due, which is represented by the balance of the first period after deducting the actuarial losses." Thus, the text of the adjudication committee's decision ended up following



the same treatment adopted by the Authority, which leads the Circuit to accept the Authority's objection and cancel the decision of the Adjudication Circuit in this clause.

Whereas, with regard to the Authority's appeal regarding the clause (difference in the amount of the component of the end-of-service allowance) and the clause (failure to deduct the full value of real estate investments), and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically, and the consequent procedures for this clause as per the terms of the decision reached by the Adjudication Circuit, is left to its discretion." therefore, the Circuit must accept the abandonment of the litigation.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (...) Commercial registration (...) , unique number (...) , and the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2691) issued in case number (Z-2021-50222) related to the zakat assessment for the year 2018 AD.

Secondly: On the merits:

- 1- Acceptance of the abandonment of the dispute regarding the authority's appeal on clause (discrepancy in the amount of the end-of-service provision).
- 2- Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (addition of the carryover from the leaves provision).
- 3- Acceptance of the authority's appeal and cancellation of the decision of the adjudication circuit regarding the clause (discrepancy in the amount of retained earnings).
- 4- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (non-settlement of the full value of real estate investments).
- 5- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the component from the travel ticket allocation).
- 6- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the rollover from the ticket allocation).
- 7- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of tax deduction expenses).
- 8- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of late payment tax penalties).
- 9- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of value-added tax reverse charge expenses).
- 10- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of Zakat expenses).



11- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of vehicle violation expenses).

12- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of differences in calculating value-added tax).

13- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (discrepancy in the amount rolled over from the end-of-service benefits allocation).

14- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the rollover from the allocation for doubtful debts).

15- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (the statutory reserve).

16- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of additional capital).

17- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of amounts from related parties).

18- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of rents received in advance).

19- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of other credit balances).

20- Acceptance of the Taxpayer's appeal partially and modification of the decision of the adjudication circuit regarding the clause (non-settlement of the value of investments in equity instruments).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-168650

Case No. Z-2023-168650

Keywords:

Zakat - Additions to the zakat base - Suppliers who have already made hawl - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) objected to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2366) issued in Case No. (Z-2021-81249), where ZTA's appeal is based on the statute of limitations clause for 2015 AD, where the Taxpayer submitted the return after the statutory period, and the clause (suppliers for 2016 AD and 2017 AD), where the suppliers' amounts were added to the Zakat base based on the financial statements. Whereas the Appellate Committee proved the correctness of the Authority's calculation of the amounts that fell due for the years 2016 AD and 2017 AD based on the audited financial statements and the detailed movement of the account. The implication is that the appeal of the authority is accepted.

Document:

- Article (70) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



the appeal filed on 10/01/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City (IZD-2022-2366) issued in Case No. (Z-2021-81249) related to the Zakat assessment for the years 2015 AD to 2017 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, was considered, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Annul the Defendant's decision with respect to the 2015 AD Zakat assessment procedure.
- 2- for depreciation allowances:
 - A. Rescinding the Defendant's 2015 AD decision.
 - B. Rejecting the plaintiff's objection with respect to 2016 AD.
- 3- regarding wages and salaries:
 - A. Rescinding the Defendant's 2015 AD decision.
 - B. Rejecting the plaintiff's objection with respect to 2016 AD and 2017 AD.
- 4- for the advertising expense clause:
 - A- overturned the defendant's 2015 AD decision.
 - B. Modification of the Defendant's 2016 AD decision.
 - C. Reject the plaintiff's objection with respect to 2017 AD.
- 5- Rejection of the plaintiff's objection regarding the bad debt expense for 2016 AD
- 6- Cancel the Defendant's decision with respect to the supplier line clause for the years 2015 AD to 2017 AD.
7. for the accrued expenses clause:
 - A. Rescinding the Defendant's 2015 AD decision.
 - B. Rejecting the plaintiff's objection with respect to 2016 AD.
- 8- Cancel the Defendant's decision regarding the fixed asset deduction difference for the year 2015 AD.



9- Rejected the plaintiff's objection with respect to the loss on sale of assets under leases for the year 2016 AD.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

In objecting to the decision of the Appealed Decision, the Authority claims that with regard to the clause (Limitation for 2015 AD and all related clauses), the Authority affirms that the assessment under appeal is subject to the provisions contained in paragraphs (8 and 9) of Article (21) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2082 for the year 1438 AH, and since the Taxpayer's declaration included several violations that do not conform to the provisions of the Zakat Regulation, including the elements of the business result adjustments and the positive and negative elements of the Zakat base, the declaration is invalid, which leads to the need to amend the Taxpayer's declarations for the years in dispute, as explained in the Authority's response memorandum this is material evidence that the Taxpayer's declarations contained incorrect information that authorizes the Authority to make the assessment or amend it based on the aforementioned statutory provisions, and therefore the Authority's action to assessment and amend the Taxpayer's declarations is in accordance with the statutory articles therefore, the Taxpayer's objection was rejected, and she added that the deadline for submitting the return for the year 2015 AD was 30/04/2016 AD, and since the Taxpayer did not submit his return until 19/05/2016 AD, which means that he submitted his return after the specified statutory period, and based on paragraph (2) of Article (Twentieth). As for the clause (Suppliers clause for the years 2016 AD and 2017 AD), the Authority added the Suppliers clause for the years 2016 AD and 2017 AD in the amount of (156,440) SAR and (715,623) SAR, respectively, to the elements of the Zakat base, based on the movement of accounts submitted for the mentioned clause based on the discussion letter dated 30/05/2021 AD, and after reviewing it, it turned out that the balance of the beginning and end of the period matched the financial statements by adding the outgoing balances, and based its action on Article (IV).

On Thursday, 25/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause No. (2) of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe



for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits of the Authority's appeal with regard to the clause (Limitation for the year 2015 AD) and its subordinate clauses, and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal "The Authority would like to inform the Honorable Circuit to abandon its appeal with regard to the 2015 AD statute of limitations clause and all related clauses, and the consequences of the Authority's appeal on the procedures for this clause, in accordance with the decision of the Dispute Resolution Circuit in terms of its reasoning.." therefore, the Circuit must accept the abandonment of the litigation with respect to the 2015 AD Limitation Clause and its subsidiary clauses.

Regarding the Authority's appeal regarding the clause (Suppliers for the years 2016 AD and 2017 AD), the Authority clarifies that when assessment , the clause Suppliers for the years 2016 AD and 2017 AD in the amount of (156,440) SAR and (715,623) SAR respectively were added to the Zakat base elements, based on the movement of the accounts submitted for the mentioned clause based on the discussion letter dated 30/05/2021 AD. Based on paragraph (5) of clause (First) of Article (4) of the executive regulations for the



collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C. What has been used in trade offers and has passed the hawl." Article 20, paragraph (3) of the Tax Law also stipulates the following: "The burden of proving the authenticity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the authenticity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make an estimated assessment according to the Authority's view in light of the circumstances and facts related to the case and information available to it." Based on the above, suppliers are considered to be one of the components of the Zakat base provided that they are transformed or used to finance the assets that are deducted from the Zakat base the Circuit reviewed the case file and found that the Taxpayer submitted the audited financial statements for the two years of the dispute in addition to the detailed movement of the account, and by tracking the movement to determine the amounts that have come due, it became clear to the Circuit that the Authority's calculation is correct, as it was proven that what has come due is (156. 440) riyals for the year 2016 AD and (715,623) riyals for 2017 AD, which makes it necessary for the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause "Suppliers that have matured for the years 2016 AD and 2017 AD".

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: accepting the appeal procedurally from the applicant/Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2366) issued in Case No.(Z-2021-81249) regarding the Zakat assessment for the years 2015 AD to 2017 AD.

Secondly: On the merits:

1- Accepting the abandonment of the litigation in relation to the Authority's appeal on the (2015 AD statute of limitations) clause and its subsidiary clauses.



2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with regard to the clause (Suppliers for the years 2016 AD and 2017 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170651

Case No. Z-2023-170651

Keywords:

Zakat - Additions to the zakat base - Adding Debts to the Zakat Base - Accepting the Taxpayer's Appeal

Summary:

(IFR-2022-6622), the Taxpayer's appeal against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh. The Taxpayer's appeal against the clause (not deducting the full value of the assets) lies in the deduction of the net value of the assets according to the financial statements and the clause (adding debts to the Zakat base) lies in the fact that the Authority added the year-end balance of long-term loans as it was used to finance fixed assets. The Appellate Committee has proven the validity of the Taxpayer's request to approve the amount of assets deducted from the base as shown in the approved financial statements, and in the clause (adding debts to the Zakat base), it appears that the addition to the assets may have been financed from any of the other activities and it has not been proven to be financed from loans, as the loans appeared as cash during the year in the statement of flows with an amount that the company cannot rely on this amount to finance the deducted assets. This means accepting the Taxpayer's appeal.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (7) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 18/01/2023 AD, from/ (.....) National ID number (.....) In his capacity as the statutory representative of the Appellant Company under the Memorandum of Association, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, Case No. (IFR-2022-6622) issued in Case No. (Z-2021-50705) regarding the Zakat Tax Assessment for the years 2015 AD to 2018 AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: acceptance of the plaintiff's objection/ (.....) , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority from a procedural point of view.

Secondly: On the merits:

1. Regarding the clause (Accounts payable and credits against assets):

Recognize the end of the dispute in relation to the clause "Other receivables and payables for the year 2016 AD in the amount of SAR 2,945,371".

Recognize the end of the dispute in relation to the clause (Short-term loans for 2016 AD in the amount of SAR 1,150,736).

Rejecting the plaintiff's objection regarding the clause "Adding debts to the Zakat base and credits against assets for the years 2016 AD and 2018 AD".

2. Regarding the clause (Credits):

Prove the end of the dispute for the year (2017 AD).

Plaintiff's objection is denied (2018 AD).

3- Disregarding the clause "Non-deductibility of spare parts inventory".

4- Rejecting the objection on all other clauses.

This decision was not accepted by the Taxpayer (.....).the Taxpayer appealed to the Circuit, where his appeal lies with regard to the clause (adding debts to the Zakat base for 2016 AD). The Taxpayer cites the Executive Regulations for the Collection of Zakat, in which the Zakat base for those who keep commercial books is specified in paragraph (10), which states that any clause of liabilities that financed an clause that is deducted



from the Zakat base shall be added, thus the criterion for adding debts to the Zakat base is whether or not these debts were financed by a deduction, with regard to the clause (not deducting the full value of assets for 2016 AD), the Taxpayer explains that the value of assets according to the financial statements (73,245,819 riyals) and the value of assets according to the Authority's amendment (64,569,144) riyals, the Authority based its decision on the Income Tax Law applicable to the persons mentioned in Article 2 of the Income Tax Law and accordingly took its decision to reject the clause since the objectionable clause is a Zakat clause and must be based on the Zakat Collection Regulation. The Authority also justified its rejection of this clause by stating that the Taxpayer filled out Assets Table No. (10), so the depreciation value calculated by the table was calculated by the number, although Table No. (10) applies the group method to calculate the group method to calculate the depreciation rate the Taxpayer states that he was unable to file the return without filling out the table of assets and when the Taxpayer was related by the Authority, the assessment clauses were reviewed and the regulations were reviewed so that he could understand the procedure taken by the Authority based on Article 7 paragraph (6) of the Executive Regulations for Zakat Collection, which states (If the establishment uses depreciation rates for its assets that are lower than the rates established above, the depreciation premium may not be increased by the Authority to conform to the established rates since these assets are all used in the economic activity and the Chartered Accountant has verified their supporting documents and what is stated in the Executive Regulations for Zakat Collection which states: "The net fixed assets (Acquisition assets), any payments for the purchase of fixed assets and the value of spare parts not intended for sale shall be deducted from the Zakat base, provided that the assets are owned by the Taxpayer - unless there is an obstacle that prevents the transfer of ownership - and that they are used in the activity with regard to the clause (spare parts for the years 2016 AD to 2018 AD), the Taxpayer explains that what was calculated in this clause was done in error by the Authority and the error is returned, but the fact that the Taxpayer did not object does not exempt the Authority from the error because it violates the Sharia, the law and the instructions of the ruler in this regard, and the Taxpayer's documents categorically support the error made by the Authority in the calculation method, therefore, he requests that his appeal be accepted and the decision of the Dispute Resolution Circuit on the clauses subject to his appeal be reversed.

On Monday, 12/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause No. (2) of the Rules of Work of the Tax Violations and Disputes Resolution Committees



issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal on the clause "Adding debts to the Zakat base for the year 2016 AD", and where the Taxpayer's appeal lies in the fact that the Authority added the year-end balance of long-term loans as it was used to finance fixed assets, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."

Referring to the case file and the attached documents represented in the Authority's reply memorandum, it is clear that it added the clause to the Zakat base on the basis that it is a financed asset, and based on the list of cash flows, it stated that the total addition to fixed assets during the year amounted to SAR 37,903,658, while cash flows from operating activities amounted to SAR 3,882,866, and stated that it is certain that these



additions were financed through loans and other commitments. However, by referring to the cash flow statement, it is clear that there are other cash flows from which the asset additions can be financed as follows: -flows from operating activities (3,882,886) SAR - Cash at the beginning of the year (1,671,801) SAR - Change in capital (12,925,000) SAR - Due to related parties (20,213,639) SAR Total cash inflows without loans = (38,693,326) SAR and that the total addition to fixed assets during the year was (37,903,658) SAR, accordingly, it is clear that the addition to the assets may have been financed from any of the above-mentioned activities and did not prove to be financed from loans, as loans appeared as cash during the year in the statement of flows in the amount of (1,150,736) SAR and the company cannot rely on this amount to finance the discounted assets, and by referring to the financial statements, it is not clear that loans financed the discounted assets according to the statement of cash flows, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal on the clause (not deducting the full value of the assets for 2016 AD), where the Taxpayer's appeal lies in the deduction of the net value of the assets according to the financial statements, and based on paragraph (2) of Article (7) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: ...". With reference to the Authority's response, it is not clear to the Circuit how it is calculated, and with reference to the Zakat Regulation, paragraph (2) of Article (7) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH, where the regulation refers to the user's right to use the straight-line method for depreciation. According to the response note issued by the Authority, the Taxpayer is using the straight-line method according to his lists. Accordingly, the Circuit considers the Taxpayer's request to approve the amount of the assets deducted from the base as shown in the approved financial statements to be correct, as the Taxpayer attached the approved lists to confirm the correctness of the amount he claimed and as requested by the adjudication committee, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal on the clause (spare parts for the years 2016 AD to 2018 AD), and where the Taxpayer's appeal lies in the Authority's error in calculating the above clause, and based on paragraph (1) of Article (22) of the Zakat Collection Regulation issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH: "The Taxpayer has the right to object to the assessment of the Authority within sixty days from the date of receiving the assessment letter, and his objection must be in a written and reasoned



memorandum submitted to the entity that notified him of the assessment . When the objection period expires during the official vacation, the objection shall be accepted if it is delivered on the first working day immediately following the vacation." based on the above, and since the disputed clause was not included in the list of the Taxpayer's objection to the assessment issued by the Authority on 10/12/2020 AD. As the Taxpayer did not provide evidence of his objection to this clause before the Authority, as the entity responsible for issuing the assessment and communicating it to the Taxpayers, the Circuit concludes that this clause should be disregarded.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial register (...) , unique number (...) , against the decision of the third division for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6622) issued in case number (Z-2021-50705) related to the Zakat assessment for the years from 2015 AD to 2017 AD.

Secondly: On the merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (adding debts to the Zakat base for the year 2016 AD).
- 2- Disregarding the Taxpayer's appeal on the clause (spare parts for the years 2016 AD to 2018 AD).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the full value of the assets for 2016 AD).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-181732

Case No. Z-2023-181732

Keywords:

Zakat – Additions to the zakat base – Addition of the end-of-period balance from deferred cash purchases
– Acceptance of the authority's appeal – Rejection of the Taxpayer's appeal.

Summary:

The Taxpayer and the Zakat, Tax, and Customs Authority objected to the decision of the first circuit regarding violations and disputes of income tax in Dammam number (IZD-2022-2765) for the year 2015 AD. The Taxpayer's appeal regarding clause (disallowance of deducting dividends from the opening balance of retained earnings) is based on the rejection of deducting dividends from the opening balance of retained earnings for the year 2015 AD. And the (Adding the end-of-period balance from deferred cash purchases to the zakat base) clause where the authority considered that this balance represents part of the creditors' account that was used to finance the purchase of fixed assets (vehicles), and thus should be added to the zakat base. And it was established to the Appellate Committee that the acceptance of the authority's appeal and the cancellation of the committee's decision regarding the addition of the cash purchase balance was confirmed. As for the clause on dividends, the Taxpayer's appeal was rejected based on the legal grounds provided. Thus; the authority's appeal is accepted, and the Taxpayer's appeal is rejected.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 02/03/2023 AD, from/... National ID number (...) In his capacity as the Chairman of the Board of Directors of the appellant company according to its Articles of Association, and the Zakat, Tax and



Customs Authority (ZTA), on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (IZD-2022-2765) issued in Case No. (ZI-2022-90363) related to the 2015 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Rejecting the plaintiff's objection with regard to the clause disallowing the deduction of dividends from the opening balance of retained earnings for 2015 AD.
- 2- Rescinding the Defendant's decision regarding the clause of adding the end-of-term balance of deferred cash purchases for the year 2015 AD.

Since this decision was not accepted by the Taxpayer (... Company the Taxpayer submitted a list of appeals, which was reviewed by the Circuit, which included the following: The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit regarding the clauses he appealed. This decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal is regarding the clause "Adding the end-of-year balance of deferred cash purchases for 2015 AD" the Authority rejected the Taxpayer's objection, as it is clear from the statement of other creditors that it is against the cars of any assets added and not paid for, and the Authority added an end-of-year balance to the other creditors clause corresponding to the discount of fixed assets and is considered a source of financing based on Article 4, paragraph 5 (b) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH. After reviewing the Circuit's decision, the amount (11,437,200) riyals represents the end-of-period balance of the value of purchases of automobile assets for creditors, and as for what the decision indicated that the defendant did not provide proof that it was used to finance fixed assets, the Authority stated that according to the statement provided by the Taxpayer, which shows the use of creditors to finance the purchase of fixed assets (cars), which were deducted from all fixed assets according to the financial statements and were therefore added against assets that were deducted in accordance with Article 4 paragraph 5 (b) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH. The Taxpayer's statement is in accordance with the financial statements.. -the movement of creditors against assets - Based on the above, the decision of the Circuit in the case under appeal is legally invalid and should be judicially annulled without any doubt, and therefore the Authority requests that its appeal be accepted and that the decision of the Circuit in the clause under appeal be reversed.



On Thursday, on: on 18/04/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal regarding the clause (Adding the end-of-term balance of deferred cash purchases for the year 2015 AD), the Authority's appeal is to challenge the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, claiming that the creditors' account financed fixed assets. And based on paragraph (First/5) of Article (4) of the executive regulation for collecting zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in commercial transactions and has passed a year on it. Based on the above, it is clear that the disagreement lies in adding the end-of-period balance of cash purchases deferred payment, which forms part of the creditors' account to the zakat base for the year 2015 AD. Therefore, since the creditor balances are one of the components of the zakat base regardless of their type, source, or classification, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base without requiring a year to pass on them. Upon reviewing the case file and the defenses and documents it contains, it is evident that the authority's viewpoint in adding the end-of-period balance is due to the creditors' use to finance the purchase of fixed assets (cars). Referring to the



authority's appeal list, a statement of account balances was submitted, which showed that the disputed balance was against car purchases and was deducted from the zakat base. Therefore, the balance is added to the zakat base to meet the deducted amount, which leads the committee to accept the authority's appeal and cancel the decision of the division regarding this clause.

With regard to the Taxpayer's appeal regarding the clause (not allowing dividends to be deducted from the opening balance of retained earnings), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with what these reasons contain, it is certain that it did not find any of the objections to the decision worthy of response beyond what is contained in these reasons was consistent with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, which leads this Circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome of the appeal in accordance with its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... For car rental, commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in the city of Dammam with number (IZD-2022-2765) issued in case number (ZI-2022-90363) related to the zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1- Accepting the authority's appeal and canceling the decision of the division regarding the clause (adding the end-of-period balance of cash purchases deferred payment for the year 2015 AD).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the division regarding the clause (not allowing the deduction of profit distributions from the opening balance of retained earnings).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171154

Case No. Z-2023-171154

Keywords:

Zakat – Additions to the zakat base – Advance payments for purchasing land – Accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit for resolving income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2585) regarding the Zakat assessment for 2015 AD. The Taxpayer's appeal is based on the clause "Advance payment for the purchase of land for 2015 AD", explaining that the land was classified as a current asset by the external auditor in accordance with the International Financial Reporting Standards, and that the purpose of purchasing the land was to build buildings to invest it in sales and rentals, not trading it. And since it has been established to the Appellate Committee that the appealing company does not sell the land but rather builds buildings on it and then invests in it, this does not negate what the authority claims regarding the land being for trading, as it has not provided evidence for its defenses. Moreover, it previously accepted the deduction of the Taxpayer's land and did not contest it on the grounds of the company's activity, which leads to the acceptance of the Taxpayer's appeal.

Document:

- Paragraph (1) of clause (Second) of article (4) of [The executive regulation for collecting zakat issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 24/01/2023 AD, from/... National ID number (...) As agent for the appellant company under Agency No. (...) Lawyer's License No. (...), on the decision of the First Circuit for the



Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2585) issued in Case No. (Z-2021-62623) related to the 2015 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: the plaintiff's objection to the down payment clause for the purchase of land was rejected.

Secondly: proof that the dispute over the amortization difference clause is over

Third: proof that the fixed asset difference clause controversy is over

Fourth: proof that the disagreement over the manager's compensation clause is balanced with the current account.

Fifth: prove that the dispute over the material fault clause is over.

This decision was not accepted by the Taxpayer (...), so he filed an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (Advance Payment for the Purchase of Land for 2015 AD)

The Taxpayer explained that the disputed clause represents an advance payment for the purchase of new land, which was classified as a current asset by the external auditor based on the requirements of International Financial Reporting Standards, while the Authority classified this land as inventory and that the company's business activity is to buy and sell these lands, and the purpose of acquiring this land is not trading as assumed by the Authority, as the company's business activity does not include buying and selling land, but the purpose of acquiring it is to buy land and build buildings on it and invest these buildings by selling and renting in the long term, therefore the Taxpayer requests to accept his appeal and reverse DIR's decision.

On Wednesday, 28/02/2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit found no reason to require the presence of the parties to the appeal, the Circuit decided to close the pleadings and reserve the case for adjudication



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal relates to the clause "Advance Payment for the Purchase of Land for 2015 AD". The Taxpayer's appeal is to appeal the rejection of his objection to this clause by the Adjudication Circuit, as he claims that the clause in dispute is a statutory deductible clause. Based on paragraph number (1) of clause (Second) of article four of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 1/6/1438 AH on: "The following shall be deducted from the zakat base: 1- Fixed assets, including the following: Net value of fixed assets (capital assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity." Based on the above, and upon reviewing the case file and the documents it contains, it is clear from the Taxpayer's financial statements and the related data and notes that there is no movement on the disputed clause, and this does not negate the authority's argument that the clause was classified within the financial statements as it did not take into account its nature and essence, as the company's activity is to buy land, build buildings on it, and invest in it. Therefore, it is clear that the appealing company does not sell the land but rather builds buildings on it and then invests in it. This does not negate what the authority claims regarding the land being for trading, as it has not provided evidence for its defenses. Moreover, it previously accepted the deduction of the Taxpayer's land and did not contest it on the grounds of the company's activity, which leads the division to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer Company ... , commercial registration (...), unique number (...) Against the decision of the first circuit to rule on violations and disputes regarding income tax



in Jeddah Governorate with number (IZJ-2022-2585) issued in case number (Z-2021-62623) related to the zakat assessment for the year 2015 AD.

Second: On the Merits:

Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding clause (advance payment for purchasing land for the year 2015 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-175165

Case No. Z-2023-175165

Keywords:

Zakat – Additions to the zakat base – Capital reduction – Acceptance of the Taxpayer's appeal.

Summary:

The Taxpayer's objection to the decision of the Second Circuit for adjudicating income tax violations and disputes in Riyadh (ISR-2022-1896). The Taxpayer's objection lies in clause (capital reduction) as he claims that the company has completed all the required legal procedures for capital reduction. The Appellate Committee established that the amended commercial register for the Taxpayer's capital reduction was issued on 27/12/2018 AD, and the reduction was recorded in the journal entry on 31/12/2018 AD, which is after the lunar year has passed on the capital amounting to (10,000,000) riyals, indicating that it remained in the company's liability until the end of the year. Regarding the Taxpayer's request to return the amount excluded from the net book value recorded in the capital reduction entry amounting to (6,055,567) riyals to the negative zakat base elements, it is clear that the Taxpayer's claim is justifiable as the fixed assets were in the company's liability when calculating the due zakat and are considered deductible clauses. Consequently, the Taxpayer's appeal is accepted partially, and the decision of the circuit regarding this clause is amended.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 04/02/2023 AD, from/... National ID number (...) In his capacity as the statutory representative of the appellant company under the commercial registry, on the decision of the Second



Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh, No. (ISR-2022-1896) issued in Case No. (Z-2021-71774) regarding the 2018 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

Acceptance of the lawsuit filed by the plaintiff/company ... , Commercial Register No. (...) Against the defendant/Zakat, Tax and Customs Authority procedurally and dismissed in substance.

As this decision was not accepted by the Taxpayer (Company ...), he submitted a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (capital reduction), the Taxpayer explained that he had done all the required statutory procedures to reduce the capital, starting with the partners' decision to reduce the capital on 07/10/2018 AD and was approved by the Circuit of Commerce in Mecca, due to the existence of a branch of the company, which is (branch of the company ... For Umrah Services) the auditor requested the approval of the Ministry of Hajj and Umrah to reduce the capital, and the necessary work was done and submitted to the Ministry of Commerce, and the request was suspended, and after continuous follow-up by us, the request was accepted and the capital was reduced in accordance with Article 177 of the Companies Law "The general assembly of partners may decide to reduce the company's capital if it exceeds its need or suffers losses that do not reach half of the capital" Also from an objective point of view and the importance of the partners' decision, the Authority requested the company a copy of the partners' decision to reduce the capital among the documents requested for examination and sent via e-mail, and the amended memorandum of association was issued on 20/12/2018 AD Then, the commercial register was issued on 27/12/2018 AD, and therefore, the registration was made after the issuance of the register as a standard procedure, and part of the capital was registered in favour of the partners in the amount of (3,444,433) riyals, and the amount of (6,055,567) riyals was excluded from the net book value of some fixed assets. The Authority claimed in its rejoinder that 'the capital did not come out of the partners' liability but was recorded in favour of the partners based on the recorded entry.' The fact is, as mentioned in the previous paragraph, that part of the capital was recorded in favour of the partners and the rest was excluded from the net book value of some fixed assets. The company objects to the failure to return the amount excluded from the net book value of certain fixed assets recorded in the capital reduction entry in the amount of (6,055,567) riyals to the negative zakat elements in the zakat adjustment in the event of non-recognition of the capital reduction as made, and recording the opening balance of capital in the



adjusted zakat assessment. Accordingly, the Taxpayer requests that his appeal be accepted and the decision of the ruling Circuit on this clause be revoked

On Monday, 18/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AD after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal is regarding the capital reduction clause. The Taxpayer's appeal is to appeal the dismissal of his objection regarding the disputed clause, as he claims that the company has carried out all the required legal procedures to reduce the capital. Based on clause (First/1) of Article (4) of the executive regulation for collecting zakat issued by the ministerial decision No. (2082) dated 1/06/1438 AH which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 1- The capital that has completed a lunar year, as well as any increase in it even if it has not completed a lunar year if the source of this increase is one of the elements of equity or was financing for an asset from the deductible zakat base. Based on paragraph (Second/1) of Article (4) of the executive regulation for zakat collection issued by ministerial decision number (2082) dated 1/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: Net value of fixed assets (capital assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity." Based on the above, and since the zakat base consists of the capital that has completed a lunar year, and referring to the documents attached to the case file, it is



clear that the amended commercial register for the Taxpayer's capital reduction was issued on 27/12/2018 AD, and the reduction was recorded in the journal entry on 31/12/2018 AD, which is after the lunar year has passed on the capital amounting to (10,000,000) riyals, indicating that it remained in the company's liability until the end of the year. Regarding the Taxpayer's request to return the amount excluded from the net book value recorded in the capital reduction entry amounting to (6,055,567) riyals to the negative zakat base elements, it is clear that the Taxpayer's claim is justifiable as the fixed assets were in the company's liability when calculating the due zakat and are considered deductible clauses according to paragraph (Second/1) of Article (4) above, which leads the circuit to accept the Taxpayer's appeal partially and amend the decision of the circuit regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/Company ..., commercial register (...), distinctive number (...). Against the decision of the second circuit regarding violations and disputes of income tax in Riyadh No. (ISR-2022-1896) issued in case No. (Z-2021-71774) related to the zakat assessment for the year 2015 AD.

Secondly: On the merits:

Acceptance of the Taxpayer's appeal partially and amendment of the decision of the circuit regarding clause (capital reduction).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-174189

Case No. Z-2023-174189

Keywords:

Zakat – Additions to the zakat base – Owner's current account – Acceptance of the Taxpayer's appeal.

Summary:

The Taxpayer's appeal against the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022-1886), where his appeal is based on the clause (import profits) because the Authority made the adjustment by marking up the costs of Chinese loaders by (15%), and the clause (owner's current) for submitting the detailed movement. The Appellate Committee established by reviewing the authority's response memorandum that the authority's claim that it could not verify the existence of a balance at the beginning of the period for the partner's current account does not affect this, as the Taxpayer stated in his appeal that the absence of a balance at the beginning of the period in the financial statements is due to the fact that the first financial statements of the corporation approved by a legal accountant were the financial statements for the year 2018 AD; therefore, the legal accountant cannot present the opening balances if the financial statements for the year 2017 AD were not audited, and upon reviewing the attached account statement, it is detailed and the ending balance included is consistent with the audited financial statements for the year 2018 AD . This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (6) of Article (2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article of (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (b) of Article (13) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



the appeal filed on 31/01/2023 AD , from/..., National ID No. (...) Was considered as an agent under Agency No. (...) On behalf of the appellant organization, on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1886) issued in Case No. (Z-2021-39218) related to the 2018 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Accepting the lawsuit filed by the plaintiff, ... Group, Commercial Registration No. (...), against the defendant, the Zakat, Tax and Customs Authority, procedurally, and rejecting it in substance.

This decision was not acceptable to the Taxpayer (Group ...).the Taxpayer's appeal is based on the clause (import profits). The Taxpayer explains that his dispute with the Authority lies in the adjustment of the profit percentage and there is no dispute over the commercial transactions with the Sudanese company, and that the activity of the organization according to the commercial records is the sale and purchase of new and used cars the Taxpayer stated that the Authority made the adjustment by adjusting the costs of the Chinese loaders by (15%) in application of paragraph (b) of Article 13 of the Regulations, and with reference to the text of the article, he stated that the text of the article does not apply to Taxpayers who maintain commercial books as the organization maintains commercial books in accordance with the conditions mentioned in Article Sixteen of the Executive Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH; therefore, the Zakat base must be calculated based on the provisions of Article Four, Article Five and Article Six of the Regulations, and the Taxpayer stated the pricing policy followed by the organization to assess the selling price of these goods did not violate the accounting standards applied within the Kingdom of Saudi Arabia. In the custom of the automobile trade, there is no fixed profit margin for all cars, so each car is priced and sold based on the market situation and purchasing power at the time of its sale and the year of issuance of the car.

The Taxpayer explains that the detailed movement was submitted, but the Authority based its decision on doubt and suspicion and assumed that the first period balance in the submitted current statement is not correct because the first period balance does not exist in the approved financial statements for the year 2018 AD, and the Taxpayer stated that the absence of the first period balance in the financial statements is



due to the fact that the first financial statements of the organization approved by a public accountant were the financial statements for 2018 AD, Therefore, according to the standards, the chartered accountant cannot present opening balances if they have not been audited, and stated that this measure does not mean that the opening balances are incorrect. Accordingly, the Taxpayer requests that the minimum amount of the partner's current account be added in accordance with Article 4(2) of the Executive Regulations, and requests that his appeal be accepted and the decision of the Adjudication Circuit on the clauses under appeal be revoked

On Thursday, 14/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal on the clause (import profits), and where the Taxpayer's appeal lies in the fact that the Authority made the amendment by marking up the costs of the Chinese loaders by 15% in accordance with paragraph (b) of Article 13 of the regulation, and where the dispute lies in the fact that the Taxpayer admitted not marking up the goods coming from China and sold them without a profit margin to the invested company in Sudan, where the value of the goods amounted to (3,635,993.3) Riyals; therefore, the Authority stated that it had profited the sales by (15%) in accordance with the provisions of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH. The Circuit analyzed the facts of the case and found that the Authority is not entitled to profit the goods by (15%), as the amount in dispute does not fall within the undeclared revenues because the Authority can profit by (15%), and with regard to the Authority's argument regarding paragraph (b) of Article (13), referring to the amendment letter



issued on 5/10/2020 AD, it stated the following: "Adjusting the net profit by capitalizing the costs of the Chinese loaders by 15% in accordance with paragraph (b) of the sixth paragraph of Article 13 of the Zakat Collection Regulations. "Since the above is unfounded, as the Authority acknowledged in its reply memorandum to the Taxpayer's appeal, but stated that its action was based on Article (2) of Article (6) regarding non-deductible expenses, this article also does not apply to the Taxpayer's case in the disputed clause, and from the above and since the Taxpayer has disclosed these foreign purchases within the cost of sales, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal on the (owner's current) clause, where the Taxpayer's appeal lies in the submission of the detailed movement, and based on paragraph (2) of clause (I) of Article (IV) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 2- The current credit account of the owner or partner at the beginning or end of the year, whichever is lower, as well as the increase in the current account if it originates from equity or was used to finance an asset from the assets of the property." Since the partner's current account is one of the components of the Zakat base and is added to the Zakat base if a year has passed on it or if it originates from equity or was used to finance the assets deducted from the Zakat base, and since the dispute over this clause is a documentary dispute, the committee found that the Taxpayer attached the audited financial statements for the year 2018 AD and attached the statement of account for the partner's current account (...). For the period from 1/1/2018 AD to 31/12/2018 AD, which shows the opening balance, closing balance, and debit and credit movements during the year. Upon reviewing the authority's response memorandum, it does not affect what the authority claimed that it could not verify the existence of an opening balance for the partner's current account, as the Taxpayer stated in his appeal that the absence of an opening balance in the financial statements is due to the fact that the first financial statements of the corporation approved by a certified accountant were the financial statements for the year 2018 AD; therefore, the certified accountant cannot present opening balances if the financial statements for the year 2017 AD were not audited. Upon reviewing the attached statement of account, and since it is detailed and the closing balance listed in it matches the audited financial statements for the year 2018 AD, the committee concludes to accept the Taxpayer's appeal by adding the minimum limit, which is the opening balance amounting to (592,713.95) riyals, and canceling the decision of the division regarding this clause.



With regard to the Taxpayer's appeal on the clause (distribution of profits), the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is evident that the decision under appeal regarding the disputed clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and as this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in this clause, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer/ group... Commercial registration number (...), unique number (...), against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-1886) issued in case number (Z-2021-39218) related to the Zakat assessment for the year 2018 AD.

Second: On the merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the division regarding clause (profits from imports).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the division regarding clause (owner's current account).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the division regarding clause (profit distribution).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178305

Case No. Z-2023-178305

Keywords:

Zakat- Additions to the zakat base - Partner's current account - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the third division regarding violations and disputes of income tax in Riyadh number (IFR-2022-6699), where his appeal lies on clause (real estate investments for the year 2016 AD) for presenting documents confirming that the real estate investment was excluded based on a royal decree represented in returning the property to state ownership, and clause (the partner's current account for the year 2017 AD) in that the company did not receive any financing to enable it to complete the acquisition of those real estate investments. And since it has been established to the Appellate Committee that the Taxpayer's financial statements at the end of the year do not contain investment properties or sources of financing for them, and that the settlement of profit distributions was accounting and not actual, aimed at disposing of assets due to the invalidity of the ownership deed. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (1,2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 14/02/2023 AD, from/... Identity number (...) In his capacity as the statutory representative of the appellant company under the Memorandum of Association and the resolution appointing the Chairman of the Board of Directors, on the decision of the Third Circuit for the Adjudication



of Income Tax Violations and Disputes in Riyadh (IFR-2022-6699) issued in Case No. (Z-2021-89355) regarding the Zakat assessment for the years 2016 AD and 2017 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of procedural.

Secondly: On the merits:

1- Disregard the clause (profits carried forward).

2- Reject all other objections.

Since this decision was not accepted by the Taxpayer (... Company the Taxpayer's appeal lies on the clause (real estate investments for the year 2016 AD), so the Taxpayer explains the incorrectness of the Authority's action and states that by submitting proof of the validity of what is stated in the declaration and financial statements and confirms that a royal decree was issued to return the property to state property and the Taxpayer excluded the investment and deducted its amount from the partner's current account, which is the opposite of the accounting recording, and the exclusion arose from circumstances beyond the Taxpayer's control, so the Taxpayer confirms the validity of his defenses and attaches a copy of the land deed and the documents that prevented him from being able to transfer the ownership and financial statements. Regarding the clause (Partner's current account for 2017 AD), the Taxpayer explains that the company did not obtain any financing to be able to complete the acquisition of these real estate investments, and the entry attached to the transactions shows that this land was acquired through the contribution of one of the partners without any financing. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. On Wednesday, 24/04/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

In the merits, regarding the Taxpayer's appeal on the clause (Real Estate Investments for 2016 AD), and where the Taxpayer's appeal lies in providing proof of the correctness of what is stated in the declaration and financial statements, and based on paragraph (II/1) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/06/1438 AH, which stipulates that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: The net value of fixed assets (property assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." based on the above, it is clear to the Circuit that the dispute is about the real estate investments registered in the name of the partner and the value of (231,699,600 riyals), which the Authority did not accept to resolve because it is in the name of the partner and not in the name of the Taxpayer and the deed was not amended to be in the name of the company, and with reference to the Taxpayer's appeal list and the documents submitted by him, it is clear that it is investment properties registered in the name of the partner and its corresponding current partner on the acquisition of the land at its value, after consulting the financial statements, as well as the fact that in his appeal list he attached the basic restrictions when he acquired this land, which means the funding source through Ja. Accordingly, the assets in the name of the owner are eligible for deduction if their source of financing is subject to Zakat, and where he has submitted documents proving that the partner's neighbor was registered against the investment properties on the date of acquisition and that the amount was subject to Zakat in 2016 AD, Accordingly, in order to achieve the principle of budget balance, any apparent asset is financed from the equity or liabilities of the base, and the inadmissibility of deducting these real estate investments also requires the exclusion of a corresponding amount of these investments from equity or liabilities, and this is what the committees have established in assets that are financed from within the company. Therefore, it is deductible, and the Authority's argument that the invalidity of the contract at a later date in 2017 AD supports the validity of its procedure, as the transfer of ownership in 2017 AD is a



result of invalidity and not a sale by the partner. Accordingly, as the source of financing for these investment properties has been proven to be subject to the financial statements and a liability has been recorded against these assets on the date of acquisition of these properties in 2010 AD, in accordance with the principle of balanced budget, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause

With regard to the Taxpayer's appeal on the clause (Partner Current Account for 2017 AD), where the Taxpayer's appeal lies in the fact that the company did not obtain any financing to be able to complete the acquisition of these real estate investments, and based on paragraph (2) of clause (I) of Article (IV) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 2- The current credit account of the owner or partner at the beginning or end of the year, whichever is lower, as well as the increase in the current account if it originates from equity or was used to finance an asset from the assets of the property.". Based on paragraph (A) of Article (4) of the executive regulations for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "In the case of including the Taxpayer's declaration a credit current account and another debit account, the difference between them is taken, and if a credit current account appears for one of the partners and a debit current account for another partner, no settlement will be made between them....". Based on the above, and upon reviewing the circuit, it is clear that the authority has added the partner's current balance at the beginning of the period minus the debtor without considering the settlement resulting from the disposal of investment properties. Upon reviewing the authority's response memorandum, it is evident that it acknowledges that the balance of the partners' current accounts against the investment properties, which were not included in the Taxpayer's negative base because they left the company and are no longer among the Taxpayer's assets. Upon reviewing the documents attached by the Taxpayer, it is clear that there is a royal decree letter canceling the land deed and invalidating the sale. Accordingly, the company excluded the lands and closed the partner's current account, which was against the financing of that asset that arose at the time of acquisition of the property in 2010 AD. Upon reviewing the Taxpayer's procedure, it closed the partner's current account and the profit distributions related to the partner to settle them with the value of the excluded asset so that the partner's current account equals the value of the excluded investment properties. The partner's current account arose as a result of financing the investment properties, and its settlement is a result of the invalidation of the land contract and its exclusion, which means settling the source of financing the property. Therefore, the authority's action of not accepting the settlement entry to close the



partner's current account due to the disposal of the asset, as it occurred after the lunar year, is unfounded, as the essence of the transaction occurred during the year, and the transaction resulted in the exclusion of investment properties. Therefore, based on the accounting equation that relies on matching the debit side with the credit side, the result is that the partner's current account should not be added, and the settlement that occurred on it should be taken into account, as the financial statements at the end of the year do not contain investment properties and there is no source of financing. Moreover, this does not negate the authority's argument that the entry for the settlement of profit distributions occurred after the lunar year, as the entry was made during the Taxpayer's financial year, and it is not actual profit distributions but rather a settlement resulting from the disposal of assets due to the invalidation of their deed. If the authority sees that the partner's current account, which was involved in financing, should be added since the entry was made after the lunar year, the investment properties should be included in the Taxpayer's negative base since the compound entry resulted in the exclusion of assets against the reduction of the partner's current account that financed them. This leads the circuit to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

With regard to the Taxpayer's appeal regarding the clause (Carryover Profits for 2017 AD), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses as the issuing circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached in this clause, bearing in mind the reasons for its decision. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company The holding company Commercial Registration No. (...), Unique No. (...), against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6699) issued in case No. (Z-2021-89355) related to the zakat assessment for the years 2016 AD and 2017 AD.



Second: On the merits:

- 1- Accept the Taxpayer's appeal and cancel the decision of the division regarding clause (real estate investments for the year 2016 AD).
- 2- Accept the Taxpayer's appeal and cancel the decision of the division regarding clause (partner's current account for the year 2017 AD).
- 3- Reject the Taxpayer's appeal and uphold the decision of the division regarding clause (retained earnings for the year 2017 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-136156

Case No. Z-2022-136156

Keywords:

Zakat – Additions to the zakat base – Additional capital – Accept the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-910), where his appeal regarding clause (investments available for sale for the year 2014 AD) is that the investments are the value of shares of Bank ... Which is a bank registered with the authority and has previously been subject to zakat within its zakat declarations, and clause (additional capital for the year 2014 AD) is that the condition of the lunar year has not been met as the partners in the company during 2014 AD withdrew part of the beginning of the year balance in cash from the additional capital. It has been established to the Appellate Committee that the zakat declaration related to the movement of additional capital is that the amount that has completed the lunar year is (89,964,053) riyals, which is the same amount that the Taxpayer pays. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (1) of article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 05/07/2022 AD, from/..., National ID No. (...), as a statutory representative (director) according to the Articles of Association, on the decision of the First Circuit for Adjudicating Income



Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-910) issued in Case No. (Z-2021-34984) related to the 2014 AD Zakat assessment, in the suit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: dismissed the plaintiff's objection to the additional capital clause for 2014 AD.

Second: rejected the plaintiff's objection to the discounting of available-for-sale investments for 2014 AD.

Third: the plaintiff's objection to the real estate investment clause (tower...) Was rejected for the year 2014 AD).

Iv: the plaintiff's objection to the clause on investments in investment funds (fund of...) For the year 2014 AD).

V: the plaintiff's objection to the real estate investments under construction and development (tower...) Was rejected for the year 2014 AD).

This decision was not accepted by the Taxpayer (Zakat Company).the Taxpayer's appeal relates to the clause (Additional capital for 2014 AD). The Taxpayer explains that one of the conditions for any money to be subject to zakat is that it must fulfill a number of conditions, namely full ownership, growth, reaching the nisab, and turning the year around based on what the company's accounting records show, the condition of turning the year has not been met since the partners in the company during 2014 AD withdrew part of the first year's balance in cash from the additional capital, and therefore, based on the movement of the additional capital account, what has turned the year is (89,964,054) riyals, and not (152,061,855) SAR. Regarding the clause (Real Estate Investments - Tower ... For 2014 AD) the Taxpayer explains that the Circuit has reviewed the partnership contract for the investment, which is registered in the name of a related party (a company...).according to the commercial regulations followed in the Kingdom, partnership agreements concluded between companies in any field prove the company's right to what was agreed upon in the contractual clauses, and therefore the fact that the property is not registered in the name of the company does not mean that it is not entitled to it according to the agreement. He also points out that the company achieves rental income from this investment, and therefore its use for productive purposes confirms the company's intention to acquire it for channeling purposes, as the threshold for deducting assets from the base is their use for productive purposes and not trading them. Regarding the clause (Available for sale investments for 2014 AD), the Taxpayer explains that the investments are the value of the shares of Bank ...he states that these investments were transferred to the company by the partners by gift, which confirms



that all rights and obligations belong to the company. He also indicates that the source of funds for these investments that were transferred without paying their value to the partners is matched by the amount that has already passed in the additional capital, and he requests that his appeal be accepted and the decision of the Adjudication Circuit on the clauses subject to his appeal be overturned.

On Wednesday, 06/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures of

Videoconferencing; based on the provisions of Article 15, Clause No. (2) of the Rules of Procedure of the Tax Disputes and Violations Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal on the clause (Additional Capital for 2014 AD), where the Taxpayer's appeal lies in the fact that the Hawlul condition was not fulfilled since the partners in the company during 2014 AD withdrew part of the first year's balance in cash from the additional capital, and based on clause (I/1) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/06/1438 AH, which states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 1- The capital that has completed the lunar year, as well as the increase in it even if it has not completed the lunar year if the source of this increase is one of the elements of equity or was financing for an asset from the assets deducted from the zakat base," and based on the above, it is clear from the above regulatory texts that the increase in capital is added to the zakat base when the lunar year has completed on it or if its source is from equity clauses or used in financing one of the assets deducted from the zakat base. Upon reviewing the documents attached to the case file, the circuit found that the dispute lies in the



amount added by the authority for the completion of the lunar year, as the Taxpayer claims that part of the amount has not completed the lunar year. Upon reviewing the submitted documents, it was found that the zakat declaration included Table No. (Z) related to the movement of additional capital, and it became clear to the circuit that the amount that has completed the lunar year is (89,964,053) riyals, which is the same amount that the Taxpayer pays, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

Regarding the Taxpayer's appeal on the clause (Real Estate Investments - Tower ... The Taxpayer's appeal lies in the fact that the company generates rental income from this investment, and therefore its use for production purposes confirms the company's intention to acquire it for channeling purposes, and based on paragraph (1) of clause (II) of Article 4 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The following shall be deducted from the zakat base: 1- Fixed assets, including the following: the net value of fixed assets (qania assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an impediment to the transfer of ownership - and are used in the activity." Accordingly, two basic conditions must be met for the investment to be considered among the long-term investments that may be deducted from the Zakat base, namely the documented intention of the authorized person that clarifies the intention of the investment, and the absence of sales made during the year on these investments, and by referring to the case file and what it contained, it became clear to the Circuit that the Taxpayer submitted the partnership agreement for a tower ... Which stated that the owner of the tower (... Company) he sold half of the property to the appellant company for SAR 27,577,067, and the agreement indicated that the purpose of the building is to rent it out, as the tenth clause of the agreement stipulated that the company ... It manages the building and "rents" it out, thus proving that the purpose of the investment is for cannabis and not trading. In confirmation of this, the Taxpayer submitted restrictions from the system, which included the appellant company's share of the rental income of the tower ..., which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the clause (available-for-sale investments for 2014 AD), where the Taxpayer's appeal lies in the fact that the investments are the value of the shares of Bank ... Which is a bank registered with the Authority and has previously been subject to Zakat in its Zakat declarations, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial



Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "Investments in establishments within the Kingdom – in partnership with others – if those investments are subject to zakat collection under this regulation, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Therefore, based on the above, and since it is necessary to meet two essential conditions to consider investments as capital assets that can be deducted from the zakat base, which are the documented intention of the authorized person clarifying the intention of the investment, and the absence of sales transactions during the year on those investments, and upon reviewing the case file, it became clear to the circuit that the Taxpayer submitted a stock donation agreement from the partner (...) And the partner (...) For the appellant company and the agreement included in one of its clauses that the first and second parties (the relinquishing partners) advise the third party (the appellant company) not to trade the relinquished shares, and the Taxpayer submitted the board of directors' decision held in 2014 AD that the purpose of owning shares of Bank (...) Is to retain them and not to use them for speculation as they are considered long-term investments, and it became clear to the circuit the intention of the authorized person to consider the disputed investment as a capital asset, as for what the authority referred to before the committee that issued the decision regarding the existence of a sale process, the burden of proof falls on the authority to provide the documents it reviewed, and since it did not provide its response, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

With regard to the Taxpayer's appeal on the remaining clauses, whereas there is no fault for the Circuit to adopt the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was included in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial Registration No. (...), Unique No. (...), against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ -2022-910) issued in case No. (Z-2021-34984) related to the zakat assessment for the year 2014 AD.

Second: On the merits:

- 1- Accept the Taxpayer's appeal and cancel the decision of the division regarding clause (additional capital for the year 2014 AD).
- 2- Accept the Taxpayer's appeal and cancel the decision of the division regarding clause (real estate investments – Tower .. For the year 2014 AD).
- 3- Reject the Taxpayer's appeal and uphold the decision of the division regarding clause (real estate investments under construction and development (Tower ...) For the year 2014 AD).
- 4- The Taxpayer's appeal is rejected, and the decision of the adjudication committee regarding the clause (investments in investment funds (fund...)) Is upheld. For the year 2014 AD).
- 5- The Taxpayer's appeal is accepted, and the decision of the adjudication committee regarding the clause (available-for-sale investments for the year 2014 AD) is canceled.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-169229

Case No. Z-2023-169229

Keywords:

Zakat - Additions to the zakat base - Contributions to the capital - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (ITR-2022-6121), where the Taxpayer's appeal is based on the addition of the clause (Additional contributions to capital) to the zakat base. The Appellate Committee found that there was a duplication in adding the clause of additional contributions to capital to the zakat base, once among other additions and another time under the clause required from related parties, thus preventing zakat duplication. Consequently, the Taxpayer's appeal is accepted, and the decision of the adjudication committee regarding this clause is canceled.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 12/01/2023 AD from/... National ID number (...) In his capacity as a director of the appellant company under the Memorandum of Association, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2022-6121) issued in Case No. (Z-2021-48786) regarding the 2015 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



Acceptance of the plaintiff's objection/ Company ... (Commercial Register No. ...), appeals the decision of the Defendant/Zakat, Tax and Customs Authority on the procedural side and rejects it on the substantive side.

Since this decision was not accepted by the Taxpayer (... Company), submitted a list of appeals that included the following:

The Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause "Additional Capital Contributions - Other -", and referring to the financial statements for the comparative year 2014 AD, it is clear that the credit balances that represent the first balance for the year 2015 AD that should be added to the base for the year 2015 AD are: a- Required for related parties in the amount of (47,073,500) riyals. B- Accrued financing costs in the amount of (6,031,568) SAR. - Accrued expenses in the amount of (15,000) riyals. - Long-term Tawarruq loans in the amount of (462,000,000) riyals. C- Capital in the amount of (50,000) riyals. H- Additional capital contributions of (24,950,000) riyals. The Taxpayer explained that what was added from the current account if it was from equity or was a financing of a cannabis asset must be added, and explains that the financing that was done from equity was not used to finance the cannabis asset, but rather this financing was distributed to advance payments to suppliers, payment of general and administrative expenses and the company's operating expenses, and the rest was used to finance the cannabis asset and was added to the elements of the base, he adds that the amount of SAR 139,002,648 shown in the Zakat declaration for the year of the objection does not represent the first period balance as stated in the Authority's memorandum, and based on the financial statements submitted, which turned out not to include it as stated in the Authority's memorandum, he explains that the amount represents the first period balance for related party liabilities, additional capital contributions and additions during the year from the account of related parties for the purpose of financing the cannabis assets, so the Taxpayer requests the reversal of the decision of the Appellate Division for the above reasons.

On Monday, 29/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (Additional Capital Contributions - Other -), and the basis of his appeal is that by referring to the financial statements for the comparative year 2014 AD, it turns out that the credit balances representing the beginning balance for the year 2015 AD, which must be added to the base for Hulul al-Hawl, are: a- Required for related parties in the amount of (47,073,500) riyals. B- Accrued financing costs in the amount of (6,031,568) SAR. - Accrued expenses in the amount of (15,000) riyals. - Long-term Tawarruq loans in the amount of (462,000,000) riyals. C- Capital in the amount of (50,000) riyals. H- Additional capital contributions of (24,950,000) riyals. These are all amounts that have passed Tawleef and should be added to the Zakat base. Where paragraph number (2) of clause (First) of article (fourth) of the executive regulation for zakat collection issued by ministerial decision number (2082) dated 1/6/1438 AH states that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 2- The credit current account of the owner or partner at the beginning or end of the year, whichever is lower, as well as the increase in the current account if it originates from equity, or was financing for an asset of the entity." Based on the above, and upon reviewing the case file; it became clear that the dispute between the two parties lies in adding the additional contributions to capital to the zakat base, where the authority indicated that it added related parties with an amount of (139,002,648) riyals according to the Taxpayer's declaration in addition to a balance of additional contributions to capital of (24,950,000) riyals for the year, which is an independent clause from the account of related parties, while the Taxpayer appealed the adjudication decision and indicated that the authority added an amount of (24,950,000) riyals to other additions and objects to that as the clause was previously added under the account required from related parties, therefore; and since the authority indicated that it added the required amount from related parties of (139,002,648) riyals according to the Taxpayer's declaration, and since the Taxpayer clarified in his objection submitted on 27/3/2023 AD that the amount shown in the zakat declaration for the year 2015 AD includes the following: An amount of (47,073,500) riyals represents the opening balance of liabilities to related parties, and an amount of (24,950,000) riyals represents additional contributions to capital, and an amount



of (66,979,148) riyals represents additions during the year from the account of related parties for the purpose of financing the assets of the entity, therefore; and since it was found that there is duplication in adding the clause of additional contributions to capital to the zakat base once among other additions and another time under the clause required from related parties, thus; to prevent zakat duplication, the committee concludes to accept the Taxpayer's appeal and cancel the decision of the adjudication committee regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company , commercial registration (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ITR-2022-6121) issued in case number (Z-2021-48786) related to the Zakat assessment for the year 2018 AD.

Secondly: On the merits:

Acceptance of the Taxpayer's appeal and cancellation of the decision of the adjudication committee regarding the clause (Additional contributions to capital - others -), according to the grounds and justifications stated in this decision.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170622

Case No. Z-2023-170622

Keywords:

Zakat – Additions to the zakat base – Provision for doubtful debts – Acceptance of the Taxpayer's appeal.

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the first circuit regarding violations and disputes of income tax in Jeddah number (IZJ-2022-2503), where its appeal is based on the clause (Provision for doubtful debts for the year 2017 AD) regarding the non-deduction of the provision for doubtful debts from the opening balance due to the lack of compliance with the legal conditions. The Appellate Committee found that the Taxpayer provided a certificate from the legal accountant regarding bad debts for unrelated parties amounting to (4,868,855) riyals only, and regarding the amount of (4,524,579) riyals, it pertains to the provision for doubtful debts for related parties, which are non-deductible expenses. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (2) of Article (6) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (9) of Article (4) of [The Executive Regulations for Zakat Collection issued by Decision No. \(2082\) of the Minister of Finance dated 01/06/1438H.](#)



Facts:

The appeal was heard on: 18/01/2023 AD, from the Zakat, Tax and Customs Authority (ZTA), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah governorate no.(IZJ-2022-2503) issued in Case No. (Z-2021-80822) regarding the Zakat assessment for the years 2016 AD and 2017 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: accepting the plaintiff's objection to the provision for doubtful debts for 2017 AD.

Secondly: deny the plaintiff's objection to the receivables clause for 2016 AD and 2017 AD.

Third: dismissed the plaintiff's objection to the causation of the books submitted by the clients for 2016 AD and 2017 AD.

Fourth: dismissing the plaintiff's objection to the expenses accrued for 2016 AD and 2017 AD.

Fifth: rejecting the plaintiff's objection to the 2016 AD and 2017 AD investments clause.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (provision for doubtful debts for 2017 AD), explaining the reason for the refusal to deduct the user of the provision for doubtful debts from the zakat base for 2017 AD, because there is a difference between the amount mentioned in the company's lists and the certificate of the legal accountant, and these bad debts relate to related parties and are from non-deductible expenses, the Taxpayer did not provide the rest of the documents that support the execution of the debts, so the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed.

On Wednesday, 21/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, regarding the Authority's appeal regarding the clause (Allowance for Doubtful Debts for the year 2017 AD), where its appeal is that the user of the allowance for doubtful debts should not be deducted from the beginning balance of the period because the statutory conditions do not apply. Where paragraph (2) of Article (6) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "Expenses that the Taxpayer cannot prove their expenditure with supporting documents or other evidential presumptions" as paragraph (3) of Article (5) of the same regulation states that "bad debts are considered expenses that can be deducted according to the following controls: A- It must have been previously declared among the Taxpayer's revenues in the year the revenue is due. B- The bad debts must result from the activity being practiced. C- The Taxpayer must provide a certificate from their legal accountant indicating the write-off of these debts from the books by a decision from the authorized person. D- The debts should not be owed to parties related to the Taxpayer. E- The Taxpayer's commitment to declare the debts as income whenever they are declared" as paragraph (9) of clause (First) of Article (4) of the same regulation also states that "the zakat base consists of all the Taxpayer's assets subject to zakat, including: 9- Provisions at the beginning of the year (excluding provisions for doubtful collections for banks) after deducting the user from them during the year" and based on the above, and by referring to the case file and the defenses and documents it contains, it appears that the Taxpayer submitted a certificate from the legal accountant regarding the bad debts for unrelated parties amounting to (4,868,855) riyals only, and regarding the amount of (4,524,579) riyals, it pertains to the provision for doubtful debts for related parties, which are non-deductible expenses, thus leading the committee to accept the authority's appeal and cancel the decision of the division regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally from the appellant, the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in Jeddah province with number (IZJ-2022-2503) issued in case number (Z-2021-80822) related to the zakat assessment for the years 2016 AD, 2017 AD.

Second: On the Merits:

Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (provision for doubtful debts for the year 2017 AD).



committee for adjudicating tax violations and disputes
The first division for adjudicating income tax violations and disputes
in Jeddah Governorate

Decision No. IZJ-2024-220533

Case No. Z-2023-220533

Keywords:

Zakat - Additions to the zakat base - Short-term banking facilities - Rejection of the Taxpayer's objection - Acceptance of the Authority's objection

Summary:

The Taxpayer's objection to the Zakat assessment for 2017 AD, where the Taxpayer's objection lies on the clause (short-term bank facilities) on the addition of these amounts to the Zakat base in the amount of (279,406,742.89) SAR, as he explained that the loans did not come due and were not used to finance long-term assets. The clause (Payments from customers) to be added to the Zakat base in the amount of (543,564.17) riyals. The clause (Payables) includes the addition of payables in the amount of SAR (253,367.92). The committee was able to confirm the validity of the Zakat assessment for these amounts and insisted on considering short-term bank facilities and payables as part of the Zakat base in accordance with the approved regulations. The implication is that the Taxpayer's objections are rejected.

Document:

- Paragraph (4,5) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this case are that ... National ID number (...) As the statutory representative of the plaintiff company ... Under commercial register No. (...) And the establishment contract, filed its objection to the 2021 Zakat assessment issued by the Zakat, Tax and Customs Authority, where the plaintiff's objection is limited to two clauses, with regard to the first clause: the plaintiff objects to the defendant's action of



disallowing the deduction of the investment difference for the year in dispute in the amount of SAR 35,246,713, stating that the invested subsidiary is a Saudi entity registered with the Zakat, Tax and Customs Authority with the unique number (...). Thus, this investment is subject to Zakat within the rights of the partners of the company ...; and therefore, it must be deducted from the Zakat base of the investing company - the plaintiff - in order to avoid bending the Zakat, as it is not permissible in Shari'ah to pay Zakat twice in the same money in one year for one reason, according to the hadith of the Prophet (peace and blessings of Allah be upon him): the word "charity" is used here in the sense of zakat. The above supports the ruling on zakat for investments in establishments inside the Kingdom of Saudi Arabia and registered with the Zakat, Tax and Customs Authority based on the Executive Regulations issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, as amended by Minister of Finance Decision No. (58705) dated 21/09/1444 AH, Article 5 paragraph (4), and what is stated in the audit report issued by the Zakat, Tax and Customs Authority that the reason for not deducting the company investment in ... Company. (the investee company) being owned by Mr.... Company .. It is considered contrary to the reality of the situation, as the said parties submitted a declaration against the date of 03/04/2012 AD corresponding to 11/05/1433 AH, voluntarily, voluntarily, and with full legal capacity, that ... Wholly owned by a company... Ltd. (as the investment itself is fully paid for by the company's own resources) this confirms the full ownership of ... Ltd. As a matter of fact, this investment must be deducted from the company's zakat base. In order to avoid the prohibited zakat deduction, as explained above. The plaintiff also asserted that the failure to register the investment in the ... In the name of ... A company's ownership of a... Therefore, as stated in Sharia Fatwa No. (22644) dated 09/03/1424 AH, what the company acquires in terms of technical assets and long-term investments from its free funds, but the transfer of ownership in its name is delayed for any reason, has no effect on the establishment of ownership, meaning that the ownership has become fixed and complete for the company regardless of the transfer of ownership or not, and therefore the plaintiff requests approval to deduct these investments from the Zakat base. Regarding the second clause: the plaintiff objects to the defendant's action of not accepting the deduction of the advance payment for investments for the year in question in the amount of SAR 250,000, as it stated that it represented an investment in ... Company it is a Saudi entity registered with the Zakat, Tax and Customs Authority with the unique number (...) The company pays zakat on this investment as part of the partners' zakat able rights, noting that ... The investment has submitted a declaration and undertaking dated 23/06/2021 AD that this advance payment for investment belongs to the plaintiff and therefore subjecting it to Zakat by ... The plaintiff also explained that the Zakat provision for payments made in return for investment takes the ruling of payments made to



purchase fixed assets (as they are Acquisition assets that are not subject to Zakat) as stated in the Executive Regulation issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, as amended by Minister of Finance Decision No. (58705) dated 21/09/1444 AH, Article 5 paragraph (1/B), which necessitates deducting them from the Zakat allowance.

When the defendant was presented with the lawsuit, it responded with a memorandum that stated that with regard to the first clause: investment teams, that at the time of assessment they did not discount the investment in a company... (Premium number...) This is due to the fact that these investments are not registered in the name of the company in the investee company, based on Article (5) of the Zakat Regulation issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, and by referring to the financial statements of the plaintiff and the investee company; it turns out that this investment is registered in the names of related parties and was recorded at cost in the financial statements and not registered in the name of the plaintiff, and the plaintiff has attached a statement from ... Based on what was mentioned, the Authority found that the investment is not registered in the name of the company (the plaintiff), as the above clarification stated that the invested company was established in the names of related parties and its ownership has not yet been transferred to the name of the plaintiff. In addition, the plaintiff's percentage of ownership of the invested company was not specified, and because deducting the investment from the plaintiff's Zakat base requires that the investment be registered in the plaintiff's name and a clear share in the ownership of the invested company, in addition to the fact that the documents submitted do not prove the company's ownership of these investments, as the document submitted, which is the acknowledgment of the company's ownership of the investment in ... The Authority maintains the validity of its action by not deducting the objectionable clause from the Zakat base based on paragraph (4) of Article (5) of the Zakat Regulation (2216), noting that the Authority's action was supported by the decision issued by the adjudication committees No. (IZJ-2023-1133484), and as a result of the above, the plaintiff's objection was rejected because the company does not appear among the owners of the invested company and therefore this investment is not subject to Zakat based on paragraph (4) of Article (5) of the Zakat Regulation governing the collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH. As for the decisions and fatwas referred to by the plaintiff in her regulation, this reliance is misplaced, as the provisions of the Zakat Regulation issued by Ministerial Decision No. 2216, as mentioned above, apply to this case. Regarding the second clause: payments made against investments, it argued that at the time of assessment it had not discounted the investment in ... Investment (token number...) Based on paragraph (4) of Article (5) of the Zakat Regulation governing the collection of Zakat issued by Ministerial Resolution



No. (2216) dated 07/07/1440 AH, and referring to the financial statements of the plaintiff and the investee company, it turns out that the plaintiff is not one of the partners in the company, noting that the plaintiff provided documentary proof of payment for the value of a share in the establishment of the investee company, accordingly, it became clear to the Authority that the investment is not registered in the name of the company (the plaintiff), as the explanation stated that the invested company was established in the names of related parties and its ownership has not yet been transferred to the plaintiff's name, in addition to that the plaintiff's percentage of ownership of the invested company has not been determined, and deducting the investment from the plaintiff's Zakat base requires that the investment be registered in the plaintiff's name and a clear share in the ownership of the invested company, which is not available here, and after verification and review, the Authority found that the documents submitted and mentioned above do not prove ownership of the investment as aforementioned the advance payment based on the bank transfer cannot be considered an investment as it is likely to be a subsidy or a loan granted to related parties, which is considered non-deductible in accordance with Article 5, paragraph 4 of the Zakat Regulation governing the collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH. Therefore, the Authority maintains the validity of its procedure by not deducting the objectionable clause. Note that the Authority's action was supported by the decision issued by the adjudication committees No. (IZJ-2023-1133484) as a result of the above, the plaintiff's objection was rejected because the company does not appear among the owners of the invested company and therefore this investment is not subject to Zakat based on paragraph (4) of Article (5) of the Zakat Regulation governing the collection of Zakat issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH. As for what the plaintiff referred to in her list of decisions and fatwas, her reliance is misplaced because what applies to this case are the provisions of the Zakat Regulation issued by Ministerial Resolution No. (2216) as mentioned above.

On Sunday, corresponding to: on 18/02/2024 AD, the Circuit held its session remotely to hear the case, and the plaintiff's representative attended ... National ID number: (...) By virtue of agency number (...), and attended ... National ID number: (...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No.:(.../.../1444) and dated: 11/05/1444 AH. Asked what they would like to add, both parties were satisfied with what they had previously submitted. The Circuit decided to adjourn the hearing to deliberate.



Grounds:



Having reviewed the Zakat Law promulgated by Royal Decree no: (17/28/577) and date: 14/03/1376 AH, and its executive regulations issued by the Minister of Finance Decision no: (2082) on: 01/06/1438 AH and its amendments, and after reviewing the Income Tax Law promulgated by Royal Decree No: (M/1) and date: 15/1/1425 AH and its amendments, and its executive regulations issued by the Minister of Finance's decision no: (1535) and date: 11/6/1425 H and its amendments after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and date: 08/04/1445 AH. And relevant laws and regulations.

In terms of form, since the plaintiff aims to cancel the decision of the Zakat, Tax and Customs Authority regarding the Zakat assessment for 2017 AD, and since this dispute is considered one of the disputes within the jurisdiction of the Zakat and Tax Adjudication Committee circles under the Zakat, Tax and Customs Committees' working rules, and since the plaintiff was informed of the result of the objection on 05/09/2023 AD, and submitted the case through the electronic portal on 03/10/2023 AD, therefore, the lawsuit was submitted within the legally prescribed period in accordance with Article (5) of the Rules of Work of the Zakat, Tax and Customs Committees, and since the lawsuit was submitted by a person with standing, the Circuit must accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests, defenses, and objections raised by the parties, and found that the dispute lies over the defendant's issuance of the 2017 AD Zakat assessment, and the plaintiff's objection is limited to three clauses, as follows:

Regarding the first clause: short-term bank facilities. The plaintiff objects to the defendant's action of adding short-term banking facilities for the year in question in the amount of SAR 279,406,742.89. The defendant argued that it added short-term loans to the Zakat base because they are revolving. Accordingly, and based on paragraph (FIRST/5) of Article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 01/06/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade offers and has passed the hawl."Based on the above, it is clear that the dispute between the parties lies in the addition of short-term bank facilities to the Zakat base, as loans are



one of the components of the Zakat base, regardless of their type, source or classification, provided that they are used to finance assets that are deducted from the Zakat base without requiring them to turn over, and by reviewing the documents submitted in the case file, it appears that the plaintiff submitted the financial statements for the year in dispute and the detailed movement of short-term loans and two agreements (4) bank statements for Arab Bank, Al Rajhi Bank and Alinma Bank. By tracking the movement of these loans, it is clear that they are renewable and continuous, as the loan is obtained from the bank and after a short period of time, this loan is repaid and on a date close to the date on which the repayment is made, a loan of the same value is obtained, which shows that this loan is in essence a long-term loan. Also, a look at Note 8 of the financial statements shows that it states the following: "These facility agreements were last renewed in July 2017 AD, September 2017 AD, and November 2017 AD, respectively." The attached facility agreement letter is for the bank's ... Dated 02/01/2017 AD and Annex A of the Facility Agreement for Al Rajhi Bank dated 22/01/2017 AD; it is clear that the loans are revolving as stated in the merits "Acknowledgment of Renewal and Amendment of Credit Facilities" and "Facility (Renewal) Request" respectively, which leads the Circuit to reject the plaintiff's objection to the short-term banking facilities clause.

Regarding the second clause: payments from customers. The plaintiff objects to the defendant's action of adding the payments made by customers to the disputed year in the amount of (543,564.17) SAR. The defendant argued that she added the amounts that had already passed the hawl from the clause according to the movement provided by the plaintiff. Accordingly, and based on paragraph (4) of clause (I) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 4- Revenue received in advance."Based on the above, it is clear that the dispute between the parties lies in the addition of advance payments from customers that have passed the zakat threshold, and since advance payments are considered a source of financing, the amount that has passed the zakat threshold is added to the zakat threshold, and by reviewing the case file, it is clear that the plaintiff did not argue that the clause in dispute has not passed the threshold rather, she argues that these payments are zakatable within the zakat base for customers subject to zakat, and since the above-mentioned statutory provisions applicable to the disputed year stipulate that the disputed payments should be added to the zakat base, the Circuit concludes that the plaintiff's objection to the clause of payments from customers should be rejected.



Regarding the third clause: accounts payable. The plaintiff objects to the defendant's action of adding payables of SAR 253,367.92 and other payables of SAR 200,956.5 to the year in dispute. However, the defendant argued that she added the amounts that had come due from the above two clauses according to the movement submitted by the plaintiff. Accordingly, and based on paragraph (FIRST/5) of Article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 01/06/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade offers and has passed the hawl."Based on the above, it appears that the dispute between the parties lies in the addition of payables and other receivables that have come due, and where payables are one of the components of the Zakat base, regardless of their type, source, or classification, provided that they turn over or are used to finance assets that are deducted from the Zakat base upon reviewing the documents and defenses submitted by both parties, it was found that the plaintiff did not argue that the disputed clause was not subject to Zakat, but rather argued that the obligation to pay Zakat on the debt is on the owner of the capital and not the debtor, which leads the Circuit to reject the plaintiff's objection to the payables clause.

For these reasons and after deliberation, the Circuit unanimously decided as follows:

Decision:

First: the plaintiff's objection to the short-term banking facilities clause was rejected.

Second: dismissed the plaintiff's objection to the customer payments clause.

Third: the plaintiff's objection to the accounts payable clause is rejected.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-168279

Case No. Z-2023-168279

Keywords:

Zakat – Additions to the zakat base – Trade creditors – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first division regarding violations and disputes of income tax in Dammam city number (IZD-2022-2428), where its appeal lies on clause (local purchases declared among external purchases in the zakat declaration), and clause (cost of materials cleared from customs under the name of the client/company...), and clause (cost of materials cleared from customs under the name of the client/company ...) To clarify that the cost of imports/materials according to the books of accounts does not have to match the reality of the customs declarations, the clause (Excluding overcharged customs duties for 2007 AD) to clarify that customs duty expense includes according to the Taxpayer's records the value of customs duties according to the customs declaration, and the clause (Trade creditors and notes payable, other creditors, and amounts due to affiliates) according to the following reasons, the Authority has subjected the amounts that have already passed, and since its procedure was based on an assumption and without reviewing the movement of the accounts payable balances. And since it was established to the Appellate Committee that the Taxpayer submitted the financial statements for the years in dispute and submitted the movement of balances (Excel) and provided a copy of the accounting system for the movement of related parties, where it became clear through it that the year has completed on trade creditors and notes payable amounting to (173,964) riyals, and other creditors amounting to (475,929) riyals, and the amount due to affiliated parties amounting to (88,203) riyals. The result of that; acceptance of the Taxpayer's appeal partially and amending the decision of the division regarding clause (trade creditors and notes payable, and clause other creditors, and clause amounts due to affiliated parties), and acceptance of the Taxpayer's appeal and cancellation of the decision of the division regarding the other clauses.



Document:

- Paragraph (1) of Article (4,5) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 09/01/2023 AD from ..., National ID No. (...) Was considered in his capacity as the statutory representative of the appellant company, he appealed the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2428) issued in Case No. (Z-2021-60512) regarding the 2007 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

Rejecting the plaintiff's objection in all the clauses at issue.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause (local purchases declared as foreign purchases in the Zakat declaration) and the clause (cost of materials that were cleared from customs under the name of the client/company ...), the Taxpayer disputes the decision of the Appeals Circuit and an clause (the cost of materials cleared from customs under the name of the customer/company...) And an clause (the cost of clearing materials from customs under the name of the customer/company...) And (the cost of materials cleared through customs by ...) The decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 AD , and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data for several fundamental reasons, and the Taxpayer stated that the revenues achieved during 2007 AD amounted to (231,206,237 riyals), while the Authority excluded an amount of (214,596,317) riyals on account of purchases from abroad. Due to this, the Taxpayer practically has few deductible expenses. Therefore, the Taxpayer submitted a reconciliation of foreign purchases according to the Zakat declaration and foreign purchases from the customs statement, which shows that the material costs recorded by the company in its Zakat declaration consist of the following: - local purchases declared



in the Zakat declaration for 2007 AD amounting to SAR 14,768,977, - The value of imports from the customs declaration for 2007 AD amounting to SAR 24,020,456, - The cost of materials that were cleared from customs under the name of the client/company. (SAR 38,775,595), - The cost of materials cleared from customs under the name of the customer/company. (46,788,230) SAR, - Cost of materials cleared from customs under the name of the customer/company ... (34,162,185) SAR, - Cost of materials cleared from customs under the name of the customer/company ... (53,722,898) SAR, - The cost of materials cleared from customs through... (...) (5,812,867) SAR, the cost of materials that were cleared from customs under the names of other customers (20,565,566) SAR, the total cost of materials that the Taxpayer declared as foreign purchases in the 2007 AD Zakat return is equal to (238,616,774) SAR. The Taxpayer provided details of local purchases classified as overseas purchases in the Zakat declaration and details of overseas purchases as well as a detailed statement of invoices for clauses that were cleared through shipping service companies (e.g.... And others). He explained that since these materials were cleared from customs under the customer's name or through the service of shipping companies, their cost will not be included in the Taxpayer's customs declaration. He also explained that the above-mentioned total cost of the materials should be considered a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082), Accordingly, the Taxpayer requests that the deduction of the above-mentioned costs for 2007AD be authorized and an amended assessment be issued. With regard to the clause (exclusion of overcharged customs duties for 2007AD), the Taxpayer claims that the decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his rejoinder submitted on 25 October 2022 AD and explained that according to the Taxpayer's records, the customs duty expenses include the value of customs duties from the customs statement in addition to the customs duties paid by the Taxpayer during the year for the shipments/materials that were imported through the company. The Taxpayer also explained that the difference in customs duties should be considered as a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. 2082, so the Taxpayer requests permission to deduct the 2007 AD customs duties and issue an amended assessment . With regard to the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates) the Taxpayer claims that the decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that the Authority subjected the amounts that have already passed, however, its procedure was based on an assumption and without reviewing the movement of accounts



payable balances, and the Taxpayer claims that the Authority's procedure is not justified based on the decision of the Board of Grievances No. (4505/2/Q) Since Zakat is not obligatory on funds that are not owned by the Taxpayer, and based on the Authority's Circular No. (2/8443/2/1), the Ministerial Decision and other circulars of the Authority, and the Zakat Collection Regulation No. (2216) does not support the Authority's action. The Taxpayer presented the movement of credit balances, which shows that they were paid regularly during the year, and the end-of-term balances arise from the credit balances due during the year, so it is only permissible to add the amounts that matured based on the attached movement and not the balance of the first or last period, whichever is less, and the Taxpayer indicated that what matured with regard to adding trade creditors and payment notes to the Zakat base is (173,694) riyals, 475,929 riyals for other creditors, and 882,203 riyals for the amount due to affiliates. Therefore, the Taxpayer requests the reversal of the decision of the Dissolution Circuit for the above reasons.

On Wednesday, 24/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation, based on the provisions of Article 15, Clause 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

Regarding the Taxpayer's appeal regarding the clause (local purchases declared as part of foreign purchases in the Zakat declaration), the Taxpayer argued that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas



paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file, it was found that the Taxpayer submitted a detailed statement of local purchases (Excel) indicating the name of the supplier and the supplier number that does not match the total amount of the dispute, as the total amount of suppliers submitted is (3,314,236) and the Taxpayer supplemented the total amount with accrued expenses of (10,269,905) riyals that cannot be matched, 269,905 riyals that cannot be matched, and the Taxpayer submitted six (6) samples of invoices that match the names of suppliers and amounts of (2,240,975) riyals, which led the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit in this clause with the documents submitted by the Taxpayer in the amount of (2,240,975) riyals.

With regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs under the name of the client/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a contract agreement translated by an authorized translation office between ... And (company...) The contract stipulated that the Taxpayer would assist the supplier/manufacturer in facilitating the temporary import and re-export of the test equipment. A review of page (2) 4-A shows the total cost of the materials (14,794,865) Swiss francs, equivalent to (63,304,376) SAR, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.



With regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs under the name of the client/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file and the documents and defenses it contains, it was found that the Taxpayer submitted the contract agreement translated by an accredited translation office, which showed that the contract clarifies the nature of the relationship and the amount, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal regarding the clause (Cost of clearing materials from customs under the name of the customer/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a purchase order agreement with a translator from a translation office authorized by (...) The agreement clarifies the nature of the relationship, as the buyer agreed to pay the supplier for its services performed in accordance with the scope of supply and services including cost, insurance and freight, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.



With regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs through ...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a detailed statement of foreign purchases through shipping companies indicating the document number, invoice number, date of entry, import value and customs duties paid, totaling SR 5,812,867, and provided samples of customs duties represented in the customs statement and invoices corresponding to the submitted statement, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Whereas, with regard to the Taxpayer's appeal regarding the clause (the total cost of materials that were cleared of customs under the names of other customers), the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them if it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any of the objections to the decision worth responding to more than what was included in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clause under appeal was in accordance with the valid reasons on which it was based and sufficient to carry its judgment the issuing circuit scrutinized the dispute and came to the conclusion it reached in the operative part of its decision, and since this circuit did not notice anything that requires a citation or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal with respect to the result it reached in this clause, bearing in mind the reasons it gave for it.

Regarding the Taxpayer's appeal regarding the clause (Exclusion of overcharged customs duties for the year 2007 AD), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data



and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that the customs duty expenses include, according to the Taxpayer's records, the value of customs duties from the customs statement in addition to the customs duties paid during the year for the shipments/materials that were imported through ... Company and other shipping service providers. Whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and since this clause is related to (the cost of materials cleared through customs by ...) In which the Circuit accepts the Taxpayer's appeal for submitting documents in support of his objection, which results in the Circuit accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal regarding the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates), the Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that the Authority has subjected the amounts that have come due, however, its procedure was based on an assumption and without reviewing the movement of the accounts payable balances. Where the fatwa issued with number (3077/2) dated 08/11/1426 AH stated: "The evidence for the obligation of zakat is general and includes all zakatable assets, and there is no valid evidence to exclude debts from that, because the creditor pays zakat on the money he owns which is owed by the debtor, while the debtor pays zakat on another money he owns and has in his possession and can dispose of, and there is a difference between the money in a person's hand and the money in his debt." And where paragraph (5) of the circular of the authority number (583/16/1432) dated 29/01/1432 AH related to the zakat treatment of creditor elements shown in the financial statements according to the provisions of the fatwa number (22665) dated 15/04/1434 AH stated: "All creditor elements shown in the financial statements are added to the zakat base whenever a year has passed on them and the conditions of the fatwa are met," and where paragraph (5) of clause (First) of article (fourth) of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A-



What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on the above, commercial debts are considered one of the components of the zakat base, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base. The Taxpayer argues that zakat is not obligatory on assets not owned by the company and that this treatment leads to a reluctance to pay zakat, knowing that there is a difference between ordinary financial transactions and debts arising from loan agreements between the lender and the borrower, because the essence of the obligation and what it entails is the debtor's liability for the debt for benefiting from funds provided to him or remaining in his ownership, thus he must pay zakat on what he has at the end of the year, and the creditor's debt is a right in the debtor's liability, thus it is owned by him in the liability, and therefore the money has not been zakat-ed twice as claimed by the Taxpayer, and this is not affected by the Taxpayer's argument of the absence of complete ownership of those balances. Upon reviewing the documents of the case and the defenses contained therein, it is clear that the Taxpayer submitted the financial statements for the years in dispute and provided the movement of balances (Excel) and submitted a copy of the accounting system for the movement of related parties, where it became clear that a year has passed on the commercial creditors and payment papers amounting to (173,964) riyals, and other creditors amounting to (475,929) riyals, and the amount due to affiliated entities amounting to (88,203) riyals, which leads the committee to partially accept the Taxpayer's appeal and amend the decision of the committee in this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2428) issued in case number (Z-2021-60512) related to the zakat assessment for the year 2007 AD.

Second: On the Merits:

- 1- Partially accept the Taxpayer's appeal and amend the decision of the committee regarding the clause (local purchases declared within external purchases in the zakat declaration).
- 2- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs under the name of the client / company ...).



- 3- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs under the name of the client / company ...).
- 4- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of clearing materials from customs under the name of the client / company ...).
- 5- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (cost of materials cleared from customs through the company ...).
- 6- Reject the Taxpayer's appeal and uphold the decision of the committee regarding the clause (total cost of materials cleared from customs under the names of other clients).
- 7- Accept the Taxpayer's appeal and cancel the decision of the committee regarding the clause (exclusion of excess customs duties for the year 2007 AD).
- 8- Partially accept the Taxpayer's appeal and amend the decision of the committee regarding the clause (commercial creditors and payment papers, and the clause other creditors, and the clause amounts due to affiliated entities).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-167475

Case No. Z- 2023-167475

Keywords:

Zakat - Additions to the zakat base - Adding Credits - Accepting the Authority's Appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) objected to the decision of the First Circuit for the adjudication of income tax violations and disputes in Dammam (IZD-2022-2370), as its appeal is based on the clause (adding payables balances), as the Taxpayer did not submit the detailed movement of payables from the accounting system and the supporting documents, so the ZTA added the balances of payables that have passed the turnaround to the Zakat base (Zakat). The Appellate Committee found that the Taxpayer submitted an Excel file for the detailed movement of payables and financial statements and did not submit the extract from the accounting system to prove that these amounts had not been turned over. The implication is that the appeal of the authority is partially accepted and the decision of the adjudication committee is amended.

Document:

- Paragraph (5) Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (1) Article (70) of the [Sharia Procedure Law promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)



Facts:



The appeal filed on 01/01/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2370) issued in Case No. (Z-2021-83174) related to the Zakat assessment for the years 2018 AD to 2014 AD, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

1- Annul the defendant's decision regarding the statute of limitations clause for the years 2008 AD to 2010 AD .

2-In terms of short-term loans:

A-Revocation of the defendant's decision for the years 2008 AD to 2010 AD .

B- Plaintiff's objections for 2012 AD and 2013 AD are denied

3. Regarding the payables clause:

A- cancel the defendant's decision for the years 2008 AD to 2010 AD.

B-modify the defendant's decision for the years 2011 AD through 2014 AD.

4- procedural non-acceptance with respect to the owner's neighbor clause.

5- No procedural acceptance of the allocations clause.

6- Annul the defendant's decision regarding the method of deducting fixed assets from the Zakat base for the years 2008 AD to 2014 AD.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority disagrees with the decision of the Appeals Circuit, claiming that with regard to the clause "Adding receivables balances for the years 2011 AD to 2014 AD ", the Taxpayer did not submit the detailed movement of receivables from the accounting system and the supporting documents, so the Authority added the outstanding receivables balances to the Zakat base. The Authority also objects to the clause (Limitation for the years 2008 AD to 2010 AD) and its subsidiary clauses and the clause (Method of deducting fixed assets from the Zakat base for the years 2011 AD to 2014 AD). Therefore, the Authority



maintains the validity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

On Monday, 29/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits of the Authority's appeal regarding the clause (Limitation for the years 2008 AD to 2010 AD) and its subordinate clauses, and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the lawsuit is set, the content of the lawsuit and the answer must be monitored before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the lawsuit or some of it is among those agreed upon." Based on the above, and where it is proven to this circuit the Authority's request to leave the appeal as stated in the letter it issued in the supplementary appeal filed on 04/01/2024 AD, which includes the following: "First: Regarding the Authority's appeal of the Circuit's ruling in clause (I) of its decision regarding the limitation clause for the years 2008 AD to 2010 AD, and all related clauses, its view is as follows: - the Authority would like to inform



the Honorable Circuit of the abandonment of its appeal in case the procedural in relation to the above-mentioned clause in particular and the consequences of the Authority's appeal for the proceedings of this clause, according to the reasoning of the decision of the Adjudication Circuit.", which concludes that the Circuit accepts the abandonment.

Whereas, with regard to the Authority's appeal regarding the clause (method of deducting fixed assets from the Zakat base for the years 2011 AD to 2014 AD), and after the Circuit's consideration of the merits of the dispute, and after the Circuit's review of the Authority's appeal, and where the Circuit may adopt the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with what these reasons contain, it is certain that it did not find any objections to the decision that deserve a response beyond what is contained in those reasons, and whereas it is established that the decision under appeal regarding the dispute regarding the clause under challenge was consistent with the reasons on which it was based, which are sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit found that the conclusion reached by the adjudicating Circuit in its decision was correct, and that the reasons on which it based its decision are sufficient to support that decision this Circuit concludes that the Authority's appeal should be dismissed and that the decision of the Adjudication Circuit should be upheld in light of the arguments raised before it, and that the decision of the Adjudication Circuit should be upheld on the basis of its reasons.

With regard to the Authority's appeal regarding the clause "Adding Accounts Payable Balances for the years 2011 AD to 2014 AD ", and where its appeal lies in the fact that the Taxpayer did not submit the detailed movement of accounts payable from the accounting system and the supporting documents, and therefore the Authority added the accounts payable balances that have reached the Zakat threshold. Where paragraph number (5) of clause (First) of article (fourth) of the executive regulation for zakat collection issued by ministerial decision number (2082) dated 1/6/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C. What has been used in trade offers and has passed the hawl." Article 20(3) of the Tax Law stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if



he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, trade payables are one of the components of the Zakat base provided that they are turned over or used to finance assets that are excluded from the Zakat base, and by reviewing the documents submitted in the case file, it is clear that the Taxpayer submitted (Excel file of the detailed movement of payables, financial statements) and did not submit the extract from the accounting system to prove that these amounts were not turned over, which leads the Circuit to partially accept the Authority's appeal and amend the decision of the Adjudication Circuit in this clause regarding the years from 2011 AD to 2014 AD. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: accepting the appeal procedurally from the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2370) issued in Case No. Z-2021-83174 regarding the Zakat assessment for the years 2018 AD to 2014 AD.

Secondly: On the merits:

1. Accepting the abandonment of litigation with regard to the Authority's appeal on the clause (Limitations for the years 2008 AD to 2010 AD) and its subordinate clauses.
- 2 - Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (method of deducting fixed assets from the Zakat base for the years 2011 AD to 2014 AD).
- 3 - Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit with regard to the clause (adding credits for the years 2011 AD through 2014 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-192628

Case No. Z-2023-192628

Keywords:

Zakat - Additions to the zakat base - Bank credits - Acceptance of the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) object to the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (IZD-2023-97057), where the Authority's appeal lies on the clause (adding credit bank balances), claiming that they are revolving and revolving loans as long-term loans, and the Taxpayer's appeal lies on the clause (adding supplier balances), claiming that the balance has not been fully converted. Whereas the Appellate Committee found with regard to the Authority's appeal, it was established that the banks' credit balances are open credits to suppliers as revolving and continuous financing, as the financing is obtained from the bank and after a short period of time, this financing is repaid and on a date close to the date on which the repayment is made, financing of the same value is obtained, and with regard to the Taxpayer's appeal that the entire balances have not been turned over to the Taxpayer. Consequently, the Authority's appeal is accepted, and the Taxpayer's appeal is partially accepted.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (3) of Article (20) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal was heard on 21/04/2023 AD, from/(.....), National ID number/(.....) As the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 24/04/2023 AD against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2023-97057) issued in Case No. (Z-2022-97057) related to the Zakat assessment for the years 2016 AD and 2017 AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer is entitled to the following:

- 1- Rejecting the plaintiff's objection related to the loans and similar clauses for the years 2016 AD and 2017 AD.
- 2- Annulment of the Defendant's decision related to the partners' current clause for the year 2016 AD.
- 3- Rejecting the plaintiff's objection related to the supplier clause for 2016 AD and 2017 AD.
- 4- Canceling the defendant's decision related to property and equipment for the years 2016 AD and 2017 AD.
- 5- Rejecting the plaintiff's objection related to the clause of customer payments for 2017 AD.
- 6- Annulment of the Defendant's decision related to the 2017 AD Credit Banks clause.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause "Adding supplier balances for the years 2016 AD and 2017 AD". He claims that the Authority added the balance of the beginning of the year or the end of the year, whichever is less, on the assumption that it has turned over, but a review of the company's accounts and the analytical statements of the clause shows that the balance has not fully turned over and therefore the balance should not be added to the Zakat base because the turnover has not turned over on it therefore, we object to this clause due to the lack of turnover on the entire balance, and we would like you to amend what was added to the base to



be only what has turned, and we inform Your Excellency that a statement of the total movements for each clause was attached, which shows the beginning balance of the year, debit and credit movements, and the end balance of the period for each bank, and detailed movement statements of suppliers were attached, based on what the Circuit stated in its decision that there is no breakdown of the amount (47,979,507), which represents 90% of the value due to the supplier based on the bank agreement and was added in the statement to show the movement and match the balance with the financial statements, so we attach to you the detailed statements of the suppliers, which show the balance of the first year and the debit and credit movements, and we also attach to you the facility agreement from Accordingly, the Taxpayer requests that the decision of the Adjudication Circuit on the clauses under appeal be reversed for the foregoing reasons. This decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (adding credit bank balances for 2017 AD), where the Authority added the balance of the first or last period, whichever is less than (918,950) riyals, as the analytical statement submitted by the Taxpayer does not match the financial statements, and during the objection stage, the Authority reviewed the submitted statement that matches the financial statements, from which it is clear that the clause is an overdraft from the bank and that these loans are rotated, and as it is clear that the nature of this clause from the provided movement is revolving and revolving loans that are repaid during the year by creating a new loan of the same value for the same period, which shows that these loans in essence are considered revolving and continuous loans (in a long-term judgment), accordingly, the Taxpayer's objection was rejected on the basis of Article (4) of Clause 1, Paragraph (5) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that the Taxpayer must add: "Government and commercial loans and other similar sources of financing such as creditors, payment notes, and overdraft accounts held by the Taxpayer

According to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C. What is used in trade offers and has passed its expiry date." the Authority's action was upheld by several appeal decisions, including Decision No. (1694) of 1438 AH and Decision No. (1515) of 1437 AH, so the Authority maintains the validity and soundness of its action, and the Authority states that the Circuit's decision was incorrect as the Circuit relied on the plaintiff's statement that the loan is not a revolving loan, but the debit and credit movement is only open credits to suppliers and emphasized on the fact that the Authority did not challenge what the plaintiff stated and did not request additional documents. The Authority did not challenge what the plaintiff stated and did not



request additional documents from her, and Authority reports that the loans are revolving and continuous (revolving) where the loan is obtained from the bank and after a short period of time, this loan is repaid and on the same date on which the repayment was made, another loan is obtained for the same amount, so Authority added the balance of the latest loans being the lowest amount (918,950 riyals). Accordingly, the Authority maintains that these loans are in essence revolving and continuous (long-term) loans, and therefore the action to be taken is to add the balance of this clause as a source of funding by taking the balance of the first year or the end of the year, whichever is less this is for the purpose of adding the balances that have reached the end of the year based on Article 4, paragraph (l/5) of the Executive Regulations of Royal Decree No. (M/40) dated 2/7/1405 AH issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that the components of the Zakat base include the following: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." the Authority's action was supported by several appeal decisions, including Decision No. 1694 of 1438 AH. And Decision No. 1515 of 1437 AH. Based on the above, it is clear to your Honorable Circuit that the Authority's action was correct and that the conclusion of the decision is incorrect and contrary to the legal requirement. On Thursday, on: 27/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, through video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.



The Taxpayer's appeal relates to the clause "Adding supplier balances for the years 2016 AD and 2017 AD", and the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the balance has not fully matured and therefore does not need to be added to the Zakat base. Based on the provisions of paragraph (5) of clause (I) of Article (IV) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has passed the hawl", and based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and after reviewing the documents submitted by the Taxpayer, through which it appears that the detailed movement of the supplier balances for the years 2016 AD and 2017 AD was submitted in the form of an Excel file, through which it appears that the balances match the financial statements, and that there are current balances totaling SAR 6,696,947 for 2016 AD and SAR 29,095,644 for 2017 AD, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding this clause.

Regarding the Authority's appeal regarding the clause (Addition of bank credits for 2017 AD), the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that revolving and revolving loans are long-term loans. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in commercial transactions and has passed a year on it. Based on the above, it appears that the dispute between the parties lies in the Authority's demand to add the revolving credit bank balances to the



Zakat base as they are revolving and revolving loans as long-term loans, and where the Zakat treatment of loans is to add what has turned into the Zakat base or what financed assets calculated from the base, and after reviewing the movement of credit banks presented in the case file, it turns out that they are open credits to suppliers after a short period of time, this financing is repaid, and on a date close to the date on which the repayment is made, financing of the same value is obtained, and it is clear through tracking the detailed movement provided by the Taxpayer that the Authority's action to add these balances to the Zakat base is correct, which leads the Circuit to accept the Authority's appeal and overturn the decision of the Circuit of Determination regarding this clause.

Regarding the Taxpayer's appeal whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons; and whereas, it is evident that the decision under appeal regarding the disputed clauses was consistent with the sound reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the adjudication Circuit with respect to the remaining clauses in the case, bearing in mind its reasons. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (....), commercial registration (.....), unique number (.....) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IZD-2023-97057) issued in case number (Z-2022-97057) related to the zakat assessment for the years 2017 AD and 2018 AD.

Secondly: On the merits:

1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (adding loans and the like for the years 2016 AD and 2017 AD).



2- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit with regard to the clause (adding supplier credits for 2016 AD and 2017 AD).

3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Adding balances of advance payments from customers for the year 2017 AD).

4- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Adding credits of banks for the year 2017 AD).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170447

Case No. ZI-2023-170447

Keywords:

Zakat - Additions to the zakat base - Shareholder balances - Partial acceptance of a Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2544), where his appeal is based on the clause (shareholders' balances that have passed the turnaround period), that it is merely managing real estate shares for others in exchange for commissions from which the Taxpayer benefits, as it is not his property, and should not have been registered or should have been excluded. The Appellate Committee established that the Taxpayer acknowledges that the clause consists of substantial accounting errors that were later corrected in the financial statements for the following year, and since the Taxpayer did not provide detailed movement proving the absence of a year passing. The implication is that the Taxpayer's appeal is accepted in part.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on 17/01/2023 AD from/(.....), National ID No. (.....) In his capacity as a director of the appellant company under the Memorandum of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2544) issued in Case No. (ZI-2021-81325) regarding the 2016 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: rejecting the plaintiff's objection to the clause of shareholders' balances that have passed the hawl period.

Second: the plaintiff's objection to the benefits clause was rejected.

Third: deny the plaintiff's objection to the long-term investment discount clause.

This decision was not acceptable to the Taxpayer (.....) He filed a list of appeals, which included the following:

The Taxpayer disagrees with the decision of the Appeals Circuit, claiming that with regard to the clause (Shareholders' Balances due for the year 2016 AD), clause (11907) Other additions in the amount of (82,298,367) riyals is merely managing real estate shares for third parties in exchange for commissions from which the Taxpayer benefits, it is not his property and should not have been recorded or should have been excluded, which the Taxpayer did by correcting material accounting errors later in his approved 2017 AD budget and amending the 2016 AD comparison year. The Taxpayer also objects to the clause "Adding provisions amounting to SAR 5,547,561 for the year 2016 AD." Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit for the above reasons.

On Thursday, 08/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (shareholders' balances as of 2016 AD) is that clause (11907) Other additions in the amount of (82,298,367) riyals is merely managing real estate shares for others in exchange for commissions from which the Taxpayer benefits, it is not his property and should not have been recorded or excluded, which the Taxpayer did by correcting material accounting errors later in his approved budget for 2017 AD and amending the comparison year for 2016 AD. The first paragraph (5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on the above, commercial accounts payable are considered one of the components of the zakat base, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base. Upon reviewing the documents submitted in the case file, it is clear that the Taxpayer acknowledges that the clause Other Additions is a substantial accounting error that was later corrected in the financial statements for the year 2017 AD and adjusted the comparison year for 2016 AD. Upon reviewing the financial statements submitted in the Taxpayer's appeal, it is evident that based on the adjustment of the legal auditor (general clarification in the financial statements), the other payable balances before the adjustment show an amount of (1,273,459,026) riyals and the adjustment is (1,239,475,565) riyals, and the balance of the clause after the adjustment, which appears at the end of 2016, is (33,983,461) riyals. Since the Taxpayer did not provide detailed movement proving that a year has not passed on the above amount, the committee concludes to accept the Taxpayer's appeal in part and amend the decision of the committee regarding this clause by adding the balance after the adjustment to the zakat base.



Regarding the Taxpayer's appeal regarding the clause "Adding allowances amounting to 5,547,561 riyals for the year 2016 AD", whereas, there is no fault for the Circuit to adopt the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in supporting it with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clause was in accordance with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing circuit scrutinized the dispute in it and concluded in relation to it with the result since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal with respect to the result it reached on this clause on the basis of its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....), commercial registration (.....), unique number (.....) Against the decision of the first division for adjudicating violations and disputes of income tax in Jeddah province with number (IZJ-2022-2544) issued in case number (ZI-2021-81325) related to the zakat assessment for the year 2019 AD.

Secondly: On the merits:

Acceptance of the Taxpayer's appeal in part and amending the decision of the committee regarding clause (Shareholders' balances that have passed a year for the year 2016 AD), according to the grounds and justifications mentioned in this decision.

Rejection of the Taxpayer's appeal and upholding the decision of the committee regarding clause (Addition of provisions amounting to 5,547,561 riyals for the year 2016 AD), according to the grounds and justifications mentioned in this decision.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-191269

Case No. Z-2023-191269

Keywords:

Zakat - Additions to the zakat base - Partnership credit - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2023-98430) partners' credit balance) the partners financed the hospital's operations, and the Authority subjected the end-of-period balance to Zakat without regard to the amount that has already passed, and on the clauses (government debts) and (advance payments for the purchase of fixed assets). The Taxpayer's appeal is that the adjudication decision concluded that the dispute is documentary, summarized by the failure to submit the detailed account statement of the partners' neighbor, which he submitted in his appeal list and showed that the amounts shown in the statement are consistent with the financial statements. This means that the Taxpayer's appeal is partially accepted with respect to the clause (Partners' credit balance for 2017 AD), and the appeal is accepted in the other clauses.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (2) of Article (4) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 30/03/2023 AD, from/(.....), National ID No. (.....), as Chairman of the Board of Directors of the Appellant Company under the commercial Register, on the decision of the Second Circuit for Settlement of Income Tax Violations and Disputes in Riyadh (ISR-2023-98430) issued in Case No. (Z-2022-98430) related to Zakat assessment for the year 2017 AD in the case filed by the appellant against the Zakat, Tax and Customs Authority, the decision of the Adjudication Circuit ruled as follows:

Accepting the lawsuit filed by the plaintiff/(.....), Commercial Registration No. (.....), against the defendant/Zakat, Tax and Customs Authority, procedurally, and rejecting it in substance.

Whereas this decision was not acceptable to the Taxpayer (.....) The Taxpayer's appeal lies on the clause (Partners' credit balance for 2017 AD). The Taxpayer explained that the hospital is owned by the partners whose names are specified in Table 3 and the partners have made payments to the hospital to finance the hospital's operations. The Authority subjected the end of period balance (45,584,624) SAR to Zakat without considering that the amount that has passed is (39,740,361) SAR, the Taxpayer objected to adding the end of period balance because it has not passed, the Committee rejected the Taxpayer's objection. In its reasons for rejecting the clause, the Honorable Committee stated the following: - "The plaintiff did not provide an clause statement of debits and credits for each partner to ensure the validity of the balances." it is clear from the reasons for the committee's rejection above that the dispute is a documentary one that boils down to the failure to provide a detailed account statement to the partners' neighbor. It is clear from Table (3) the movement of the partners' current account, and it is also clear from Table (3) that the amount that has come due is (39,740,361) SAR. Regarding the Taxpayer's appeal regarding the clause (Governmental debts for 2017 AD), the Taxpayer explained that the hospital contracted to treat patients of the Ministry of Health, King Fahd Medical City and King Khalid Hospital, and the hospital submitted its claims and invoices to the Ministry of Health and King Khalid Hospital, but these entities procrastinated and delayed payment, the Authority subjected these balances to the Zakat base, the hospital objected to these balances, the committee issued its decision stating that Zakat is not obligatory on funds owed by government agencies that cannot be collected, but because the hospital did not submit the supporting documents, the committee refused to accept this clause however, because the hospital did not provide the supporting documents, the committee refused to accept this clause, and it is clear from what the Honorable Committee stated in the reasons for its rejection of the clause, that the dispute is documentary, consisting of providing the committee with proof of its claim to the government entity for the amounts owed to it, and the committee confirmed in its issued



decision that "Zakat is not obligatory on the creditor in his money owed to government agencies that he cannot collect, which confirms that the committee's decision was issued for not submitting the required documents. We would like to inform you that the... A contract was signed with the above-mentioned government entities on 8/1/1437 AH corresponding to 21/10/2015 AD, and a new contract was signed on 10/9/1438 AH corresponding to 13/6/2017 AD, and these contracts resulted in amounts with the government entities. It is clear from the above that the outstanding balances owed by government entities are from before 2016 AD and continued for a long time, and that the hospital sent invoices and claims and held meetings to be able to collect these amounts, which confirms the incorrectness of the findings of the dismissal committee. Regarding the Taxpayer's appeal regarding the clause (Advance payments for the purchase of fixed assets for 2017 AD), the Taxpayer stated that to modernize and renovate the hospital, the hospital administration contracted for the purchase of fixed assets as follows: (Purchase of computer programs ERD is a SAP program for hospital management and registration of hospital accounts - medical beds to modernize some of the inpatient rooms - modernization of pharmacy furniture and equipment - modernization of communication devices and the hospital's switchboard - modernization of the hospital's fire alarms) and made an advance payment for the purchase of these assets, and the Zakat Authority did not accept the deduction of the advance payments for the purchase of these assets, this clause was objected to. It is clear that the nature of these assets is that they are fixed assets and their purpose is to maintain the hospital and increase its performance, thereby increasing income and profits, and therefore these assets are considered fixed assets, so the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit regarding the clauses subject to his appeal be reversed.

On Wednesday, 29/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Article XV, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated



in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, with regard to the Taxpayer's appeal regarding the clause "Partners' credit balance for 2017 AD" the Taxpayer's appeal is to appeal the dismissal of his objection to the disputed clause by the Adjudication Circuit, as he claims to have submitted supporting documents. Based on paragraph (2) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stated that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 2- The credit current account of the owner or partner at the beginning or end of the year, whichever is lower, as well as the increase in the current account if it originates from equity, or was financing for an asset of the entity." based on the above, and where it turns out that the Taxpayer's appeal is that the adjudication decision concluded that the dispute is documentary, summarized in the failure to submit the detailed account statement for the partners' neighbors, which he submitted in his appeal list, while the Authority indicated that it added the balance of the partners' neighbors' first or last period, whichever is less, for the period of Hulul al-Hawl, accordingly, with reference to the case file, it was found that the Taxpayer submitted the account movement of the partners' neighbors, which shows the balance of the first period and the component during the year and what was paid during the year, and with reference to the financial statements for 2017 AD, the amounts shown in the statement matched the financial statements, while the Authority did not challenge the validity of the documents submitted and merely indicated that the first or last balance, whichever is less, was added to the Zakat base, which leads the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit by adding the amount of (39,740,361) riyals only to the Zakat base.

Regarding the Taxpayer's appeal regarding the clause (Government Debt for 2017 AD) the Taxpayer's appeal is to appeal the dismissal of his objection to the disputed clause, as he claims that the amounts owed by the government entities were not in his possession and control that the amounts due from government entities were not in his possession or under his control. Based on the above, and where it turns out that the Taxpayer's appeal is that he claimed the government agencies represented by the "Ministry of Health - King Fahd Medical City - King Khalid Hospital", but they delayed payment, and that the adjudication decision concluded that the dispute is documentary, consisting of providing proof of his claim to the government agencies, which he explained that he submitted in the case file, while the Authority indicated that the clause



is not one of the clauses that are deducted from the base according to the Zakat Regulation, it is clear that Zakat is not obligatory on the creditor in his money owed to government agencies that he cannot collect due to a delay by the government agencies and not as a result of his failure to comply with the criteria and requirements specified by the government agency, and by reviewing the case file, it is clear that the Taxpayer has a debt with (the Ministry of Health (20,649,651 riyals), King Fahd Medical City (37,629,077 riyals) and King Khalid University Hospital (688,393 riyals) therefore, it is clear that the amounts owed to the Taxpayer are not subject to zakat until he receives them, and it becomes zakat able after his receipt, and it is clear from the documents presented in the case file, represented by (the contracts signed with the government agencies represented by the Ministry of Health, King Fahd Medical City and King Khalid Hospital - a number of invoices issued to government agencies - a statement and analysis of the claims addressed to the Ministry of Health - a sample of letters sent to government agencies) in addition, the Taxpayer held meetings with government agencies to discuss the unpaid balances, and it was proven that the reason for the delay in disbursing the dues was due to reasons beyond the Taxpayer's control, and not as a result of his failure or non-compliance, which concludes the Circuit to accept the Taxpayer's appeal on this clause in the amount of (58,967,122) riyals and cancel the decision of the Adjudication Circuit.

With regard to the Taxpayer's appeal regarding the clause (Advance payments for the purchase of fixed assets for 2017 AD), the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that it is payments for the purchase of fixed assets for the purpose of cannibalization and the utilization of the royalties. Based on paragraph (Second/1) of Article (4) of the executive regulation for zakat collection issued by ministerial decision number (2082) dated 1/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: the net value of fixed assets (Acquisition assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle that prevents the transfer of ownership - and are used in the activity." Based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and where it appears that the Taxpayer's appeal is that the disputed



payments were used to purchase fixed assets for the purpose of cannabis, and that the adjudication decision concluded that the dispute is documentary, which he explained that he submitted in the case file, while the Authority indicated that it deducted the fixed assets according to the budget because the company follows the fixed installment method, whereas, payments made for the purchase of fixed assets are considered one of the clauses that are deducted from the Zakat base, provided that their nature is proven and that they are for the purpose of purchasing assets and using them in the activity, and referring to the case file and the defenses and documents it contains, and where it appears that the disputed payments were used to purchase fixed assets for the purpose of maintaining the hospital and increasing its performance and thus increasing income and increasing profits, as it appears that the disputed payments totaling (6,347,899) riyals, including (2,888,067) riyals as an advance payment for the purchase of computer programs to develop the hospital's business, for which the Taxpayer submitted supporting invoices, (1,502,100) riyals as an advance payment for the purchase of medical beds for the hospital to update the furniture of the sleeping rooms, for which the Taxpayer submitted supporting invoices, (128,801) riyals as an advance payment for the purchase of furniture for the hospital's pharmacy, for which he submitted supporting invoices, and (526,568) SAR for the purchase of telephones and servers for the hospital, for which the Taxpayer submitted supporting invoices, and (1,302,363) SAR for the purchase of fire alarms inside the hospital, for which the Taxpayer submitted supporting invoices, and whereas the Taxpayer submitted supporting documents that clarified the validity of his objection that the payments for the purchase of fixed assets are intended for the purpose of vending and utilization fixed assets for the purpose of cannibalization and the utilization of royalties while the Authority did not challenge the validity of what was submitted, the Circuit concluded by accepting the Taxpayer's appeal regarding this clause in the amount of (6,347,899) riyals and canceling the decision of the Adjudication Circuit. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., commercial registration (...), distinctive number (...) Against the decision of the second circuit to rule on violations and disputes regarding income tax in Riyadh City with number (ISR-2023-98430) issued in case number (Z-2021-71774) related to the zakat assessment for the year 2018 AD.

Secondly: On the merits:



- 1- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the 2017 AD credit balance.
- 2 - Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding clause (bad debts for the year 2017 AD).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (advance payments for the purchase of fixed assets for 2017 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-175750

Case No. Z-2023-175750

Keywords:

Zakat - Additions to the zakat base - Opening credit for amounts owed to related parties - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (IZD-2022-2629) lies in the fact that the opening balance of the amounts owed to related parties has not turned over, and the closing balance of the amounts owed to partners for the year 2015 AD. The Appellate Committee found that the amount of the first period has not yet been converted. This means accepting the Taxpayer's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (2) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 05/02/2023 AD from/ (.....) National Identity (.....) As an agent under agency No. (.....), the appeal filed on 07/02/2023 AD, from the Zakat, Tax and Customs Authority, against the decision of the



First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam city. (IZD-2022-2629) issued in Case No. (Z-2021-71235) regarding the Zakat assessment for 2015 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

1. rejecting the plaintiff's objection regarding the provision of adding the closing balance to the amounts owed to the partners.
2. rejected the plaintiff's objection regarding the opening credit for amounts owed to related parties.
3. revoke the defendant's decision regarding the provision of adding loans forgiven for the purpose of bearing losses in investee companies to the Zakat base.
4. reversing the Defendant's decision regarding the disallowance of the deduction of prepaid financing costs and the adjustment of loss carryforwards.
5. the defendant's decision regarding the deduction of the amount of loans made to subsidiaries and affiliates is set aside.

This decision was not acceptable to the Taxpayer (.....) The Taxpayer's appeal is based on the clause "Adding the opening balance to the amounts due to related parties for the year 2015 AD." The Taxpayer explains that the Authority added the opening balance to the amounts due to a related party (.....), which amounts to SAR (49,955,000), without taking into account the amounts paid during the year. The company would like to point out that it disagrees with the Authority's action, which was upheld by the First Circuit, where the company's objection was rejected for failure to provide documents. In addition, the Authority added the balance at the beginning of the period regardless of the movement of these balances, and through the movement and payment sample, it is clear to us that the Authority's action is contrary to the principles of Zakat, as the amounts it added have not yet reached Haul and are in the hands of the company. The company would also like to emphasize that the above-mentioned amounts added by the Authority to the Zakat base do not fall within the amounts subject to Zakat, as specified in the Zakat Executive Regulations. In this regard, Article 4, paragraph (5) of the Executive Regulations for the Collection of Zakat, issued in accordance with Ministerial Decision No. (2082) dated 1/6/1438 AH, states: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance



what is intended for acquisition. C- What was used in trade offers and has passed a year on it." according to Sharia Fatwa No. (22665) dated 15/04/1424 AH, "What the company takes from the money borrowed from investment funds or others is not without one of the following cases -: A/ That the year passes on all or part of it before spending it, so what has passed on it the year is due Zakat. If all or part of it is used to finance fixed assets, there is no Zakat on what is used for that purpose - If it is used to finance the company's current activity, which is considered a trade offer, Zakat is due on the basis of what it has become, and it is Zakatable at the valuation at the end of the Hawl." he requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. This decision was not acceptable to the appellant (the Zakat, Tax and Customs Authority) the Authority filed a list of appeals, which was reviewed by the Circuit, which included a request to accept its appeal and overturn the decision of the Adjudication Circuit.

On Monday, 13/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH

After reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

As for the Taxpayer's appeal on the clause "Adding the opening balance of the amounts due to related parties for the year 2015 AD", the Taxpayer's appeal is based on the fact that the balance of the first period has not been converted, and based on paragraph (2) of the first clause of Article 4 of the Executive Regulations issued by Ministerial Resolution No. 2082 dated 1/6/1438 AH, which stipulates that: "The Zakat base consists of all the Taxpayer's funds subject to Zakat, including the following: 2- The current credit account



of the owner or partner at the beginning or end of the year, whichever is lower, as well as the increase in the current account if it originates from equity or was used to finance an asset from the assets of the property.". Based on the above, and whereas the Taxpayer claims that the opening balance of the amounts due to related parties for the year 2015 AD should not be added to the opening balance of the first period, while the Authority pays the balance of the first period and the last period, whichever is less, and that after the Circuit reviewed the attached documents, it found that the Taxpayer provided a bank statement proving the payment (to ...) The amount of (49,959,797) SAR (Annex 6b) and the balance of the first period was (49,955,000) SAR, which indicates that the Taxpayer paid all the amounts he owed at the beginning of the balance of the first period. Therefore, the correct treatment of the amounts due to related parties is to calculate the amount that has passed, and since the payment was made on (1/4/2015 AD) and for an amount greater than the balance of the first period, the Circuit found that the period did not turn on the amount of the first period, which ends with the Circuit's decision to accept the appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Authority's appeal on the clause (adding loans waived for the purpose of bearing losses in investee companies to the Zakat base for the year 2015 AD), the clause (not allowing the deduction of prepaid financing costs and adjusting losses carried forward for the year 2015 AD), and the clause (deducting the amounts of loans provided to affiliated and associated companies at less than their value for the year 2015 AD), where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary note, which includes the following: "The Authority informs the Honorable Circuit that its appeal with regard to the above clauses outlined in the referred decision, and the procedures arising from the appeal of the Authority, will be withdrawn in accordance with the decision of



the Adjudication Circuit in terms of its reasons." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Taxpayer's appeal on the clause "Adding the closing balance of the amounts due to the partners for the year 2015 AD", the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, which leads this circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached in this clause, bearing in mind its reasons for doing so.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial register (...) , unique number (...) , and the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Dammam with number (IZD-2022-2629) issued in case number (Z-2021-40494) related to the Zakat assessment for the year 2014.

Secondly: On the merits:

- 1- Accepting the abandonment of litigation with regard to the Authority's appeal on the clause (adding the loans waived for the purpose of bearing losses in investee companies to the Zakat base for the year 2015 AD).
- 2- Accepting the abandonment of litigation with respect to the Authority's appeal on the clause (disallowing the deduction of prepaid financing costs and adjusting the 2015 AD loss carryforward).
- 3- Accepting the abandonment of litigation regarding the Authority's appeal on the clause (deducting the amounts of loans provided to subsidiaries and associated companies for the year 2015 AD).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Adding the closing balance of the amounts owed to the partners for 2015 AD).



5-Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Adding the opening balance of the amounts due to related parties for 2015 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-181096

Case No. ZI-2023-181096

Keywords:

Zakat – Additions to the zakat base – Provision for basement fines – Acceptance of the Taxpayer's appeal
– Acceptance of the authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first circuit for adjudicating income tax violations and disputes in Dammam No. (IZD-2022-2786) where the authority's appeal on clause) Government accounts receivable(is based on the non-acceptance of deducting government accounts receivable from the zakat base due to the Taxpayer's failure to claim from the authority, and the Taxpayer's appeal on clause (Provision for basement fines) is that the company does not agree to add other current liabilities as the reason for the authority's previous rejection of taking the balance that has passed a year relates to the failure of the appellant to provide detailed movement matching the financial statements. It has been established to the Appellate Committee regarding the authority's appeal that the burden of proof for the lack of negligence in claiming from the authority lies with the Taxpayer, and he has not done so. Regarding the Taxpayer's appeal, it has been established that the credit balance represents a provision for basement fines added during the year and that the opening balance was settled during the period of not having a year pass. The implication is that the authority's appeal is accepted, and the Taxpayer's appeal is accepted regarding the clause of provision for basement fines.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)



- Paragraph (1/5) of Article (4) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal filed on 28/02/2023 AD from the Zakat, Tax and Customs Authority was considered. And the appeal filed on 01/03/2023 AD, from/ (....) Identity number (...) In his capacity as a statutory representative under the contract of incorporation, on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in the city of Dammam No. (IZD-2022-2786) issued in Case No. (Z-2022-95104) related to the 2016 AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Reject the plaintiff's objection regarding the related party's clause.
- 2- Reject the plaintiff's objection regarding the clause of other current liabilities.
- 3- Rejecting the plaintiff's objection regarding the trade receivables clause.
- 4- Canceling the defendant's decision regarding the receivables clause with government entities.

This decision was not acceptable to the Taxpayer (.....), so he filed a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal is based on the clause (salaries and wages due), and with regard to the clause

(The Taxpayer explains that the company does not agree to add other current liabilities, which represent salaries, accrued wages, accrued commissions, and other receivables, which is a provision for an expected fine, as the Authority did not clarify the reconciliation of the balances therefore, we attach to you reconciled statements with the financial statements showing the balance at the beginning of the year, the movement and the end of the year, and as shown in the attached statements that the year has not turned around and based on what is stipulated in the Zakat Collection Regulation for the year 1438 AH that what is added to the Zakat base (234,358) SAR only. With regard to the clause (Payables), the Taxpayer explains that the balance of trade payables was added after comparing the balance of the first period or the last period, whichever is less, because the attached statements at the audit stage did not match the audited financial statements, based on paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by



Ministerial Resolution No. (2082) dated 1/6/1438 AH. Therefore, we clarify that the attached account statement shows the balances that have passed (2,694,095 Saudi Riyals. Therefore, the appellant demands reconsideration and adjustment of the assessment calculation, and requests that his appeal be accepted and the decision of the Adjudication Circuit be overturned. This decision was not accepted by the appellant (the Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (government receivables). The Authority explains that it found that the contracted parties (government agencies) are reliable and financially capable of payment, and therefore the amounts claimed to be deducted represent debts that are not from a procrastinator or insolvent, i.e., they are collectible at any time once the necessary justifications are provided are debts that are not owed by a procrastinator or insolvent, meaning that they are collectible at any time once the necessary justifications are provided, and therefore may not be deducted from the Zakat base, as what the Taxpayer is required to deduct from the Zakat base is not among the deductions mentioned in Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, and is not included in the Zakat base deductions, the Authority's action was also supported by several appellate decisions, including the decision of the Tax Appellate Committee No. (1324) dated 1434 AH and decision No. (1769) dated 1438 AH, that the clause represents receivables of the company from government agencies and is not one of the clauses that are deducted from the base according to Article 4(II) of the Executive Regulations for the Collection of Zakat, where debt zakat is paid as a hoped-for debt, and based on Sharia Fatwa No. (19643) dated 23/5/1418 AH. Answer to the question regarding what was referred to by the Circuit that the defendant (the Authority) did not show that it was the result of the plaintiff's negligence or lack of commitment, we explain that the Circuit should have asked the plaintiff (the Taxpayer) to provide evidence of its inability to collect these debts and that the amounts owed by the entities are debts owed by the plaintiff and are collectible when the necessary justifications for collection are provided, and the Authority's action was supported by Appellate Decision No. IR-2022-428 issued in Case No. Z-82823-2021 regarding the appeal against the decision of the Adjudication Circuit (ITR-2021-914) issued in Case No. Z-2020-30277. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Sunday, 02/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and



dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, and with regard to the Authority's appeal on the clause (government receivables), and where the Authority's appeal lies in not accepting the deduction of government receivables from the Zakat base for the year 2016 AD, based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on Fatwa No. (23408) dated 18/11/1426 AH issued by the Standing Committee for Scientific Research and Fatwa on debts due from government agencies which states that: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran: (Fear God as much as you can), and because zakat is consolation, it is not obligatory on a person who cannot receive it and has nothing in his hand. Based on the above, the Circuit finds that the dispute between the parties lies in the inadmissibility of deducting government receivables from the Zakat base for the year 2016 AD. It is clear from the above legal opinion that Zakat is not obligatory on the creditor in his money owed to government agencies that he cannot collect due to a delay from the government agencies and not as a result of his failure to comply with the criteria and requirements specified by the government agency." On reviewing the case file, the Circuit finds that the Defendant did not attach the details of the amounts owed to the government agency and its claim therefore, it is not possible to verify the company's lack of default in the absence of demand



letters from these entities for the amounts owed to it based on what is stated in paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH. The burden of proof in proving the claim for these amounts falls on the appellant and the documentary dispute still exists, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause "Accrued salaries and wages", where the Taxpayer's appeal is that the company does not agree to add other current liabilities, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." based on the above, the Circuit found that the reason for the Authority's previous refusal to accept the outgoing balance was related to the appellant's failure to provide a detailed movement matching the financial statements and the fact that the appellant submitted a detailed movement that showed that the detailed movement matched the audited financial statements, so it is necessary to recalculate according to the attached movement, which showed the first period balance of (479,392.00) SAR. since the payment was made during the year as the debit movement amounted to (5,461,767.00) SAR, the balance of accrued salaries and wages did not fall due, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

Regarding the Taxpayer's appeal on the clause (Other (Provision for a possible fine)), where the Taxpayer's appeal is that the company does not agree to add other current liabilities, and based on paragraph (1/5) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5-



Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, the committee found that the reason for the authority's previous rejection of taking the balance that has passed a year relates to the failure of the appellant to provide detailed movement matching the financial statements, and upon reviewing the submitted movement, it is clear that the clause in dispute represents a provision for baseential fines and included a settlement amount of (146,830,000) riyals during the year and a credit balance was added during the year (234,358) riyals, and since the dispute between the parties revolves around the failure to provide an accounting extract for the detailed movement of the clause and since the appellant provided the accounting extract, and upon the committee's study of the attached document, it is clear that the credit balance represents a provision for baseential fines added during the year and that the opening balance was settled during the period of not having a year pass on another balance (provision for baseential fines), which leads the committee to accept the Taxpayer's appeal and cancel the decision of the committee regarding this clause.

With regard to the Taxpayer's appeal on the (Accounts Payable) clause, where the Taxpayer's appeal lies in the fact that the balance of trade payables was added after comparing the balance of the first period or the last period, whichever is less, because the statements attached at the audit stage do not match the audited financial statements, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated



01/06/1438 AH, it states that: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause whose validity is not proven by the Taxpayer or make an estimated assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." based on the above, other payables are considered a component of the Zakat base, regardless of their type, source or classification, provided they are turned over or used to finance assets deducted from the Zakat base without requiring them to be turned over, and the Circuit reviewed the documents attached to the case file it found that the dispute is centered on the lack of reconciliation of the attached movement in the adjudication phase with the balances shown in the financial statements, so the Authority took the balance of the beginning or the end of the period, whichever is less, and by reviewing the documents attached in the appeal phase, it was found that the outstanding payables amounted to (2,694,095.68) SAR, after calculating the balance of the first period and deducting the payments made during the year for each receivable separately, which leads the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit regarding this clause by adding the amount of SAR 2,694,095 to the Zakat base.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial registration number (.....), unique number (.....), and the Zakat, Tax and Customs Authority, against The decision of the first circuit regarding violations and disputes of income tax in Dammam with number (IZD-2022-2786) issued in case number (Z-2022-95104) related to the Zakat assessment for the year 2016.



Secondly: On the merits:

1- Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (government receivables).

2- Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (related parties).

3- Regarding the Taxpayer's appeal on the clause (other current liabilities):

A- Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding the clause (salaries and wages due).

B- Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (commissions due).

C- Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding the clause (other (provision for baseential penalty)).

4- Acceptance of the Taxpayer's appeal partially and amending the decision of the circuit regarding the clause (accounts payable).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-153019

Case No. Z-2022-153019

Keywords:

Zakat - Additions to the zakat base - Murabaha and Tawarruq financing - Partial acceptance of the Taxpayer's appeal - Partial acceptance of the Authority's appeal

Summary:

The Taxpayer's objection and the Zakat, Tax and Customs Authority's objection to the decision of the first circuit regarding violations and disputes of income tax in Dammam City number (IZD-2022-1632), where the Taxpayer's appeal is based on the authority's decision regarding the clause (Murabaha and Tawarruq financing) where the Taxpayer confirmed that the authority relied on incorrect assumptions in calculating revolving loans, clarifying that Murabaha and Tawarruq financing are long-term financing and not revolving, and that they were paid during the first half of the year. The Authority's appeal is in relation to the clause "Foreign Investments", requesting to amend the decision by deducting foreign investments totaling SR 56,259,305, as the Authority showed that it does not agree with the zakat calculation submitted by the Taxpayer, requesting to deduct the investments in exchange for adding the Taxpayer's share of the zakat base for these investments. In addition, the Taxpayer provided a certificate from a chartered accountant stating that the balances of Murabaha and Tawarruq financings have not reached the end of the year and are not revolving, and with regard to the foreign investments clause, it was proven that the zakat calculation provided by the Taxpayer is incorrect, while the zakat calculation provided by the Authority is correct. This means that the Taxpayer's appeal is accepted in part and the Authority's appeal is accepted in part.



Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

the appeal filed on 05/10/2022 AD was considered on, from ... Commercial Register (...), and the appeal filed on 09/10/2022 AD by the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-1632) issued in Case No. (Z-2021-40494) related to the 2014 AD Zakat assessment, in the lawsuit filed by ... Company against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1.dismissed the plaintiff's objection regarding an estimated profit clause for import differences.
- 2.amending the defendant's decision with respect to Murabaha and Tawarruq financing.
- 3.the defendant's decision regarding the short-term loans clause is overturned.
- 4.demonstrate that the disagreement regarding the spare parts non-discounting clause is over.
- 5.on the clause of foreign investments:
 - A- procedural denial of the claimant's request to provide the plaintiff with details of the defendant's accounting for foreign investments.
 - B-modify the Defendant's decision on foreign investments.
- 6.rejected the plaintiff's objection regarding an clause owed to related parties.
- 7.dismissed the plaintiff's objection with respect to the customer payments clause.

Since this decision was not accepted by the Taxpayer (... Company the Taxpayer's appeal relates to the clause "Murabaha and Tawarruq financing". The Taxpayer explains that the Authority acknowledged through



clause "II" in its appeal memorandum on the decision of the first Adjudication Circuit that the company submitted the documents supporting the Murabaha and Tawarruq financing, namely (documents proving the repayment of loans during the year, a copy of the general ledger, and a copy of the bank statements) and provided excerpts of the Authority's opinion in this regard he presented excerpts from the opinion of the Authority in this regard, as the subjection of Murabaha and Tawarruq financings to the lesser of the first and last balance of the term for each loan is a wrong approach, as the movement of Murabaha and Tawarruq financings provided by the company must be considered, and the Chartered Accountant confirmed in his report (Annex 3) that the balances of Murabaha and Tawarruq financings have not matured and are not revolving, he indicated in his report that "the closing balance consists of the amounts of loans obtained during the year that were not carried forward from the previous year, and represents the balances of loans less than 354 days." If there were any part of these loans that had lapsed, the chartered accountant would have mentioned this as notes in his report, given that the company provided in the initial examination stages a detailed movement of these funds and supporting documents for this movement, the definition of revolving loans must be loans that have come due through several lenders or repaying a loan and obtaining a loan from the same lender so that there is no time difference between the repayment process and obtaining a new loan, and this condition does not apply to the company's case, and looking at the movement of loans, it is noted that most Murabaha and Tawarruq loans were repaid during the first half of the year and new loans were obtained during the last quarter of the year, so how are the loans revolving with a difference between payment and obtaining new loans of more than three months, if we assume that Murabaha and Tawarruq financing are revolving loans (which they are not), the company asserts that the provisions of paragraph (3/b) of Article 4 of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, which states that the Zakat year for debts is not interrupted by renewing or rescheduling them with the same creditor or by replacing these debts with other debts or funding sources that finance what was financed by these debts, is not interrupted, the Taxpayer also asserts that the amounts obtained by the company represent Murabaha and Tawarruq loans in order to finance working capital, and this has been proven through official documents and contracts with the banks, and it is clear that the Authority did not review them properly, but was satisfied with unjustified assumptions and expectations, and therefore he requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

This decision was also not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority can be appealed with regard to the



clause (short-term loans). The Authority clarifies with regard to the certificate of the chartered accountant that it is clear from the certificate submitted that it concerns the Murabaha and Tawarruq clause only without the short-term loans clause, and the analysis according to the certificate (attached in the Authority's appeal list (attached in the Authority's appeal list)), with regard to the payment documents, the Taxpayer submitted payment documents (110 documents) related to the Murabaha and Tawarruq clause above and did not submit any payment documents for the short-term loans clause amounting to SR 80,893,000, and with regard to the ledger, the Taxpayer did not submit the ledger, but submitted a manually prepared movement of the clause as detailed below (attached in the list), as for the bank statements, as mentioned above, the Taxpayer submitted payment documents and bank statements for the Murabaha and Tawarruq clauses only and did not submit short-term loans, based on the above, the Authority maintains its decision to add the balance of the first or last period of short-term loans, as the Taxpayer did not provide any documents to support that these amounts did not turn over. With regard to the clause "Foreign Investments", the Authority clarifies that in its supplementary memorandum it accepted the deduction of the following investments in exchange for adding the Taxpayer's share of the Zakat base for these investments as follows (attached in the appeal list), therefore, it requests the Honorable Committee to amend the operative part of the decision to deduct the above investments in exchange for adding the Taxpayer's share of the Zakat base for these investments amounting to SR (56,259,305). Regarding investing in (....) Upon reviewing the Taxpayer's financial statements and the Zakat calculation submitted, the Authority reports that they do not agree with the Zakat calculation submitted by the Taxpayer (attached), and upon reviewing the Taxpayer's calculation (Zakat due of SAR 2,118,972) and the Authority's calculation (Zakat due of SAR 3,953,266) above, the Authority reports that the disagreement lies in the following clauses: 1- The Taxpayer has deducted the user from the allocations from the net profit, and the Authority does not agree with the Taxpayer's procedure, as the correct treatment is to deduct the user from the allocation from the balance of the first period within the Zakat base, based on paragraph (9) Clause 1 of Article 4 of the Executive Regulations issued by Ministerial Resolution No. 2082 dated 1/6/1438 AH corresponding to 28/2/2017 AD, which states: "The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." 2- The Taxpayer did not add the balance of the allowance for guarantees transferred from the accrued expenses that have lapsed (attached), and the Taxpayer did not add the liabilities that have lapsed, 3- The Taxpayer did not submit the movement of clauses, and the balance of the first or last year, whichever is less, was added based on paragraph (5) Clause I, Article IV of the



Executive Regulations issued by Ministerial Resolution No. 2082 dated 1/6/1438 AH corresponding to 28/2/2017 AD, 4- Taxpayer deducted deferred tax assets (445,410) SAR, the Authority does not agree with the Taxpayer's action as they are not among the clauses deducted from the base mentioned in the second clause of the fourth article of the Executive Regulations issued by Ministerial Decision No. 2082 dated 1/6/1438 AH corresponding to 28/2/2017 AD. 5- The Taxpayer deducted the clause of long-term tools, supplies and spare parts amounting to SAR 1,505,093, and the Authority was unable to reconcile the clause with the submitted financial statements. Based on what was explained above, the Authority requests the acceptance of the deduction of the following investments in exchange for adding the Taxpayer's share of the Zakat base for these investments in the amount of SAR 213,927,240, and therefore requests the acceptance of its appeal and reversal of the decision of the Adjudication Circuit.

On Tuesday, 13/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 A.H.; and by calling on the parties, the plaintiff's legal representative attended, ... National ID number (...) According to the statute of limitations attached to the case file, I attended ... National ID number: as the representative of the defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) dated 19/03/1445 AH. When asked what she would like to add, the defendant's representative stated that she maintains what has already been submitted in this case. When the plaintiff's representative was presented with this, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to postpone the hearing of the case until Tuesday, 27/02/2024 AD. The next session will be a decision-making session.

On Tuesday, 27/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; and by calling on the litigants, the plaintiff's legal representative attended, ... National ID number (...) According to the statute of limitations attached to the case file, I



attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) dated 19/03/1445 AH. Accordingly, the Circuit decided to close the pleadings and deliberations.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal on the clause "Short-term Loans" and where the Authority's appeal lies in the fact that it added the balance of the first or last period of short-term loans where the Taxpayer did not provide any documents to support that these amounts did not turn around, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on paragraph (3) of article (20) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, loans are one of the components of the Zakat base, regardless of their type, source or classification, provided that they are turned over or used to finance assets that are deducted from the Zakat base without requiring them to be turned over, and by reviewing the documents attached to the case file, it is clear that the Taxpayer attached the movement of loans that are not detailed and prepared in a manual manner that cannot be considered and did not provide proof that these loans did not turn over and did not



provide any payment documents for the short-term loans clause (80,893,000 riyals), since there is no detailed movement of these loans that shows that the balances of the first period were repaid during the year, the procedure to be taken is to add the balance of this clause as a source of financing because it is one of the components of the Zakat base by taking the balance of the beginning of the year or the end of the year, whichever is less, for the purpose of adding the balances that have come due, with regard to the documents mentioned in the Circuit's initial decision, it appears that the Taxpayer attached a letter sent to the adjudication committee on 18/9/2022 AD (Annex No. 8) confirming that these documents are related to the Murabaha and Tawarruq financing clause above and not the short-term loans clause and asking him to clarify this, which concludes the Circuit to accept the appeal of the Authority and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Authority's appeal on the clause (Foreign Investments) and where the Authority's appeal lies in the Taxpayer's submission of the Zakat account with which the Authority does not agree, and based on Ministerial Decision No. (1005) dated 28/4/1428 AH: Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof that zakat has been paid in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies. If the Taxpayer does not provide the above, these investments shall not be deducted from his tax base." Based on what is stated in the ministerial decision number (1005) mentioned above, the Taxpayer is entitled to deduct foreign investment from its zakat base provided that it adheres to what is stated therein, which is to submit audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and remit it to the authority, or provide proof of paying zakat on it in the country of investment, and then deduct those investments from the base of the investing company to avoid zakat, and if the mentioned documents are not submitted, those investments will not be deducted from its zakat base, and since the dispute ended with amending the authority's procedure regarding the deduction of foreign investments for the companies mentioned above and not accepting the deduction of investment for the two companies (... And (...)) for not submitting the financial statements and calculating the zakat, and upon reviewing the case file and what it contained of defenses and documents, it appears that the Taxpayer attached the financial statements of the company (...) (...) Company In English, and since the authority accepted the deduction of foreign investments (...) (...) Company (...) Company (...) To submit the financial



statements, it must accept the financial statements mentioned above, and regarding the calculation of zakat for the company (...). It appears that the Taxpayer calculated the deduction of the user from the allocations from the net profit while the correct treatment is to deduct the user from the allocation from the beginning balance, and the Taxpayer did not add the balance of the guarantee provision transferred from the accrued expenses which has completed a year, the Taxpayer did not add the liabilities that have completed a year and where the accounts payable and receivables and other credit balances are considered components of the zakat base, and the Taxpayer submitted an Excel statement of the movement prepared manually which cannot be accepted, thus the beginning or end balance is added, whichever is lower, in addition, the Taxpayer deducted the deferred tax assets amounting to (445,410) riyals as they are not among the clauses deducted from the base, and the Taxpayer deducted the clause of tools, supplies, and long-term spare parts amounting to (1,505,093) riyals and the circuit could not match the clause with the submitted financial statements, thus it appears that the calculation of zakat submitted by the Taxpayer amounting to (2,118,972) Saudi riyals is incorrect, while the calculation of zakat submitted by the authority amounting to (3,953,266) Saudi riyals is correct, which leads the circuit to partially accept the authority's appeal and amend the decision of the circuit regarding this clause by deducting investments in the following companies (...) in exchange for adding the Taxpayer's share of the zakat base for these investments in the amount of (213,927,240) riyals.

With regard to the Taxpayer's appeal on the clause (Murabaha and Tawarruq financing) and where the Taxpayer's appeal lies in the company's submission of documents supporting Murabaha and Tawarruq financing, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the above, loans are one of the components of the Zakat base, regardless of their type, source, or classification, provided that they turn over or are used to finance assets that are excluded from the Zakat base without requiring them to turn over, and a review of the case file shows that the Authority's view in adding the balances of these loans is due to a review of the documents attached to the case file, namely the detailed movement of Tawarruq loans and the contracts concluded with the banks, shows that the disputed loans are taken at intervals and the amounts are not close to each other, by examining the detailed movement, it



was found that the loans from the following banks have not been converted....) in addition, the Taxpayer submitted a certificate from a chartered accountant who explained that the balances of Murabaha and Tawarruq financing are not revolving, as he indicated in his report that "the closing balance consists of the amounts of loans obtained during the year that were not carried forward from the previous year, and represents loan balances of less than 354 days." With regard to what the Taxpayer referred to in his appeal list regarding the letter sent to the adjudication committee dated 18/09/2022 AD (Attachment No. 8), in which he requests clarification of Adjudication Decision committee in the third clause (short-term loans), in which it referred to the following documents a certificate from a chartered accountant - ledger - bank statements." The Taxpayer asserts that these documents are related to the Murabaha and Tawarruq financing clause and not the long-term loans clause, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's and the Zakat, Tax and Customs Authority's appeal regarding the remaining clauses at issue in the case, wherein the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what was included in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the appeal of the Taxpayer and the Authority, and to uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial register (...) , unique number (...) , and the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Dammam with number (IZD-2022-1632) issued in case number (Z-2021-40494) related to the Zakat assessment for the year 2014.

Second: On the merits:

1- The authority's appeal is rejected and the Taxpayer's appeal is accepted partially, and the decision of the circuit is amended regarding clause (Murabaha and Tawarruq financing).



- 2- The authority's appeal is accepted, the decision of the circuit is canceled, and the Taxpayer's appeal is rejected regarding clause (short-term loans).
- 3- The Taxpayer's appeal is rejected and the authority's appeal is accepted partially, and the decision of the circuit is amended regarding clause (foreign investments).
- 4- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (estimated profit on import differences).
- 5- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (amounts due to related parties).
- 6- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (advances from customers).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-181096

Case No. ZI-2023-181096

Keywords:

Zakat - Additions to the zakat base - Accrued salaries and wages - Acceptance of the Taxpayer's appeal - Acceptance of the Authority's appeal.

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first circuit for adjudicating income tax violations and disputes in Dammam No. (IZD-2022-2786) where the authority's appeal on clause) Government accounts receivable(is based on the non-acceptance of deducting government accounts receivable from the zakat base due to the Taxpayer's failure to claim from the authority, and the Taxpayer's appeal on clause (Provision for baseential fines) is that the company does not agree to add other current liabilities as the reason for the authority's previous rejection of taking the balance that has passed a year relates to the failure of the appellant to provide detailed movement matching the financial statements. With regard to the Authority's appeal, the Appellate Committee found that the burden of proof that the Taxpayer did not fail to claim the entity rests on the Taxpayer and that he did not do so, and with regard to the Taxpayer's appeal, it was proven that the balance of the outstanding salaries and wages did not reach the end of the year. This means; accepting the Authority's appeal, and accepting the Taxpayer's appeal regarding the salaries and wages clause.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)



- Paragraph (1/5) of Article (4) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



the appeal filed on 28/02/2023 AD from the Zakat, Tax and Customs Authority was considered. And the appeal filed on 01/03/2023, from/ (.....) Identity number (...) In his capacity as a statutory representative under the contract of incorporation, on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in the city of Dammam No. (IZD-2022-2786) issued in Case No. (Z-2022-95104) related to the 2016 AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Reject the plaintiff's objection regarding the related parties clause.
- 2- Reject the plaintiff's objection regarding the clause of other current liabilities.
- 3- Rejecting the plaintiff's objection regarding the trade receivables clause.
- 4- Canceling the defendant's decision regarding the receivables clause with government entities.

This decision was not acceptable to the Taxpayer (.....), so he filed a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal is based on the clause (salaries and wages due), and with regard to the clause

(The Taxpayer explains that the company does not agree to add other current liabilities, which represent salaries, accrued wages, accrued commissions, and other receivables, which is a provision for an expected fine, as the Authority did not clarify the reconciliation of the balances therefore, we attach to you reconciled statements with the financial statements showing the balance at the beginning of the year, the movement and the end of the year, and as shown in the attached statements that the year has not turned around and based on what is stipulated in the Zakat Collection Regulation for the year 1438 AH that what is added to the Zakat base (234,358) SAR only. With regard to the clause (Payables), the Taxpayer explains that the balance of trade payables was added after comparing the balance of the first period or the last period, whichever is less, because the attached statements at the audit stage did not match the audited financial statements, based on paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by



Ministerial Resolution No. (2082) dated 1/6/1438 AH. Therefore, we clarify that the attached account statement shows the balances that have passed (2,694,095 Saudi Riyals. Therefore, the appellant demands reconsideration and adjustment of the assessment calculation, and requests that his appeal be accepted and the decision of the Adjudication Circuit be overturned. This decision was not accepted by the appellant (the Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (government receivables). The Authority explains that it found that the contracted parties (government agencies) are reliable and financially capable of payment, and therefore the amounts claimed to be deducted represent debts that are not from a procrastinator or insolvent, i.e., they are collectible at any time once the necessary justifications are provided are debts that are not owed by a procrastinator or insolvent, meaning that they are collectible at any time once the necessary justifications are provided, and therefore cannot be deducted from the Zakat base, as what the Taxpayer is required to deduct from the Zakat base is not among the deductions mentioned in Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. The Authority supports the Authority's action, the Authority's action was also supported by several appellate decisions, including the decision of the Tax Appellate Committee No. (1324) dated 1434 AH and decision No. (1769) dated 1438 AH, that the clause represents receivables of the company from government agencies and is not one of the clauses that are deducted from the base according to Article 4 (II) of the Executive Regulations for the Collection of Zakat, where debt zakat is paid as a hoped-for debt and on the basis of Sharia Fatwa No. (19643) dated 23/5/1418 AH, answer to the first question, paragraph (6), and with regard to what was indicated by the Circuit that the defendant (the Authority) did not show that it was the result of the plaintiff's negligence or lack of commitment, we explain that the Circuit should have asked the plaintiff (the Taxpayer) to provide evidence of its inability to collect these debts, and since the amounts owed by the authorities represent debts on a solvent and collectible when the necessary justifications for collection are provided, and it was supported

The Authority's action on Appeal Decision No. (IR-2022-428) issued in Case No. (Z-2021-82823) regarding the appeal against the Decision of the Adjudication Circuit No. (ITR-2021-914) issued in Case No. (Z-2020-30277). She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Sunday, 02/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article



15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, and with regard to the Authority's appeal on the clause (government receivables), and where the Authority's appeal lies in not accepting the deduction of government receivables from the Zakat base for the year 2016 AD, based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on Fatwa No. (23408) dated 18/11/1426 AH issued by the Standing Committee for Scientific Research and Fatwa on debts due from government agencies which states that: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is a consolation, it is not obligatory on someone who cannot receive it and has nothing in his hand." Based on the above, the Circuit finds that the dispute between the two parties lies in the non-acceptance of the deduction of government receivables from the zakat base

For the year 2016 AD it is clear from the above legal opinion that Zakat is not obligatory on a creditor in his money owed to government agencies that he is unable to collect due to a delay from the government agencies and not as a result of his default or failure to comply with the standard and requirements set by



the government agency. Upon reviewing the case file, the Circuit finds that the Defendant did not attach details of the amounts owed to the government agency and did not attach its claim and commitment to the collection cycle from these agencies, thus it is not possible to verify the company's lack of default in the absence of demand letters from these agencies for the amounts owed to it based on the above-mentioned paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, the burden of proof in proving the claim for these amounts falls on the appellant and the fact that the documentary dispute still exists, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause "Accrued salaries and wages", where the Taxpayer's appeal is that the company does not agree to add other current liabilities, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." based on the above, the Circuit found that the reason for the Authority's previous refusal to accept the outgoing balance was related to the appellant's failure to provide a detailed movement matching the financial statements and the fact that the appellant submitted a detailed movement that showed that the detailed movement matched the audited financial statements, so it is necessary to recalculate according to the attached movement, which showed the first period balance of (479,392.00) SAR. since the payment was made during the year as the debit movement amounted to (5,461,767.00) SAR, the balance of accrued salaries and wages did not fall due, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.



Regarding the Taxpayer's appeal on the clause (Other (Provision for a possible fine)), where the Taxpayer's appeal is that the company does not agree to add other current liabilities, and based on paragraph (1/5) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, the committee found that the reason for the authority's previous rejection of taking the balance that has passed a year relates to the failure of the appellant to provide detailed movement matching the financial statements, and upon reviewing the submitted movement, it is clear that the clause in dispute represents a provision for baseential fines and included a settlement amount of (146,830,000) riyals during the year and a credit balance was added during the year (234,358) riyals, and since the dispute between the parties revolves around the failure to provide an accounting extract for the detailed movement of the clause and since the appellant provided the accounting extract, and upon the committee's study of the attached document, it is clear that the credit balance represents a provision for baseential fines added during the year and that the opening balance was settled during the period of not having a year pass on another balance (provision for baseential fines), which leads the committee to accept the Taxpayer's appeal and cancel the decision of the committee regarding this clause.

With regard to the Taxpayer's appeal on the (Accounts Payable) clause, where the Taxpayer's appeal lies in the fact that the balance of trade payables was added after comparing the balance of the first period or the last period, whichever is less, because the statements attached at the audit stage do not match the audited financial statements, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources



of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:

A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause whose validity is not proven by the Taxpayer or make an estimated assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." based on the above, other payables are considered a component of the Zakat base, regardless of their type, source or classification, provided they are turned over or used to finance assets deducted from the Zakat base without requiring them to be turned over, and the Circuit reviewed the documents attached to the case file it found that the dispute is centered on the lack of reconciliation of the attached movement in the adjudication phase with the balances shown in the financial statements, so the Authority took the balance of the beginning or the end of the period, whichever is less, and by reviewing the documents attached in the appeal phase, it was found that the outstanding payables amounted to (2,694,095.68) SAR, after calculating the balance of the first period and deducting the payments made during the year for each receivable separately, which leads the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit regarding this clause by adding the amount of SAR 2,694,095 to the Zakat base.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial registration number (.....), unique number (.....), and the Zakat, Tax and Customs Authority, against The decision of the first circuit regarding violations and disputes of income tax in Dammam with number (IZD-2022-2786) issued in case number (Z-2022-95104) related to the Zakat assessment for the year 2016 AD.

Secondly: On the merits:

1- Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (government receivables).

2- Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (related parties).

3- Regarding the Taxpayer's appeal on the clause (other current liabilities):

A- Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding the clause (salaries and wages due).

B- Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (commissions due).

C- Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding the clause (other (provision for baseential penalty)).

4- Acceptance of the Taxpayer's appeal partially and amending the decision of the circuit regarding the clause (accounts payable).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



The Tax Violations and Disputes Committee
The First Circuit for Income Tax Violations and Disputes
In Jeddah Governorate

Decision No. IZJ-2024-205354

Case No. 2023-205354-Z

Keywords:

Zakat - Additions to the zakat base - Accrued vacations and tickets - Rejection of the Taxpayer's objection

Summary:

The Taxpayer's objection to the 2017 AD Zakat assessment issued by the Zakat, Tax and Customs Authority (ZTA) is represented in the clause (Social Insurance for 2017 AD), where the Taxpayer objects to the ZTA's action of not allowing the deduction of the differences between the amounts in the accounting books and the social insurance certificate, the clause (Trade Payables for 2017 AD) that the payables arose as a result of practicing the company's activities and did not arise as a result of obtaining cash, and did not use financing that is intended for qanuniyah, and did not reach the end of the year (Accrued expenses for 2017 AD), the clause (External purchases for 2017 AD) on the Authority's action of adding the expense of external purchases with an amount and profit of (15%), and the clause (Accrued vacations and tickets for 2017 AD) on the Authority's action of adding the clause to the Zakat base despite the fact that the amounts have not yet been converted to Zakat. The committee found that the balances do not match the reconciled lists in total and the accounts are not segregated, which makes it difficult to ascertain the validity of the plaintiff's claim that these balances did not turn over. Accordingly, the Taxpayer's objection is rejected in all clauses.

Document:

- Article (5) of [the rules of operation of the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)
- Article (4/5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Article (5/1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (6/2) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (20/3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The facts of this case are summarized as follows: ..., National ID No. (...) In his capacity as the statutory representative of the plaintiff, Inc. Commercial Registration No. (...), under the Memorandum of Association, filed an objection to the 2017 AD Zakat assessment issued by the Zakat, Tax and Customs Authority, where the plaintiff objects to several clauses: first clause: the plaintiff objects to the defendant's action of not allowing the deduction of the differences between the amounts in the accounting books and the social insurance certificate amounting to 202,181 riyals for the year 2017 AD, and demands the deduction of the amounts paid to the Social Insurance Organization based on the provisions of Article 5(1) of the Zakat Executive Regulations, and with regard to the second clause: Foreign purchases for the year 2017 AD, the plaintiff objects to the defendant's action of adding the expense of foreign purchases in the amount of (18,365) riyals and profiting by (15%). The plaintiff argued that the company's activity is medical and does not engage in the usual import and resale activity in the commercial form, and the amount included in the Zakat declaration is (zero), where she admitted that there are no external purchases for the year in question. The plaintiff argues that all company expenses are audited by a chartered accountant licensed to practice the accounting and auditing profession in Saudi Arabia, based on the provisions of paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection, and with regard to the third clause: Trade Payables 2017 AD .the plaintiff objects to the defendant's action of adding the balances of trade payables amounting to SR (425,369) to the Zakat base for the year 2017 AD, as she explained that the payables arose as a result of the company practicing its activities and did not arise as a result of obtaining cash amounts and did not use financing for what is intended for Acquisition and did not come due, and therefore she requests that these balances not be added to the Zakat base, and with regard to clause four: accrued Holidays and Accrued Tickets for 2017 AD, the plaintiff objects to the defendant's action of adding the balances of (Accrued Holidays and Accrued Tickets) amounting to SAR 1,008,293 and SAR 656,055, respectively, to the Zakat



base for 2017 AD, as she explained that (Accrued Holidays and Accrued Tickets) arose as a result of the company practicing its activities and did not arise as a result of receiving cash amounts and did not use financing for what is intended for Acquisition and did not reach Hulul (the due date). Accordingly, she claims that these balances should not be added to the Zakat base, and with regard to the fifth clause: Accrued Expenses for 2017 AD the plaintiff objects to the defendant's action of adding the accrued expenses of SAR 1,832,131 to the Zakat base for the year 2017 AD, as she explained that the accrued expenses arose as a result of the company practicing its activities and did not arise as a result of obtaining cash amounts and did not use financing for what is considered for Acquisition and did not reach Hulul. Therefore, she claims that these balances should not be added to the Zakat base.

When the defendant was presented with the lawsuit, she replied that with regard to the first clause: Social Insurance for 2017 AD the defendant replied that it added the difference of the overpaid social insurance expense to the adjusted net profit after recalculation according to the social insurance certificate based on the calculation presented in the 2017 AD Reply Memorandum, and the defendant argued that what the plaintiff pointed out was that these expenses were actually paid to social insurance and supported by documents the defendant responded that it recalculated the expense and found that an excess expense was charged over what was calculated according to the payroll statement provided to the defendant by the plaintiff, and the defendant argued that by reviewing the analytical statement of social insurance expenses provided by the plaintiff the plaintiff did not explain the reasons for the differences in the social insurance expenses, nor did she provide details of the salaries of Saudi and non-Saudi employees and limited herself to what was mentioned in the objection memorandum accordingly, the defendant affirms the validity of its procedure based on paragraph (3) of Article (20) and paragraph (4) of Article (6) of the Executive Regulations for Zakat Collection, as the defendant's rejection is based on the plaintiff's inability to provide sufficient documents to explain the difference in the overpayment, and with regard to the second clause: External purchases for the year 2017 AD, that it compared the external purchases in the plaintiff's declaration of (zero) with (the customs statement that was requested internally from the Customs Circuit) amounting to (18,365) riyals and the difference of (15%) amounting to (2,754) riyals. During the meeting with the Plaintiff, the Plaintiff's representative stated that the company's activity is medical and does not engage in the usual import and resale activity in a commercial form. The Plaintiff was also asked about the existence of imports in the amount of SAR (18,365) and the Defendant asked the Plaintiff to provide it with an analytical statement of the amount via email. The Plaintiff's response was limited to submitting an authorization report extracted from the company's account stating that there were no imports, while the



report extracted from the Defendant's system shows that there were imports in the amount of SAR (18,365). Regarding the third clause: Trade payables for the year 2017 AD, the plaintiff added an amount of (425,369) riyals, which represents the year that has passed according to the movement provided by the plaintiff and compared with the financial statements , in accordance with paragraph (5) of Article (4) of the Zakat Collection Executive Regulations, during the Defendant's meeting with the Plaintiff, the Defendant explained to the Plaintiff's representative how the calculation was done and that according to the movement presented, it was clear that the year had passed on the amounts added to the Zakat base amounting to SAR (425,369), and that according to the analysis shown in the excerpted image included in the defendant's reply memorandum, it is clear which accounts have turned around and should be added to the Zakat base, and with regard to the fourth clause: accrued vacations and accrued tickets for the year 2017 AD, she added the credits for both (accrued vacations and accrued tickets) in the amount of (1,008,293) riyals and (656,055) riyals respectively to the Zakat base for the year 2017 AD, which represents what has passed according to the movement provided by the plaintiff and reconciled with the financial statements, based on paragraph (5) of Article (4) of the Executive Regulations for Zakat Collection, and during the defendant's meeting with the plaintiff, the defendant explained her treatment to the plaintiff's representative the defendant explained to the plaintiff's representative how the calculation was done and that according to the movement presented, it is clear that the amounts added to the Zakat base have been converted, and that according to the analysis shown in the excerpted image included in the defendant's reply note, it is clear which accounts have been converted and should be added to the Zakat base, and with regard to the fifth clause: Accrued expenses for the year 2017 AD, it added an amount of (1,832,131) riyals, which represents what elapsed over the year according to the movement submitted by the plaintiff and compared with the financial statements, in accordance with paragraph (5) of Article (4) of the Executive Regulations for the Collection of Zakat. During the defendant's meeting with the plaintiff, the defendant explained to the plaintiff's representative how the calculation was done and that according to the submitted movement, it was clear that the year had passed on the amounts added to the Zakat base amounting to SAR (1,832,131) and that according to the analysis shown in the extract image included in the defendant's rejoinder, it is clear which accounts have passed the year and which should be added to the Zakat base.

On Sunday, corresponding to: 28/01/2024 AD, the session was opened via videoconferencing in accordance with the remote videoconferencing procedures; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 A.H.; the plaintiff's representative attended ... National ID number:(...) Under power of attorney



No. (...), and attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No.:(...) Date: 11/05/1444 AH. Asked what they would like to add, both parties were satisfied with what they had previously submitted. The Circuit decided to adjourn the hearing to deliberate.

Grounds:

Having reviewed the Zakat Law issued by Royal Decree No. (17/28/577) dated 14/03/1376 AH and its Executive Regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its amendments, and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments , and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its amendments, and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. And relevant laws and regulations.

In terms of form, since the plaintiff's claim aims to cancel the decision of the Zakat, Tax and Customs Authority regarding the Zakat assessment for the year 2017 AD this dispute is considered one of the disputes within the jurisdiction of the Zakat and Tax Determination Committee's Circuits under the Zakat, Tax and Customs Committees' working rules, and where the plaintiff was informed of the result of the objection on 17/08/2023 AD, and submitted the lawsuit through the electronic portal on 07/09/2023 AD, and therefore the lawsuit was submitted within the legally prescribed period in accordance with Article (5) of the Zakat, Tax and Customs Committees' working rules, and where the lawsuit was submitted by a person with standing, which requires the Circuit to accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests, defenses, and arguments of the parties, and found that the dispute lies in the defendant's issuance of the Zakat assessment for 2017 AD, where the plaintiff objects to several clauses:

First clause: Social Insurance for 2017 AD the plaintiff objects to the defendant's action of not allowing the deduction of the differences between the amounts in the accounting books and the social insurance certificate, which amounted to (202,181 SAR) for the year 2017 AD , while the defendant argued that it added the difference of the overpaid social insurance expenses to the adjusted net profit after recalculation according to the social insurance certificate based on the calculation presented in the reply memo for the year 2017 AD, and the defendant argued that what the plaintiff indicated was that these expenses were



actually paid to the social insurance the defendant replied that it had recalculated the expense and found that an expense in excess of what was calculated was charged according to the salary statement provided to the defendant by the plaintiff, and based on the provisions of paragraph (1) of Article (5) regarding the expenses that may be deducted from the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. In the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized according to the statutory rates." Based on the provisions of paragraph (2) of Article (6) regarding the expenses that may not be deducted from the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution (2082) dated 1/6/1438 AH: "Expenses for which the Taxpayer is unable to prove their expenditure by supporting documents or other evidence" based on the provisions of paragraph (4) of Article (6) concerning the expenses that may not be deducted from the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH: ("The employee's share in regular retirement funds such as pension funds, social insurance, or savings funds") based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: ("The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the above and by reviewing the documents submitted, it is clear that the plaintiff was content to submit copies of the social insurance certificate and an extract from the social insurance in addition to an extract from the upon reviewing the documents submitted by the plaintiff, it turns out that the social insurance extract shows the amounts paid during the year in dispute, and by recalculating the extract, it turns out that it does not correspond to what is stated in the social insurance certificate, and the plaintiff did not provide a settlement for these differences and was unable to provide bank disbursement documents proving that she paid the social insurance expense mentioned in her declaration in the amount of (202,181 SAR) since the plaintiff did not submit a settlement of the overpaid differences, in addition to her inability to prove the payment of



the overpaid social insurance expenses for 2017 AD, the burden of proof falls on the plaintiff, which is why the Circuit decided to reject the plaintiff's objection to the social insurance clause for 2017 AD.

Regarding the second clause: Regarding the second clause: External Purchases for 2017 AD. The Plaintiff objects to the Defendant's action of adding the expense of foreign purchases in the amount of (18,365) riyals and profiting by (15%). The Plaintiff argued that the company's activity is medical and does not engage in the usual import and resale activity in the commercial form, and the amount included in the Zakat declaration (zero), where it admitted that there are no foreign purchases for the year under objection. The Plaintiff argues that all the company's expenses are audited by a certified public accountant licensed to practice the accounting and auditing profession in the Kingdom of Saudi Arabia. The Defendant argued that it compared the external purchases in the plaintiff's declaration of (zero) with (the customs statement that was requested internally from the Customs Circuit) amounting to (18,365) riyals and added the difference by (15%) amounting to (2,754) riyals. The Plaintiff was asked about the existence of imports in the amount of (18,365) riyals. The defendant asked the plaintiff to provide it with an analytical statement of the amount via email. The plaintiff's response was limited to submitting an authorization report extracted from the company's account stating that there were no imports, while the report extracted from the defendant's system shows that there were imports in the amount of SAR (18,365). Based on the provisions of paragraph (1) of Article (5) regarding the expenses that may be deducted from the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. C- It must not be of a capital nature, and if a capital nature expense is included in the expenses, it shall adjust the result of the activity and be included in fixed assets and consumed according to the statutory rates", and based on paragraph (3) of Article (20) of the executive regulations for collecting zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stated: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the validity of what is stated in his declaration, the authority may not approve the clause that is not proven valid by the Taxpayer or may carry out an estimated assessment according to the authority's viewpoint in light of the circumstances and facts related to the case and the information available to it") and based on the above, and since the import statement issued by the General Authority for Customs is a basic



presumption from a neutral third party, and since it has been shown that the defendant's action of amending the plaintiff's business results is due to the existence of differences in the value of imports that were not declared in the plaintiff's declaration, as the defendant's action was based on a comparison of imports according to the statement issued by the Customs Authority, and upon reviewing the submitted documents, it appears that the plaintiff submitted (a clearance statement for the VAT report for the period from 01/01/2017 AD to 23/08/2022 AD) which indicates that there are no imports by the plaintiff, and the plaintiff did not provide the necessary reconciliation to clarify the grounds and justifications for the differences in imports amounting to (18,365) riyals, which was marked up by (15%) to become (2,754) riyals, and did not provide the supporting documents for her viewpoint as stated in her lawsuit, which shows the validity of the defendant's action of amending the plaintiff's business results with those differences, and therefore the circuit sees the rejection of the plaintiff's objection to the clause of foreign purchases for the year 2017 AD.

Regarding the third clause: Trade Payables 2017 AD the plaintiff objects to the defendant's action of adding the balances of trade payables in the amount of (425,369) riyals to the Zakat base for the year 2017 AD, as she explained that the payables arose as a result of the company practicing its activities and did not arise as a result of obtaining cash amounts and did not use financing for what is intended for Acquisition and did not come due, while the defendant argued that it added (425,369) riyals, which represents the amount that has come due according to the movement provided by the plaintiff and reconciliation with the financial statements (425,369) riyals, which represents what has come due according to the movement provided by the plaintiff and reconciled with the financial statements, and based on the provisions of paragraph (I) clause (5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that ("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438H, which stipulates that ("The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause



that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") Based on the above, and where trade payables are considered a component of the Zakat base provided they are turned over or used to finance assets deducted from the base based on the documents submitted, it appears that the plaintiff did not provide the detailed movement supporting her view that the credit balances have not matured, and because there is no detailed movement of these balances showing that the balances of the first period were paid during the year, the procedure to be taken is to add the balances that have matured, and looking at the details of the detailed movement included in the defendant's reply note, which is the movement of trade payables that have matured in the amount of (425,369)riyals for the year 2017 AD, which leads the Circuit to reject the plaintiff's objection to the trade payables clause for the year 2017 AD.

Regarding the fourth clause: accrued vacations and accrued tickets for the year 2017 AD the plaintiff objects to the defendant's action of adding the balances of (accrued vacations and accrued tickets) in the amount of (1,008,293) riyals and (656,055) riyals respectively to the Zakat base for the year 2017 AD, while the defendant argued that it added the credit balances for both (accrued vacations and accrued tickets) because it represents what has come due according to the movement provided by the plaintiff and reconciled with the financial statements, and based on the provisions of paragraph (I) clause (5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that:("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has passed the hawl."Based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH, which stipulates that("The burden of proving the validity of the clauses and any other data contained in the Taxpayer's declaration is on the Taxpayer, and in case he is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it.") based on the above, and where credit balances (accrued vacations, accrued tickets) are considered as one of the components of the Zakat base regardless of their type, source or classification, provided they are turned over or used to finance the assets deducted from the



Zakat base a review of the submitted documents shows that the plaintiff has provided details of the movement of the accounts (accrued vacations and accrued tickets), where it turns out that the balances do not match the corresponding lists in total and these accounts are not segregated, which makes it difficult to verify the validity of the plaintiff's claim by reviewing the movement of accounts provided by the plaintiff to the defendant and contained in the defendant's reply memorandum, which is represented by the movement of accounts (accrued vacations, accrued tickets), which shows that the balances of the first period were paid during the year, Al-Hawl, in the amount of (1,008,293) riyals and (656,055) riyals for 2017 AD, which shows that the procedure to be taken is to add the balances that have come due, so the Circuit considers rejecting the plaintiff's objection to the clause of accrued vacations and accrued tickets for 2017 AD.

Regarding the fifth clause: Accrued expenses for the year 2017 AD the plaintiff objects to the defendant's action of adding the accrued expenses in the amount of (1,832,131) riyals to the Zakat base for the year 2017 AD, It explained that the accrued expenses arose as a result of the company's activities and did not arise as a result of obtaining cash, and the financing did not use what is intended for acquisition and had not passed the year. The defendant argued that it added SAR (1,832,131), which represents the amount that has passed the year according to the movement provided by the plaintiff and compared to the financial statements. It explained to the plaintiff's representative how to calculate and that according to the submitted movement, it was clear that the year had passed for the amounts added to the Zakat base amounting to SR (1,832,131). According to the analysis shown in the extracted image included in the defendant's rejoinder, it is clear which accounts have passed the year and should be added to the Zakat base, and based on the provisions of paragraph (I) clause (5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH which stipulates that: ("The Zakat threshold for Taxpayers who keep regular books and records shall be calculated as follows: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade offers and has passed the hawl. "Based on the provisions of paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/6/1438 AH, which stipulates that ("The burden of proving the validity of the clauses and any other data contained in the Taxpayer's declaration is on the Taxpayer, and in case he is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that



is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it based on the above, the accrued expenses are one of the components of the Zakat base provided that they are turned around or used to finance the assets deducted from the Zakat base, and a review of the documents submitted shows that the plaintiff submitted the detailed movement of the accrued expenses, which shows the turnover of these balances in the amount of (1,832,131) SAR, which leads the Circuit to reject the plaintiff's objection to the accrued expenses clause for 2017 AD.

For these reasons and after deliberation, the Circuit unanimously decided as follows:

Decision:

- 1- The plaintiff's objection to the social insurance clause for the year 2017 AD is rejected.
- 2- The plaintiff's objection to the foreign purchases clause for the year 2017 AD is rejected.
- 3- The plaintiff's objection to the commercial accounts payable clause for the year 2017 AD is rejected.
- 4- The plaintiff's objection to the clause of due vacations and tickets for the year 2017 AD was rejected.
- 5- The plaintiff's objection to the clause of due expenses for the year 2017 AD was rejected.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170717

Case No. Z -2023-170717

Keywords:

Zakat - Additions to the zakat base - Adding rounded vacation allowance - Accepting the Taxpayer's appeal in part - Accepting the Authority's appeal.

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first division regarding violations and disputes of income tax in Jeddah Governorate number (IZJ-2022-2691), where the authority's appeal is on clause (discrepancy in the retained earnings amount) objecting to the division's decision that it added the retained earnings by an amount representing the opening balance after deducting actuarial losses, and on clause (addition of the carryover from the vacation provision) in objection to what the division decided regarding this clause; as the division amended the clause without stating the grounds for its amendment to the authority's decision and merely referred to the amendment of that clause, and the Taxpayer's appeal is on clause (not deducting the value of investments in equity instruments) in objection to what the division decided regarding this clause; as it claims that the authority did not deduct any of the financial investments in equity instruments. The appellate committee found regarding clause (discrepancy in retained earnings) that the authority subjected the retained earnings balance that has been due for a year, represented by the opening balance after deducting actuarial losses, and regarding clause (addition of the carryover from the vacation provision) the inaccuracy of what the division concluded by amending the authority's procedure, as it became clear that there was no amendment to the authority's procedure, and regarding clause (non-deduction of the value of investments in equity instruments) the committee found that there were no investment movements in some clauses of the declaration, which leads to; partial acceptance of the Taxpayer's appeal, and acceptance of the authority's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)



- Paragraph (4) of Article (4) of [the executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (I/5) of Article (4) of [the Executive Regulations for Zakat Collection issued by Decision No. \(2082\) of the Minister of Finance dated 01/06/1438H.](#)
- Paragraph (8) of clause (I) of Article (4) of [the executive regulations for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 19/01/2023 from / (...), National ID No. (...), in his capacity as Chairman of the Board of Directors under the Memorandum of Association, and the appeal filed on 01/02/2023 from / Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2691) issued in Case No. (Z -2021-50222) related to the Zakat assessment for the year 2018, in the suit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

- 1- Amending the defendant's action on the end-of-service allowance clause; according to the merits of the decision.
- 2- Rejecting the plaintiff's objection to the travel tickets clause.
- 3- Rejecting the plaintiff's objection to the ticket allowance.
- 4- Modifying the Defendant's action on the clause of vacation allowance; according to the merits of the decision.
- 5- Rejecting the plaintiff's objection to the tax deductions.
- 6- Rejecting the plaintiff's objection to the late payment penalties clause.
- 7- Rejecting the plaintiff's objection to the VAT clause Reverse Assignment.
- 8- Rejecting the plaintiff's objection to the Zakat expenses clause.
- 9- Rejecting the plaintiff's objection to the car ticket expenses clause.
- 10- Rejecting the plaintiff's objection to the VAT clause.
- 11- Amending the defendant's action on the retained earnings clause, according to the merits of the decision.
- 12- Rejecting the plaintiff's objection to the end-of-service severance pay provision.
- 13- Rejecting the plaintiff's objection to the rounded clause from the allowance for doubtful debts.
14. Rejecting the plaintiff's objection to the statutory reserve clause.
15. Reject the plaintiff's objection to the additional capital clause.
16. Reject the plaintiff's objection to the related parties clause.
- 17- Rejected the plaintiff's objection to the advance rentals clause.



18- Rejecting the plaintiff's objection to the other credits clause.

19- Amending the Defendant's action on the real estate investments clause; according to the merits of the decision.

20- Rejecting the plaintiff's objection to the clause Investments in Equity Instruments.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (failure to deduct the value of investments in equity instruments), the Taxpayer explains that the Authority did not deduct any of the financial investments in equity instruments, while the correct figure deducted according to the declaration is (117,655,612) SAR, according to the documents provided for these investments, they are all in the shares of local companies subject to the collection of Zakat, the company deliberated with the Authority during the discussion of this point before the Authority issued the final assessment, and the Authority stated that the clause could not be deducted because it contains a large value movement within the financial statements, which means that these investments are for speculation and not for the purpose of channeling, and we respond to the Authority in this regard that most of this movement is a movement of fair value adjustments in accordance with international accounting standards and not a movement of sale and purchase in addition, the Authority has added to the statutory text what is not in it, as the text of paragraph II/4/a is clear that the investment may be deducted if it is in a local enterprise subject to the collection of Zakat, and thus the regulation adopts the principle of non-zakat bending as the basis for deducting the investment, by deducting the investment representing part of the equity of another company that is subject to Sharia Zakat in the same year in the liability of the company issuing the investment, and therefore its deduction from the Zakat of the company owning the investment is mandatory, note that financial investments are mortgaged to a bank as a guarantee for financial facilities worth SAR(50,000,000) from the Saudi Investment Bank. Accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (adding the roundabout from the vacation allowance). The Authority explains that the Circuit issuing the decision under appeal modified the clause and did not indicate the reasons for its modification of the Authority's decision, but only referred to the modification of that clause, and the Circuit's decision was severely flawed, which makes the decision flawed and must be reversed, as no appeal can be filed against a decision that does not include clear grounds that can be responded to and rebutted the judicial body, after determining that the case has become ready for adjudication, must issue a decisive ruling on the dispute, which is categorical in its indication and not subject to jurisprudence or interpretation, and



where the decision under appeal stipulates the amendment of the Authority's decision without clarifying what is meant by the amendment in order to ensure the rights of the parties to the case alike, which the Authority believes that the litigation is not concluded in its substance and the Adjudication Circuit has not exhausted its mandate in the adjudication, therefore, Authority requests that this clause be returned to the decision-making circuit to remove this ambiguity, and with regard to the clause (difference in the amount of retained earnings), Authority explains that it added retained earnings in the amount of (1,491,686) riyals, which represents the balance of the first period after deducting the actuarial losses, which is the current balance, and by reviewing and referring to the list of changes in equity, it is clear that the Authority's procedure is correct, therefore, the Taxpayer's objection was rejected based on paragraph as for the Taxpayer's claim regarding the deduction of the legal reserve of SAR(14,592), this is incorrect, as the transfer is from the annual profit and not from retained earnings. (8) of the first clause of Article (4) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, and that the decision of the Circuit of Appeals referred to the modification of the Authority's procedure but did not clarify what is the modification to the Authority's procedure and its value. for the foregoing reasons, the decision of the Circuit of Determination of the clauses under appeal should be overturned.

On Sunday, on: 09/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal relates to the clause "Not deducting the value of investments in equity instruments." The Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the Authority did not deduct any of the financial investments in equity instruments, while the Defendant (the Authority) stated in its response that it did not deduct investments in equity instruments from the Zakat base that it did not deduct investments in equity instruments from the Zakat base, as the movement of the clause is shown in Note No. (7) of the financial statements and the existence of movement,



which indicates that the purpose of trading, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated: 1/6/1438 AH: "Investments in establishments within the Kingdom – participation with others - if those investments are subject to zakat collection under this regulation, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and since there must be two essential conditions for considering investments as representing capital assets and may be deducted from the zakat base, which are the documented intention of the authorized person clarifying the intention of the investment, and the absence of sales transactions during the year on those investments, and upon reviewing the case file and what it contains of defenses and documents, it appears that the authority argues against the deduction of investments due to the existence of exclusion movements according to clarification number (7) in the financial statements, indicating that the purpose of the investments is trading and not for capital purposes, and since the Taxpayer argues that all investments are in shares of local companies subject to zakat collection, and that the majority of that movement is a movement for fair value adjustments and not a movement of buying and selling, and upon reviewing the attached documents in the case file, the Taxpayer attached the movement of investments in the portfolio (...) And the portfolio (...), and it became clear that there was no sale movement in investments (...) In the portfolio (...) In the amount of (584,000) riyals, and that the change in the value of the shares is due to fair value adjustments, which led the division to decide to deduct this investment from the zakat base. As for the portfolio (...) It became clear that there was no sale movement on the following investments: (... – ... - ... - ... - ... - ... - ...) Amounting to (81,909,360) riyals as the difference in the investment balance is due to additions to the investments, the Circuit decided to deduct these investments from the Zakat base. As for the shares of the company (...) In the portfolio (...) It became clear that there was a substantial exclusion movement on them during the year in question, and thus they are not deducted from the zakat base, and it also became clear from the analytical statement of investments included in the Taxpayer's appeal that there is an clause "cash" amounting to (23,585,223) riyals among the investments that the Taxpayer requests to deduct, and since this clause does not represent an investment and is not one of the deductible clauses, it follows that its deduction from the zakat base is not accepted, which leads the division to partially accept the Taxpayer's objection by deducting investments amounting to (82,493,360) riyals and amending the decision of the division regarding this clause.

Whereas, with regard to the Authority's appeal regarding the clause (adding the turnover from the vacation allowance), the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that the Circuit issuing the decision under appeal amended the clause and did not indicate the reasons for its amendment of the Authority's decision and merely referred to the amendment of that clause, while the Taxpayer argues that the Authority added the vacation expense to the profit and added the first period balance and subtracted the paid amount on the basis that it is the turnover, both procedures are incorrect, and based on paragraph (1/5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the



Taxpayer's assets subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on the above, and upon reviewing the case file, it is clear that the authority argues that the division that issued the decision subject to the appeal amended the clause without stating the grounds for its amendment, and upon reviewing the case number (Z -2021-50222) it is clear that a modified decision was issued regarding the disputed clause on 30/05/2024 AD, however, upon reviewing the modified decision, it became clear that it concluded to amend the authority's procedure by "accepting vacation expenses from the adjusted net profit of 144,531 riyals and adding the carryover to the zakat base after deducting the amount used of 435,702 riyals", and upon reviewing the authority's response memorandum before the division, it is clear that the authority added the vacation provision by the same amount (435,702) riyals, thus it becomes clear to the division that the conclusion of the division's decision to amend the authority's procedure is incorrect as it became clear that there was no amendment to the authority's procedure, which leads the division to accept the authority's objection and annul the decision of the division regarding this clause.

Whereas, with regard to the Authority's appeal regarding the clause (Difference in the amount of retained earnings) and where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; it claims that it added retained earnings in the amount of 1,491,686 SAR riyals, which represents the balance of the first period after deducting the actuarial losses, while the Taxpayer argues that the retained earnings were declared according to the audited financial statements. Therefore, the company requests the cancellation of the Authority's action for this clause, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- Balance of profits carried forward from previous years at the end of the year."Based on the above, and with reference to the documents and defenses in the case file, it appears that the Authority argues that the decision of the Circuit under appeal referred to the amendment of the Authority's procedure and did not clarify what the amendment is and what its value is, and with reference to Chapter Case No. (Z -2021- 50222), it is clear that an amended decision was issued on 30/05/2024 AD to "add the retained earnings to the first period balance after deducting the actuarial losses", with reference to the Authority's reply memorandum before the adjudication, it is clear that the Authority subjected the retained earnings balance that has come due, which is represented by the balance of the first period after deducting the actuarial losses." Thus, the text of the adjudication committee's decision ended up following the same treatment adopted by the Authority, which leads the Circuit to accept the Authority's objection and cancel the decision of the Adjudication Circuit in this clause.



Whereas, with regard to the Authority's appeal regarding the clause (difference in the amount of the component of the end-of-service allowance) and the clause (failure to deduct the full value of real estate investments), and where Article(70) of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically, and the consequent procedures for this clause as per the terms of the decision reached by the Adjudication Circuit, is left to its discretion." therefore, the Circuit must accept the abandonment of the litigation.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (...) Commercial registration (...) , unique number (...) , and the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2691) issued in case number (Z -2021- 50222) related to the zakat assessment for the year 2018.

Secondly: On the merits:



- 1- Acceptance of the abandonment of the dispute regarding the authority's appeal on clause (discrepancy in the amount of the end-of-service provision).
- 2- Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (addition of the carryover from the leaves provision).
- 3- Acceptance of the authority's appeal and cancellation of the decision of the adjudication circuit regarding the clause (discrepancy in the amount of retained earnings).
- 4- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (non-settlement of the full value of real estate investments).
- 5- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the component from the travel ticket allocation).
- 6- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the rollover from the ticket allocation).
- 7- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of tax deduction expenses).
- 8- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of late payment tax penalties).
- 9- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of value-added tax reverse charge expenses).
- 10- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of Zakat expenses).
- 11- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of vehicle violation expenses).
- 12- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of differences in calculating value-added tax).
- 13- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (discrepancy in the amount rolled over from the end-of-service benefits allocation).
- 14- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the rollover from the allocation for doubtful debts).
- 15- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (the statutory reserve).
- 16- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of additional capital).
- 17- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of amounts from related parties).
- 18- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of rents received in advance).



19- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of other credit balances).

20- Acceptance of the Taxpayer's appeal partially and modification of the decision of the adjudication circuit regarding the clause (non-settlement of the value of investments in equity instruments).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. 187888-2024-IR

Case No. Z-2023-187888

Keywords:

Zakat - Additions to the zakat base - Two resources - Accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (ITR-2023-92822) where his appeal lies on the clause (suppliers for the year 2019) as he attached the analytical statement of suppliers showing that the amount was fully paid during the year 2019, while the authority added the suppliers' balance to the Zakat base within the amount deducted from the Zakat base of (10,308,390) Riyals, and it was established that the dispute was documentary and the decision was issued rejecting the plaintiff's objection for not submitting the financial statements for the year 2019. And it was established to the Appellate Committee that the Taxpayer attached confirmation letters from the company (...) For settling the opening balance of (105,869.11) Riyals, and also a confirmation letter from the company (...) For settling the opening balance of (214,808.63) Riyals as a letter was submitted from the company (...) For settling the opening balance of (215017) Riyals. The implication of this; acceptance of the Taxpayer's appeal partially and amending the decision of the circuit.

Document:

- Paragraph (C) of Article (4/3) of [the Executive Regulations for the Collection of Zakat issued by Decision of His Excellency the Minister of Finance No. \(2216\) dated 07/07/1440 AH.](#)
- Article (5) of [the Executive Regulations for the Collection of Zakat issued by Decision of His Excellency the Minister of Finance No. \(2216\) dated 07/07/1440 AH](#)

Facts:

The appeal filed on March 16, 2023 AD, from ... Identity number (...) In his capacity as a statutory representative by virtue of the partners' decision, on the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh



(ITR-2023-92822) issued in Case No. (Z -2022-92822) regarding the 2019 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) The decision of the defendant/Zakat, Tax and Customs Authority is upheld procedurally and rejected in substance.

This decision was not accepted by the Taxpayer (Company ...), so he submitted an appeal list, which was reviewed by the Circuit, which included the Taxpayer's appeal on the clause (Suppliers for 2019), in which the Taxpayer explains that the movement of debts was processed in an erroneous manner, where the balance of the first period was added (11,668,936) and showed the payment of (174,103), and this figure is erroneous as it considered the difference between the balance of the first period and the last period as the amount paid, and this treatment is wrong as the amount paid is (51,405,907) riyals (SR). The Authority added the balance of suppliers at the beginning of the year (2018) and the end of the year (2019), whichever is less, within the limits of the deduction on the basis that they are long-term liabilities, and this is contrary to reality and also contrary to the financial statements as the balance of suppliers is included under current liabilities and here we explain that current liabilities are liabilities payable within (12 months) and since our activity is the purchase and sale of building materials and we deal with many suppliers, including the company ... Company And other suppliers of reinforcing steel who were dealt with by opening forward accounts with payment terms ranging from (30-60-90) days. Therefore, the maximum period of suppliers' debts does not exceed (90) days. Therefore, the balance shown in the financial statements is a balance formed during the year and did not turn over and was paid in full in 2020. I attach a trial balance for suppliers for the years (2018-2019 - 2020) and the balance of suppliers at the end of 2018 amounted to (11,668,936) and the payment movement during 2019 amounted to (51,405,907). The suppliers' balance at the end of 2019 amounted to (11,494,833) and the payment movement during 2020 amounted to (81,380,355) SAR, which shows that the opening balance has been fully paid, which proves that it is a short-term debt that did not exceed twelve months. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

On Monday, 20/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated 08/04/1445 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits of the Taxpayer's appeal on the clause (Suppliers for 2019), where the Taxpayer's appeal lies in attaching the analytical statement of the suppliers as they were paid in full during the year 2019, and based on paragraph (C/3) of Article (4) of the Executive Regulations governing the collection of Zakat issued by the Executive Regulations issued under No. (2216) dated 07/07/1440 AH, which states: "The zakat base for the Taxpayer who keeps commercial books consists of all his zakat-liable assets, including the following: 3- The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: A- If the debts owed by the Taxpayer or other sources of financing have a duration of three hundred and fifty-four (354) days or more overlapping during the zakat year and the following year, they are added to the zakat base according to the number of days of each zakat year. B- The zakat year for debts does not cease by renewing or rescheduling them with the same creditor or by replacing these debts with other debts or sources of financing that finance what these debts were financing. C- The total amount added from what is mentioned in this paragraph should not exceed the total amount deducted from the base according to Article (5) of the regulations," and based on the above, and since the Taxpayer claims that he attached the analytical statement of suppliers showing that the above-mentioned amount was fully paid during the year 2019, while the authority added the suppliers' balance to the zakat base within the limits deducted from the zakat base amounting to (10,308,390) riyals, and since the dispute is documentary and a decision was issued to reject the plaintiff's objection for not submitting the financial statements for the year 2019, and after the circuit reviewed the attached documents, it became clear to it that the Taxpayer attached confirmation letters from the company (...) By settling the opening balance of the period amounting to (105,869.11) riyals, and also a confirmation letter from the company (...) For settling the opening balance of (214,808.63) Riyals as a letter was submitted from the company (...) By settling the opening balance of the period amounting to (215,017) riyals, which leads the circuit to partially accept the Taxpayer's appeal and amend the decision of the adjudication circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause (Advance Payment Customers for 2019), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a



response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses as the issuing circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached in this clause, bearing in mind the reasons for its decision.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer/company... Commercial registration number (...), unique number (...), against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ITR-2023-92822) issued in case number (Z -2022-92822) related to the zakat assessment for the year 2019.

Secondly: On the merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding clause (Clients with advance payments for the year 2019).
- 2- Partially accepting the Taxpayer's appeal and amending the decision of the adjudication circuit regarding clause (Suppliers for the year 2019).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-196733

Case No. Z-2023-169733

Keywords:

Zakat – Additions to the zakat base – Loan from a partner – Accepting the authority's appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2023-95809) where its appeal lies on clause (Adding the component of end-of-service benefits) for adding the component of end-of-service benefits to net profit, and clause (bank guarantee for additional zakat), as this clause is a regulatory procedure, and clause (Loan from a partner) for adding the clause to the zakat base. And since it has been established to the Appellate Committee that the loan from the partner has been reclassified as equity and not as liabilities on the Taxpayer, it becomes clear that the Taxpayer's request to add the clause according to the deductions is incorrect. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (3,6) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (9/5) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on 10/05/2023 AD by the Zakat, Tax and Customs Authority against the decision of the first (IFR-2023-95809) issued in Case No. (Z -2022-95809) related to the 2019 Zakat assessment, in the case filed by the Defendant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: modification of the action of the defendant/Zakat, Tax and Customs Authority against the plaintiff/company...(…) (unique number…) Relating to a loan clause sponsored in a subsidiary company (Company …), as described in the reasons.



Secondly: annulment of all other decisions of the defendant/Zakat, Tax and Customs Authority against the plaintiff/company. (...) Is related to the assessment in question.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit. The Authority's appeal is with regard to the clause (adding the component of the end of service provision). The Authority explains that it added the component of the end of service provision to the net profit in accordance with Note 13 of the financial statements. The rounded balance is as follows: statement 2019 Beginning balance (45,559,654) Deducts paid during the year (4,433,315) Revolving balance (41,126),339) The Authority has added the total charge during the year (the component) in accordance with Note (13) in the financial statements, noting that if the component transferred from a related party is not added to the net profit, it will be added within the rounded balance and the result is the same as Zakat is on the Zakat base and not on the adjusted net profit as the related party has already deducted it in its accounts, as for what the plaintiff referred to in his list is incorrect because it violates the statutory requirement accordingly, the Taxpayer's objection was rejected based on Article (4) Paragraph (6) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, which states that "The Zakat base consists of : "6- Allocations at the beginning of the zakat year after deducting the use of them during the zakat year." Article (9) paragraph (5) of the same regulation also stipulates that "...the following expenses may not be deducted: "5. All allocations and reserves formed during the Zakat year in question, except as stated in paragraph (6) of Article (8) of the regulation." regarding the clause (loan from a partner), the Authority explains that it added the clause (loan from a partner) to the Zakat base due to the reclassification of the debt from a loan to a contribution from a partner in accordance with Note No. (14) in the 2019 financial statements, and it was added to equity and not compared to the calculated clauses. The Authority explains that during the objection phase, the plaintiff submitted a clarification stating the following: "While the nature of the loan has not changed over the years, the presentation and disclosure requirements of auditing standards (specifically IFRS 9) require this loan to be presented in equity because it meets certain conditions such as no specific repayment schedule and is interest-free. The same loan was fully repaid in 2021, and repayment documents were provided." the plaintiff changed the classification of the clause from a partner's loan to a contribution from a partner, and it appeared within the equity, so in this case it is not compared with the deductible and is considered as a separate clause and is added to the Zakat base. As for what the plaintiff referred to in his list of claims, it cannot be relied upon because it is not true, and the requests he referred to are in fact contrary to the correct procedure carried out by the Authority, and accordingly, his objection was rejected. With regard to the clause (loan in a subsidiary company (Company ...)), the Authority clarifies that the Taxpayer objected to this clause for 2020 and did not object to it for 2019 with the Authority, and we attach to your Honorable Circuit a copy of the Taxpayer's objection to the Authority, which clarifies that the objection to this clause is related to the year 2020 as shown below (copy attached). Accordingly, the Authority requests that the Circuit's decision be overturned and that the clause be ruled inadmissible from a procedural point of view,



as it was not objected to by the Authority. With regard to the clause (Bank Guarantee for Additional Zakat), the Authority clarifies that the clause is related to the objection to the above clauses, which is a statutory procedure stipulated in the Zakat Collection Regulation. Paragraph (2) of Article (25) of the Executive Regulation on Zakat Collection issued by Ministerial Resolution No. (2216) dated 7/7/1440 AH stipulates that: Paragraph (3) of the same article stipulates that: "To accept the objection procedurally, the Taxpayer must pay part of the amounts due on the clauses not objected to within the statutory period of the objection, in an amount not less than ten percent (10%) of the value of the assessment and not more than twenty-five percent (25%) of its value, or provide a financial guarantee of not less than fifty percent (50%) of the value of the assessment , and the Authority may set the regulations governing this therefore, the Authority confirms the validity and regularity of its procedure. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Tuesday, 14/05/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause (1) of Article Fifteen of the Working Rules of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 A.H.; By calling on the opponents, I attended ... (National ID No. ...), in her capacity as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., no one appeared to represent the appellant despite the fact that it was legally notified of the date of this session. At this session, the representative of the Authority requested a period of time to submit what they have at a future session, the Circuit decided to accept the request and grant the Authority a period of (5) working days to submit what they have to the Secretariat, ending on the date of: 21/05/2024 AD, and granting the Taxpayer a subsequent period of (5) working days ending on 27/05/2024 AD. After this date, the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memoranda that were not submitted before the aforementioned date. The next session will be on 04/06/2024 AD , the session of pronouncing the decision.

On Tuesday, 04/06/2024 AD , the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH; By calling on the litigants, she/... (National ID No. ...), as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) And the date 19/03/1445 AH, and I attended (...) National ID No. (...), as the representative of the appellant under the Memorandum of Association attached to the case file, and by asking the appellant's representative what she would like to add, she stated that she maintains what was previously submitted in this case. When this was brought to the attention of the



appellant's agent, he replied that he was adhering to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, and with regard to the Authority's appeal on the clause (adding the component from the end-of-service allowance), and where the Authority's appeal lies in adding the component from the end-of-service allowance to the net profit, and based on paragraph (6) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, which stipulates that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 6- Allocations at the beginning of the zakat year after deducting the amount used during the zakat year." Based on paragraph (5) of Article (9) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, which stipulates that "Except as provided in Article (8) of the Regulations, the following expenses may not be deducted: 5- All allocations and reserves formed during the Zakat year in question, except as stated in paragraph (6) of Article (5) of the Regulations." Accordingly, the Zakat treatment of allocations consists of adding the balance formed during the year (credit movement) to the net profit as a non-deductible expense, and adding the balance of the first period of allocations after deducting their use during the year (debit movement) to the Zakatable elements of the Zakat base to reach this is in accordance with the provisions of the Executive Regulations for the Collection of Zakat issued No. (2216), Article (4) paragraph (6) and Article (8) paragraph (6) referred to above, and after the Circuit reviewed the case file and the documents it contains, it is clear that the dispute lies in the amounts transferred from a subsidiary company (Company) As the correct Zakat procedure in such transfers between subsidiaries is to add the transferred amount in one of the parties because it is an amount that must be subject to Zakat, and with reference to the attached documents, the company did not provide any document stating that this amount is subject to Zakat in the subsidiary company nor any proof that the amount did not fall due in the subsidiary company, therefore the transferred amount should be added to the Zakat base and not the net profit adjusted for the turnover on it, as the Taxpayer's argument is correct regarding that the amount formed did not affect the net accounting profit of the company to adjust the net profit to the net profit, however, as stated above, it should be added to the Zakat base for the period of transit and not because it is a non-deductible expense, resulting in the Circuit's



decision to accept the Authority's appeal and overturn the decision of the Determination Circuit with respect to this clause.

Regarding the Authority's appeal against (Loan from a partner), and where the Authority's appeal lies in the fact that it added the clause Loan from a partner to the Zakat base based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 7/7/1440 AH, which stipulates that "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: Government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: A- If the debts owed by the Taxpayer or other sources of funding have a duration of three hundred and fifty-four (354) days or more overlapping during the zakat year and the following year, they are added to the zakat base according to the number of days for each zakat year. B- The zakat year for debts does not cease with their renewal or rescheduling with the same creditor, or by replacing these debts with other debts or sources of funding that finance what these debts were financing. C- The total amount added from what is mentioned in this paragraph shall not exceed the total amount deducted from the base according to Article (5) of the regulation. Based on the above, and upon reviewing the case file and the appeal of the authority, it is clear that it attached a copy of the financial statements clarification (14) which shows that the partner decided to convert a loan from a partner into a contribution from a partner, as it is clear from the clarification that it was the partner who decided and not as claimed that this loan was reclassified in accordance with the presentation and disclosure requirements according to auditing standards (specifically standard number 9 of the International Financial Reporting Standards) which require this loan to be presented within equity, and since the loan from the partner has been reclassified within equity and not within the liabilities of the Taxpayer, it becomes clear that the Taxpayer's request to add the clause in proportion to the deductions is incorrect, which leads the authority to accept the appeal and cancel the decision of the division regarding this clause.

With regard to the Authority's appeal on the clause "Recommended loan in a subsidiary company (Company ...)", and based on Article (186) of the Sharia Procedure Law, which stipulates that: "new requests shall not be accepted in the appeal and the court shall rule sua sponte that they are inadmissible." The Circuit's reference to the Taxpayer's objection made it clear that this clause was not among the clauses of the objection for 2019, but the clause was related to 2020, in addition to that, referring to the response memorandum submitted by the Taxpayer for the years 2019 and 2020, it is clear that the response was on the clause related to 2020 and did not mention 2019, where it is clear that the dismissal decision ruled on an clause for 2019 that was not among the clauses of the objection, in addition to the fact that there is no proof that the Taxpayer submitted the objection on that clause for 2019 before the objection committee that issued the decision under appeal, and where Article (186) of the Sharia Procedure Law states: "... New applications are not admissible on appeal and the court shall rule sua sponte that they are inadmissible."



since the Taxpayer did not object to the clause before either the Trial Committee or the Panel, the Circuit concludes that the decision of the Trial Circuit with respect to this clause should be set aside.

With regard to the Authority's appeal on the clause (Bank Guarantee for Additional Zakat), where the Authority's appeal lies in the fact that the clause is a legal procedure, and based on paragraph (3) of Article (25) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 7/7/1440 AH, which stipulates that: "To accept the objection from the procedural point of view, the Taxpayer must pay part of the amounts due on the objected clauses within the statutory period of the objection, not less than ten percent (10%) of the assessment value and not more than twenty-five percent (25%) of its value, or provide a financial guarantee not less than fifty percent (50%) of the assessment value." Based on the above, as there is no dispute about providing a bank guarantee on the objected clauses and no dispute about the Taxpayer's right to recover the guarantee if a final decision supporting its viewpoint is issued. The Circuit's reference to the decision of the adjudication decision made it clear that the decision was issued to annul the Authority's action, which is incorrect as the clause in dispute did not involve any technical action taken by the Authority and that the action taken was a regular procedure, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Authority's appeal on the clause (unrealized revenues), and where Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically, and the consequent procedures for this clause as per the terms of the decision reached by the Adjudication Circuit, is left to its discretion." therefore, the Circuit must accept the abandonment of the litigation.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally from the appellant / Zakat, Tax and Customs Authority, against the decision of the first division regarding violations and disputes of income tax in Riyadh numbered (IFR-2023-95809) issued in case number (Z- 2022-95809) related to the zakat assessment for the year 2019.

Secondly: On the merits:

- 1- Acceptance of the authority's appeal and cancellation of the decision of the division regarding the clause (addition of the component of end-of-service benefits).
- 2- Acceptance of the authority's appeal and cancellation of the decision of the division regarding the clause (loan from a partner).
- 3- Acceptance of the abandonment of the dispute regarding the authority's appeal on the clause (unrealized revenues).
- 4- Cancellation of the decision of the division regarding the clause (loan subject to zakat in a subsidiary company (Company ...)).
- 5- Acceptance of the authority's appeal and cancellation of the decision of the division regarding the clause (bank guarantee for additional zakat).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-192434

Case No. Z-2023-192434

Keywords:

Zakat – Additions to the zakat base – Short-term loans – Acceptance of the Taxpayer's appeal.

Summary:

The Taxpayer's objection to the decision of the first division regarding violations and disputes of income tax in Riyadh number (IFR-2023-98613), where his appeal is based on the clause (creditor banks – bank facilities for the year 2017), and the clause (short-term loans for the year 2017) claiming to have submitted supporting documents to verify the non-completion of the year. And it has been established to the Appellate Committee that the Taxpayer submitted bank account statements to the bank (Investment and Riyadh) which clarified that every month or two the Taxpayer requests financing of (5) million riyals and this loan is repaid on a date exceeding more than a month from the repayment date, and the authority has added it to the zakat base as it is revolving loans, which contradicts what was mentioned in the explanatory guide, and the principle is that short-term loans are not added to the zakat base. Consequently; the Taxpayer's appeal is accepted and the decision of the division is canceled.

Document:

- Paragraph (5) of Article (4,1) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 18/04/2023 AD, from/..., National ID No. (...) In his capacity as the statutory representative of the appellant company under the Memorandum of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-98613) issued in Case No. (Z-98613-2022) related to the 2017 Zakat assessment, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority:

The plaintiff/company's objection was rejected.... (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.



Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Appellate Division, claiming that with regard to the 2017 Short Term Loans, the Taxpayer explained that in its decision, the Division rejected the application of ... Company not adding short-term loans in the amount of (68,500,000) Riyal as the plaintiff did not provide supporting documents to verify the lack of turnover, and as short-term loans are one of the components of the Zakat base provided they are turned over or used to finance the assets deducted from the base, this is rejected as the chartered accountant classified the short-term loans clause in the audited financial statements of the company within current liabilities and not within non-current liabilities, after he reviewed and examined the accounting records and all documents and documents related to the loans, which confirms that the loan term is less than one year and that the first year's balance of the loans was fully repaid during the year, which led to the issuance of his report in this case, there is no need to add these short-term loans to the Zakat base, and the movement of short-term loans and bank repayments from the bank statements all prove that the first balance of the loans are fully repaid, that they are not due to the end of the year, that they were not financed from the Zakat base, and that all their uses are to finance working capital, in addition to the fact that the short-term loans have been repaid in full. With regard to the Taxpayer's appeal regarding the clause (Banks Credit - Banking Facilities for 2017), the Taxpayer explained that the chartered accountant's categorization of the clause (Banks Credit - Banking Facilities) in the company's audited financial statements within current liabilities and not within non-current liabilities banking facilities in the company's audited financial statements within the current liabilities and not within non-current liabilities, after he reviewed and examined the accounting records and all documents and documents related to the loans, which confirm that the term of the bank facilities is less than one year, and that the first year's balance of the loans was fully repaid during the year, which issued an absolute report, so it is not necessary to add these short-term loans to the Zakat base, as well as the movement of credit banks - banking facilities and bank repayments from the bank statements all prove that the balance of the first period of credit banks - banking facilities is fully repaid and has not fallen due. Therefore, the Taxpayer requests the reversal of the decision of the Appellate Division for the foregoing reasons.

On Monday, June 24, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, whereas the Taxpayer's appeal regarding the clause (Short Term Loans for 2017AD), the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims to have submitted supporting documents to verify that the one year lapse has not occurred. Based on paragraph (5) of Clause (First) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in commercial transactions and has passed a year on it. Based on the above, and upon reviewing the explanatory guide for the zakat treatment of debts of Taxpayers who maintain regular accounts clause (1.2.2.2) short-term loans paragraph (2-b) which stated: (If the balance between the Taxpayer and the lending entity reached during the zakat year to a value of (zero) for more than ten days, it shall not be added to the zakat base, and if the balance did not reach a value of (zero), or reached it for ten days or less; it shall be added to the zakat base at its value at the beginning or end of the year, whichever is lower) and paragraph (c) of the same article (when these descriptions are met; the upper limit for adding external funding sources is the total amount deducted according to paragraph (3/c) of Article four of the regulation, and upon reviewing the case file, it is clear that the Taxpayer submitted bank account statements to the bank (Investment and Riyadh) which clarified that every month or two the Taxpayer requests financing of (5) million riyals and this loan is repaid on a date exceeding more than a month from the repayment date, and the authority has added it to the zakat base as it is revolving loans, which contradicts what was mentioned in the explanatory guide stated above, and the principle is that short-term loans are not added to the zakat base, which leads the division to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

Regarding the Taxpayer's appeal regarding the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that he did not turn over the year 2017 and provided supporting documents to verify this. Based on paragraph number (5) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH which states: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and



overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in commercial transactions and has passed a year on it. Based on the above, and since the clause is related to the first clause on which the Circuit's decision concluded that the appeal should be accepted since the loans and bank facilities provided are only short-term loans, and since the Authority did not submit any new arguments affecting the case that require comment or appeal, the Circuit concludes that the Taxpayer's appeal should be accepted and the decision of the Adjudication Circuit regarding this clause should be annulled. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), distinctive number (...) Against the decision of the first division regarding violations and disputes of income tax in Riyadh numbered (IFR-2023-98613) issued in case number (Z-2022-98613) related to the zakat assessment for the year 2017.

Secondly: On the merits:

- 1- Acceptance of the Taxpayer's appeal and cancellation of the decision of the division regarding the clause (short-term loans for the year 2017).
- 2- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appellate Committee regarding clause (Creditor Banks - Bank Facilities for the year 2017).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-173926

Case No. Z-2023-173926

Keywords:

Zakat - Additions to the zakat base - Long-term loans - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province number (IZJ-2022-2634), where his appeal lies on clause (Difference in Purchases for the years 2014 and 2016) as he claims there are additional expenses related to materials, which are charged to the cost of external purchases, and clause (Advance Payments (Advance Payments for the years 2017 and 2018) claiming that he has receivables from the same clients recorded as current assets in the balance sheet for the same year in dispute, and clause (Long-term loans for the years 2017 and 2018 and loans and similar for the year 2018) as the Appellate Committee rejected his objection claiming that the authority added the balance of this clause as a source of funding without requesting the necessary documents for that. It has been established to the Appellate Committee that the authority's viewpoint in adding the balances of those loans is that they were used to finance fixed assets, and upon reviewing the documents attached to the case file, it became clear that the authority did not provide evidence of its action regarding the use of those loans in financing fixed assets. Therefore, the Taxpayer's appeal is accepted and the decision of the Appellate Committee is canceled.

Document:

- Paragraph (1/5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (4) of Clause (2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 31/01/ 2023 AD, from/..., National ID No. (...) As agent for the appellant company under Agency No. (...), on the decision of the First Circuit first no. (IZJ-2022-2634) issued in Case No.



(Z-2020-44464) related to the Zakat assessment for 2014, 2016, 2017 and 2018, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The appellant's case is filed against the Zakat, Tax and Customs Authority:

- 1- Rejecting the plaintiff's objection to the import differences clause.
- 2- Reject the plaintiff's objection to the short-term loans clause.
- 3- Rejecting the plaintiff's objection to the long-term loans clause.
- 4- Rejecting the plaintiff's objection to the advance payment clause.
- 5- Rejecting the plaintiff's objection to the spare parts inventory clause.
- 6- Rejecting the plaintiff's objection to a material error clause in the calculation of the zakat base.

As this decision was not accepted by the Taxpayer (Company ...), he submitted a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (procurement difference for 2014 and 2016). The Taxpayer explained that the adjudication committee stated in its reasons for its decision that the plaintiff did not provide its point of view to support its position, and the plaintiff is surprised by this view of the adjudication committee, as the plaintiff included in all its arguments submitted to the Authority and the adjudication committee previously its detailed view on this clause. The plaintiff also provided an analytical statement of the differences between the foreign purchases charged to the accounts and the foreign purchases shown in the Customs Authority's statement. The adjudication committee also mentioned in its reasons for its decision that the data supporting the import differences were inconsistent, and the claimant emphasizes that these documents were a sample to confirm its point of view and the adjudication committee could have requested clarification from the claimant to explain the consistency of these documents during the objection review phase. Upon the Honorable Committee's review of the attached analytical statement of procurement discrepancies, the reasons for these discrepancies between the external purchases charged to the accounts and the purchases shown in the Customs Authority's statement are as follows: the plaintiff has additional expenses related to materials such as transportation, storage, clearance, etc., which are charged to the cost of external purchases. Moreover, the timing of when the foreign purchases appear on the customs declaration differs from when they are recorded in the plaintiff's books due to transportation, unloading, and receiving in warehouses (i.e., timing differences). There is an error in the categorization of internal purchases as they were included under external purchases in the company's Zakat return by inadvertent error. In addition to the above, the plaintiff would like to draw the attention of the Honorable Committee to the Authority's Circular No. (2030/9) dated 15/4/1430 AH, which confirmed that the existence of a discrepancy between the Customs Authority's statement and the plaintiff's books need not be relied upon as a justification for accounting for procurement differences, as the circular stipulated the following: "Although the data of the Customs Authority is an indicator to determine the cost of the Taxpayer's imports, the existence of a difference between them and what the Taxpayer



declared in his accounts does not need to be relied upon as a justification for accounting for these differences, as it is necessary to verify the authenticity of the Taxpayer's imports either through field examination or office examination it is necessary to verify the validity of the Taxpayer's imports, whether through field or office examination and to review all supporting documents that prove the truth of what was recorded in the Taxpayer's books and to identify the real reasons for the difference between what was declared in his books and what those data showed, there may be acceptable reasons justifying this difference, such as, but not limited to:- failure of the Customs Authority to register some imports, the Taxpayer's registration of some additional costs within the cost of purchases from abroad, the import being for the purchase of fixed assets, the difference in the fiscal year between the Hijri and Gregorian calendars, some companies importing on behalf of others and recording the full value of the imports in their books and after delivery to the beneficiary they recover from him all the costs related to his goods." regarding the Taxpayer's appeal regarding the clause "Long-term loans for 2017 and 2018 and loans and the like for 2018", the Taxpayer explained that the adjudication committee stated in the reasons for its decision that it added these balances as a source of funding because the plaintiff did not provide the detailed movement of these loans, and the company stated that the plaintiff had provided the movement of these loans in its previous submissions to the Authority and the Secretariat. The adjudication committee did not request any additional data or clarifications from the plaintiff, but merely added the balance of this clause as a source of funding. The plaintiff has attached an analytical statement of long-term loans, including the dates of receipt of loans and their repayment dates, and upon review of the attached movement, it will be seen that there are no loans that have come due, and the plaintiff is surprised that the committee considered the clause of loans and the like for the year 2018 amounting to (14,862,025) SAR as a source of funding accordingly, the plaintiff emphasizes that the balance that was added during the year represents a new loan that was acquired during the year, and the cash generated from operations according to the audited financial statements for 2018 is much higher than the value of the assets acquired during the year, which negates the committee's statement that these loans were used to finance the purchase of fixed assets. In addition, it is worth noting that what was due during the year 2017 was added to the Zakat base in the plaintiff's declaration for the same year. In addition to the above, the plaintiff maintains its arguments that the addition of short-term loans to the Zakat base for the disputed years is not permissible based on Article (4) paragraph (1/5) of the Executive Regulations for Zakat Collection issued by Royal Decree No. (M/40) dated 2/7/1405 AH, which states: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." the conditions for adding these balances mentioned in the above paragraph do not apply to the plaintiff's case, as the balances have not reached Hulul, the nisab of Tammam al-Malik, and have not been used to finance what is intended for Acquisitionh. Therefore, the opening loans



were interrupted by their repayment during the year, and a new year began for the loans received during the year, which represents new borrowed money that begins when it is received and does not represent the same or the same money shown at the beginning of the year, as the plaintiff obtained new loans during the year.

Regarding the Taxpayer's appeal regarding the clause "Advance Payments (Advance Payments for 2017 and 2018)", as the claimant has submitted supporting documents, including financial statements and an analytical statement of the movement of payments made by customers to the Authority and the Adjudication Committee previously. The plaintiff also states that it has debit balances for the same customers that are recorded as current assets in the statement of financial position for the same year. Consequently, if the Authority insists on adding the advance payments to the plaintiff's Zakat base, the plaintiff claims a corresponding deduction from the year-end debit balances of the same customers. Accordingly, the balances of advance payments after deducting receivables amounted to SAR (558,740.92) and SAR (410,989.76) for 2017 and 2018, respectively. The movement of this clause is presented with the corresponding receivables. Therefore, not allowing the company to deduct the corresponding amounts in the receivable balances will lead to the collection of Zakat on the basis of presentation required by the standards and unrelated to Zakat accounting. As the presentation and disclosure requirements of the auditing standards require the presentation of receivables and advances separately in the financial statements, as the auditing standards cannot be relied upon for Zakat accounting purposes due to their different purposes, the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit regarding the clauses in his appeal be reversed.

On Thursday, March 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



The Taxpayer's appeal relates to the clause (Purchase Difference for 2014 and 2016), where the Taxpayer's appeal lies in appealing the Circuit's rejection of his objection regarding the disputed clause, as he claims that there are additional expenses related to materials, which are charged to the cost of external purchases, and the timing of the appearance of external purchases in the customs statement differs in the time of recording them from the Taxpayer's books. Upon reviewing paragraph (1/a) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the foregoing, and since the dispute between the parties is a documentary dispute, a review of the documents submitted by the Taxpayer shows that the Taxpayer attached to his appeal list a reconciliation table for the differences related to external purchases, which he stated were due to internal purchases that were mistakenly recorded in external purchases and additional expenses of transportation, storage, and clearance. The Taxpayer also attached a statement of external purchases for the period from 17/6/2014 AD to 31/12/2015 AD and submitted a statement of external purchases for 2016, which included the entry number, date, supplier name and amount, the Taxpayer also attached a large sample of invoices, and by matching the invoices submitted by the Taxpayer with the analytical statement, it was found that all the data contained in the invoice matched with the attached analytical statement, as the entry number, date, supplier name and purchase amount in the submitted invoices were compared with the statement on foreign purchases and found to be identical, therefore, since the Taxpayer attached documents supporting his viewpoint regarding import differences, which concludes that the Circuit accepts the Taxpayer's appeal to cancel the decision of the Dispute Resolution Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "Long-term loans for 2017 and 2018 AD and loans and the like for 2018 AD ", the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the adjudication committee credited this clause as a source of funding without asking the Taxpayer for the necessary documents. Based on paragraph (First/5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, it states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." Based on the above, and since loans are considered one of the components of the zakat base regardless of their type, source, or classification, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base without requiring a year to pass on them, and upon reviewing the case file, it is clear that the authority's viewpoint in adding the



balances of those loans is that they were used to finance fixed assets, and upon reviewing the documents attached to the case file, it is evident from the cash flow statement for the year 2018 that the net cash from operations for the years 2018 AD and 2017 AD amounts to (11,044,810) riyals and (16,654,344) riyals respectively, which is higher than the value of the acquired assets, which contradicts what the authority mentioned about using these loans to purchase fixed assets. Therefore, since the authority did not provide evidence of its action regarding the use of those loans in financing fixed assets. As for the loans and similar for the year 2018, upon reviewing the case file and the attached documents, it became clear to us that the Taxpayer attached an Excel statement of long-term loans which included the opening balance, additions during the year, amounts repaid during the year, and the closing balance. Therefore, the authority's argument in its response to the Taxpayer's appeal that the statement was brief and did not clarify the required movement does not hold. Analyzing the attached statement shows the validity of the Taxpayer's defenses regarding the lack of a year passing on the balances of long-term loans, which leads the committee to accept the Taxpayer's appeal and cancel the decision of the Appellate Committee regarding this clause.

With regard to the Taxpayer's appeal regarding the clause (Advance Payments (Advance Payments for 2017 and 2018)), the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that he has debit balances for the same customers that are recorded as current assets in the statement of financial position for the same year in dispute. Based on paragraph number (4) of clause (Second) of article four of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 1/6/1438 AH on: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 4- Revenue provided that has already passed its due date. Based on the above, and since payments received in advance are considered a source of funding, the amount that has already turned over is added to the Zakat base, and by reviewing the case file, it is clear that the Taxpayer is requesting to add the advance payments to the base after deducting the receivables of the same customers, by analyzing the facts of the case and reviewing the attached documents, it turns out that the Taxpayer attached a detailed statement of the payments made for the years 2017 and 2018, and by comparing the attached statement with the audited financial statements, it turns out that the balances of the beginning of the period and the end of the period in the financial statements match the attached statement, and by analyzing the statement, it turns out that the amounts concluded by the Taxpayer for the year 2017 (3,935,184) riyals, which is the same amount the Authority concluded to add, and (4,804,877) riyals for the year 2018 (the amount of (4,804,877) SAR for the year 2018 and not (7,338,784) SAR as indicated by the Authority in its reply memorandum, therefore, the correct treatment is to set off the debit and credit balance if it is for a single customer with two debit and credit accounts, whereas, we have established the validity of the movement attached by the Taxpayer and its conformity with the financial statement balances and the validity of the Taxpayer's claim to deduct the equivalent of these advance payments from the year-end debit balances that relate to the same customers, this does not affect the Authority's statement in its reply note that what the Taxpayer indicated is contrary to the aforementioned



statutory provision; which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., Commercial Registration (...). Unique number (...). Against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province number (IZJ-2022-2634) issued in case number (Z-2020-44464) related to the zakat assessment for the years 2014, 2016, 2017, and 2018.

Secondly: On the merits:

- 1- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appellate Committee regarding clause (Difference in Purchases for the years 2014 and 2016).
- 2- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Short-term Loans).
- 3- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appellate Committee regarding clause (Long-term Loans for the years 2017 and 2018 and loans and similar for the year 2018).
- 4- Regarding the Taxpayer's appeal on clause (Advance Payments):
 - A- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appellate Committee regarding (Advance Payments for the years 2017 and 2018).
 - B- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Advance Payments for the year 2016).
- 5- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Inventory Spare Parts for the years 2015 and 2016).
- 6- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Material Error in Calculating the Zakat Base).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-187839

Case No. Z-2023-187839

Keywords:

Zakat – Additions to the zakat base – Loans added to the Zakat base – Acceptance of the Taxpayer's appeal
– Acceptance of the authority's appeal

Summary:

The Taxpayer's objection and the Zakat, Tax and Customs Authority to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (Z-2021-47421), where the authority's appeal lies on the clause (not deducting the government subsidies due at the end of the year from the net profit for the year 2015) to clarify that it deducted the due balance of government subsidies for the year 2015 only from the Zakat base, and the Taxpayer's appeal lies on the clause (adding loan balances to the Zakat base for the year 2015) on the grounds that the loans obtained by the company were for the purpose of contributing to financing the main activity of the company. And since it was established to the Appellate Committee according to the clarification of loans in the financial statements, that the purpose was to complete the poultry farm project and to complete the factory (...), which means that its main purpose was to finance assets and that what has been completed in it was an amount of (196,500,000) riyals, and there is no addition even though the additions during the year financed assets and should be added to the base if they exist. Accordingly; the acceptance of the Taxpayer's appeal, and the acceptance of the authority's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (6) of Clause (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on March 16, 2023 AD, by (...), National ID No. (...), as an agent of the appellant company under agency No. (...), and the appeal filed on 05/04/2023 AD, by (...), and the appeal filed on 05/04/2023AD , from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6702) issued in Case No.

(Z-2021-47421) related to the 2015 Zakat assessment, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: accepting the objection of the plaintiff/company ... (Commercial Registration No. ...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of procedurality.

Secondly: On the merits:

1- Amending the Defendant's decision with respect to the clause (not deducting the government subsidies due at the end of the year from the net profit for the years 2015 and 2016).

2- Reject all other objections.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (adding loan balances to the Zakat base for the year 2015). The Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be annulled. He pointed out that the loans in dispute, according to the Authority's statement, are long-term loans of a revolving and revolving nature, and that they are repaid in the course of the year by creating a new loan of the same value and for the same period, which shows that these loans in essence are revolving and continuous. It is for the purpose of finalizing the poultry farm project and for the purpose of finalizing a factory with... This means that the purpose of the loans is to finance assets, and with regard to the years 2017 and 2018, the Taxpayer does not agree with the Authority's procedure in applying the provisions of paragraph (3/b) of Article (4) of Ministerial Resolution No. (2216) dated 7/7/1440 AH, as Ministerial Resolution No. (2216) issued in

1440 AH included in paragraph (3/b) of Article (4), considering that the replacement of loans with others does not lead to the interruption of hawl while the Authority is using this paragraph retroactively for the years in dispute without taking into account the controls of Ministerial Decision No. (2082) of 1438 AH, which stipulates that the loan is subject to the financing of long-term assets or the turning of the year only, which the Taxpayer objects to its application in the assessment, and if this treatment is correct the application of other articles of the same decision may be in the Taxpayer's favor, Whereas, adding the loan as a recurring loan is one of the procedures applied by the Authority before the issuance of the Zakat



Regulation is incorrect and irrelevant, as the aforementioned regulation is applicable to the years 2019AD and beyond, while the executive regulation issued by the Ministerial Decision No. (2082) dated 1/6/1438H, included the Authority's procedures for processing loans, which did not include adding loans to the Zakat base as revolving loans, and that the application of the Executive Regulation issued by Ministerial Decision No. (2216) dated 7/7/1440 AH is only for fiscal years starting on and after 01/01/2019 AH. As for the years 2015 and 2016, the Taxpayer relied on Fatwa No. (22665) dated 15/04/1424 AH regarding the subjection of credit balances and loans, which specified the conditions that must be met to subject loans to Zakat, and indicated that the basis for adding loans to the Zakat base according to the aforementioned executive regulation is that these loans have become due or have been used to finance long-term assets deducted from the Zakat base, and therefore the amounts that the Authority added to the base do not meet the aforementioned criteria for Zakat as the loans obtained by the company were for the purpose of contributing to the financing of the company's main activity, and the part that has come due, the company voluntarily added it to the Zakat base within its Zakat declarations, and the company has short-term loans that were repaid no later than six months and the said financing was used for the company's main activity from financing operational operations (according to the note to the financial statements above) and that these loans were not originally financed discounted, and therefore the Taxpayer believes that the Authority's procedure is incorrect in its assumption that short-term loans are of a revolving nature and the Zakat year is not interrupted, as short-term loans are obtained under contracts signed with the lending bank, each contract has a separate reference number as well as the contract clarifies the amount and duration of the loan as well as the purpose of obtaining the loan and at the end of the loan term, the loan is actually repaid and not a book payment, the Taxpayer added that it is understood that the term revolving/revolving loans applies only to those loans obtained by the Taxpayer and the repayment of those loans is a book payment and not an actual repayment, which means that the loans are still held by the company, which means that the company is still in possession of the loans this means that the loans are still in the possession of the company and therefore should be subject to Zakat as the Zakat year is not interrupted, but on the contrary, the Authority was provided with the analysis of the bank loans, which in turn confirms the actual repayment of these loans, which means that the challenged loans represent short-term loans, and those loans (or other sources of financing) that were used to finance the company's assets in the year under examination and the company added them to the base in its Zakat declarations, and we note that the company actually added (415, 206,845) riyals in the Zakat return for the year 2015 at the time of filing the objection in the electronic portal of the Authority (Revenue), and it does not mind adding the amounts (192,609,351) riyals and (29,746,155) riyals for the years 2016 and 2017 respectively to the Zakat return, which were proven to be financing fixed assets, if the Authority's action to add the loans to the Zakat return is canceled from its point of view.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:



With regard to Authority's appeal against the decision of the Adjudication Circuit, Authority explains that it deducted the outstanding balance of government subsidies for the years 2015 and 2016 only from the Zakat base, and rejected the Taxpayer's objection to deduct the outstanding subsidies from the net profit and not from the Zakat base, as subsidies are among the clauses in the Zakat base, and the Circuit issuing the decision under appeal amended the Authority's decision the Authority answers that after reviewing the Committee's decision and the Taxpayer's objection memorandum, and where the decision concluded that the year of the dispute is 2015 and 2016 was before the issuance of the Zakat regulation issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, and therefore Taxpayers were not required to calculate Zakat based on the Zakat base or adjusted net profit, whichever is greater, the Authority answers that Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulated in clause II: "The rules and procedures contained in the attached regulation shall replace all previous decisions, instructions and circulars related to the collection of zakat." This confirms the Authority's right to apply the regulation to all years prior to its issuance, with its zakat treatments that ensure the realization of the legal aspect in the calculation of zakat. As for the government subsidy, according to the accounting standard on government subsidies and grants, it is a monetary asset or a reduction of liabilities from a government entity in exchange for the company's commitment to implement limited government policies and programs, and the subsidy, according to the standard, is considered short-term operations or transfers to finance activities related to the company's ongoing operations or to finance the entity's needs in unusual and exceptional circumstances, and because granting the subsidy affects income, so any information about it will be reflected in the financial statements, and the Authority explains that if the accrued subsidy is included in the income statement with revenues, in this case it must be deducted and excluded.

On Sunday, 04/02/2024 AD , the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated:21/04/1441 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.



On the subject of the Authority's appeal regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for 2015), the Authority clarifies that it only deducted the outstanding balance of government subsidies for 2015 from the Zakat base, and the Taxpayer's objection to deducting the outstanding subsidies from the net profit and not from the Zakat base was rejected, as subsidies are among the clauses in the Zakat base. Based on Fatwa No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Ifta regarding debts due from government entities, which stated the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and because Zakat is a form of support, it is not due on a person who cannot collect it and has nothing of it in his hand," as stated in paragraph (6) of clause (first) of Article (four) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, stating: First: The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 6- government and non-government grants upon receipt," and based on the above, and upon the circuit's consideration of the dispute, the Taxpayer fundamentally objects to not deducting unreceived government grants from the adjusted net profit according to the burden on the income statement as they are not due, and not as stated in the decision under appeal, while the authority demands the annulment of the decision of the circuit, as the correct treatment of the clause is to deduct the due grants from the Zakat base account in the assessment and not from net profit, and upon reviewing the case file and the documents it contains, it is clear that the basis of the dispute lies in the Taxpayer's demand to deduct the due grants charged to the income statement from the adjusted net profit, and since the principle in Zakat is to calculate the accounting profit and adjust it by adding non-deductible expenses legally, and then calculating the Zakat base which includes what is on the Taxpayer and what is owed to him, and the unreceived government grants should be adjusted in the Zakat base, as they are considered elements of the balance sheet, as the Taxpayer argued that the appellate decision issued against the company for the years 2003 and 2004 included the approval of deducting these revenues from the adjusted net profit, and upon returning to the mentioned decision, it became clear to this circuit that the clause was losses carried forward and thus affected by these due revenues, and as for the clause of due government grants, the decision indicated that the correct treatment is to deduct the due grant from the Zakat base account in the assessment and not from net profit, as the adjusted net profit heavily relies on the accounting net profit and the related revenues and expenses to reach it, and then it is adjusted from a Zakat perspective to include non-deductible expenses Zakat-wise such as those not documented and not related to the activity, in addition to the fact that the decision of the circuit was flawed, as the Taxpayer demands to deduct amounts different from what should actually be deducted, and the claim was not about the deduction in adjusted profit or the Zakat base, but rather on the due revenues charged to the income statement or their balance shown in the financial position, which leads the circuit to accept the



authority's appeal and annul the decision of the circuit regarding the clause (not deducting due government grants at the end of the year from net profit for the year 2015 AD).

Whereas, regarding the Taxpayer's appeal regarding the clause (adding loan balances to the Zakat base for 2015), the Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be annulled, and the Taxpayer relied on Fatwa No. (22665) dated 15/04/1424 AH regarding the subjection of credit balances and loans, which specified the conditions that must be fulfilled in order to subject loans to Zakat, and pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulation is that these loans must have reached the end of the year or were used to finance long-term assets discounted from the Zakat base he pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulations is that these loans have already passed the hawl or have been used to finance long-term assets that are deducted from the Zakat base, and therefore the amounts that the Authority added to the base do not apply to the mentioned criteria for subjecting the company to Sharia Zakat , as the loans obtained by the company were for the purpose of contributing to the financing of the main activity of the company. Where paragraph (5) of clause (First) of Article (Fourth) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has completed the year", as clarified by the fatwa issued by the Permanent Committee for Scientific Research and Ifta No. (22665) dated 15/4/1424 AH that: "What the company takes from money as a loan from investment funds or others does not escape one of the following cases: A/ That the year passes on all or part of it before spending it, so what has passed on it the year is due Zakat. 2/ That all or part of it is used to finance fixed assets, so there is no Zakat on what has been used for that. 3/ That it is used to finance the ongoing activity of the company, which is considered among trade offers, so Zakat is due on it based on what has been acquired and is Zakatable by evaluating it at the end of the year", and based on the above, loans are considered one of the components of the Zakat base regardless of their type, source, or classification, provided that the year has passed on them or they are used to finance the assets deducted from the Zakat base without the condition of the year passing on them, and upon reviewing the circuit on the case file, it is clear that the Taxpayer argues that revolving and renewed loans were issued after the years of objection above and that applying them is not appropriate, and upon reviewing the Zakat regulations and fatwas above before the issuance of the new regulation, it became clear that the 1440 AH regulation was complementary and did not challenge the previous procedures and articles but was complementary, and upon reviewing the documents attached to the case file, it became clear to them through it that the movement matched the financial statements and it was not clear that the short-term loans were revolving or renewed, as comparing the loan repayment dates with the dates of receipt of the amounts did not clarify



that, and upon reviewing the detailed movement, it is clear that what has passed on it the year was an amount of (93,825,000) riyals, and as for the Agricultural Development Fund loans according to the clarification of loans in the financial statements, it became clear that they were for the purpose of completing the poultry farm project and for the purpose of completing the factory ..., which means that its main purpose was to finance assets and that what has passed on it the year was an amount of (196,500,000) riyals, and there is no addition even though the additions during the year financed assets and should be added to the base if they exist, which leads the Circuit to accept the Taxpayer's appeal partially and amend the decision of the circuit regarding the clause (adding loan balances to the Zakat base for the year 2015).

Whereas, regarding the Taxpayer's appeal regarding all matters related to the years 2016, 2017 and 2018, and upon reviewing the three decisions referred to in its appeal list, it was found that the Taxpayer registered a case for each of the years, and the Circuit issued four decisions in four cases for all years, resulting in four duplicate decisions, which is contrary to the nature of the judicial process and violates the principle of res judicata, in addition to the fact that the decisions in this form make it impossible to study each case properly, as the plaintiff has submitted defenses and documents for each year in a separate case it is impossible to study each case properly, as the plaintiff submitted defenses and documents for each year in a separate case, and merging the cases in this manner results in the loss of defenses and documents in separate case files, in addition to the repetition of four identical decisions, and where the plaintiff is objecting in this case to the year 2015, which requires the Circuit to cancel the decision of the Adjudication Circuit in all matters related to the years 2016, 2017 and 2018.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), distinctive number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the third circuit regarding violations and disputes of income tax in Riyadh number

(IFR-2022-6702) issued in case number (Z-2021-47421) related to the Zakat assessment for the year 2015.

Secondly: On the merits:

1 - Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for the year 2015).

2 - Acceptance of the Taxpayer's appeal partially and amending the decision of the circuit regarding the clause (adding loan balances to the Zakat base for the year 2015).

3- Cancellation of the decision of the circuit in all matters related to the years 2016, 2017, and 2018.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR- 2024-190921

Case No. Z-2023-190921

Keywords:

Zakat – Additions to the zakat base – Loans that financed deducted assets – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6785), where his appeal lies on the clause (deducting investments in affiliated companies and foreign companies) because the authority did not exclude this share from the profits subject to Zakat and thus its procedure led to a reduction in Zakat, and clause (distributions of profits due for the year 2016), because the distributions announced by the invested company represent profit distributions that have been Zakatable in the invested company during the year of distribution announcement 2016, and clause (loans that financed deducted assets for the year 2015) because the authority added loans that financed deducted assets to the Zakat base in the amount of (28,344,440) riyals on the basis that they financed deducted assets due to the lack of liquidity with the Taxpayer. And since it was established to the Appellate Committee according to the Taxpayer's statement that there is no deficit and that the results of the year showed a surplus in cash. The company financed additions to fixed assets during the year from available cash balances, and those additions during the year amounted to (28,344,440) Saudi Riyals. After the circuit reviewed the financial statements "Appendix 8", it became clear to them that what was stated in the appeal was correct, as there was no deficit and the available cash from operations during the year was used to finance the assets. Consequently; the Taxpayer's appeal is accepted and the decision of the division is canceled.

Document:

- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (8) of Clause (I) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



the appeal filed on March 26, 2023 AD, from / ... National ID number (...) As an agent under Agency No. (...) And Lawyer's License No. (...) On behalf of the appellant company, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh

(IFR-2022-6785) issued in Case No. (Z-2021-67614) regarding the Zakat assessment for the years 2015 to 2017, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) The decision of the Defendant/Zakat, Tax and Customs Authority is upheld procedurally and rejected in substance.

This decision was not accepted by the Taxpayer (Company ...).the Taxpayer's appeal is based on the clause (deduction of investments in associates and foreign companies). The Taxpayer explains that the financial statements and zakat declarations submitted by the company to the Authority included the company's share in the profits and losses of investee companies, and since this share was subject to zakat under the zakat declarations of these investee companies, this share was excluded in the zakat declarations submitted by the company to the Authority, but the Authority did not exclude this share from the zakatable profits however, the Authority did not exclude this share from the profits subject to Zakat, and therefore the Authority's action led to the flexing of Zakat, and according to the company's understanding of Fatwa No. 22665 dated 15/4/1424 AH issued by the Permanent Committee for Scientific Research and Fatwa, it is necessary to deduct the investment profits of the invested companies so that the same money is not Zakat twice in one year. The company would like to inform that the amount for which the year's profits for the years 2015 through 2017 have been adjusted is the result of the business of investee companies and if the company does not exclude it, it will have to pay Zakat on it again as these profits have already been subject to Zakat in the investee companies. Regarding the clause (Dividends due for 2016), the Taxpayer explains that the Authority disallowed the deduction of dividends received according to the Authority's response amounting to (19,785,793) for 2016, which represents the company's share of dividends declared and not received from ... (an investee company), a Saudi company registered with the Authority, on the grounds that the investee company's end-of-term balance of investments was deducted. In this regard, we would like to point out that the ending balance of the investee's investments amounted to (325,485,289) SAR according to the audited financial statements for the year 2016. Whereas, the year-end balance was minus SAR 49 million, of which SAR (19,785,793)was not received and appears as accrued dividends in Note 6(a) of the audited financial statements of the company. For the year 2016 is attached in Appendix 2. Therefore, the investment balance at the end of the year, from which the full amount of the dividends was deducted, must be added to the amount disputed because it has not yet been received from the distributing company, and therefore the company demanded that it be deducted among other deductions, which is contrary to the



Third Circuit's ruling that the amount of the dividends has left the investee's liability and has become the company's liability and is obligated to pay zakat. Whereas, the Authority has been tracking the exit of funds from the receivables of companies to know whether they are utilized at any level of the companies in dispute, and since the investee company did not distribute the full amount (49) million SAR, Al Balagha Company claimed the amount in dispute because it did not leave the investee company's receivables and did not benefit from it within the investments, otherwise the balance of the investments that must be claimed in the Zakat return would be in excess of the amount in dispute, which is (19,785,793) SAR. We would like to inform you that the dividends announced by the investee company represent dividends that have already been zakatized in the investee company during the year of the distribution announcement (2016). Therefore, they should not be subjected to zakat again in the same year in order to avoid bending in zakat, and if the Authority conducts it, it will result in bending in zakat on the amount of unpaid dividends. Regarding the clause (Loans Financed Assets Deducted for 2015), the Taxpayer explains that the Authority, in its response to the objection note, tested the calculation of cash surplus/deficit during the year, but it was incorrect in the said calculation as the company did not have a deficit, but there was a surplus of cash, as the company financed the additions to the fixed assets during the year from the cash balances available with the company and these additions amounted to (28,344,440) SAR during the year, which were deducted as part of the assets deducted from the Zakat base for the year 2015 AD, and the available cash at the end of the year amounted to (5,622,093) SAR, it is clear that the cash available from operations during the year was used to finance the assets purchased during the year 2016, so the company objects to the addition of (28,344,440) SAR to the Zakat base under the pretext that it was used to finance assets in the 2015 Zakat return, as the company financed the assets calculated in the 2015 Zakat return from the total cash available from balances with banks at the beginning of the year and what is obtained from the sale of assets and available-for-sale investments and dividends received and cash from operating activities and to confirm this, the company attaches in Appendix 8 the audited financial statements of the company.... For the year 2015 AD, and a copy of the company's Zakat return for the year 2015 AD in Appendix No. (9). He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

On Wednesday, 05/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal relates to the clause (deduction of investments in associates and foreign companies), and where the Taxpayer's appeal is that the Authority did not exclude this share from the profits subject to Zakat and therefore the Authority's action led to a reduction in Zakat, based on Ministerial Resolution No. (1005) dated 28/4/1428 AH, which states that: Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's Zakat base, provided that the Taxpayer submits to the Authority audited accounts from a certified public accountant in the country of investment, in order to calculate the Zakat due on these investments and deliver them to the Authority, or provide proof of payment of Zakat in the country of investment, and then deduct these investments from the Saudi investor's Zakat base to avoid discouraging Zakat in these companies, if the Taxpayer does not provide the aforementioned, these investments shall not be deducted from his Zakat base."Based on paragraph (3) of Article (20) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case he is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make an estimated assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, the Circuit found that the dispute lies in the Authority's failure to accept the deduction of the Taxpayer's share of profits of invested companies for years 2015 to 2017, where the Authority stated that the investment balance was taken late in the year and was affected by shares of profits from associates, so the investment balance was deducted from the investment balance. The Taxpayer reported that there was a zakat deduction due to the action of the CRA, as the CRA did not accept the exclusion of this share from zakatable profits. After reviewing the attached documents, it is clear that these investments were invested in associates and affiliated companies, and with reference to the attachments in the system such as the financial statements/zakat declarations of the company, it is clear that the investments in associates are internal investments and that the Taxpayer deducted this investment from the Zakat base with the end of the period balance after removing the effect of his share of the business results in associates, since the Taxpayer did not deduct his share of the Zakat base, which leads the Circuit to accept the Taxpayer's appeal to deduct his shares in the business results of associates for the years in dispute.



With regard to the investment in affiliated companies, and with reference to the Taxpayer's declarations, it is clear that he deducted the investments in them with the year-end balance, and there are no shares in the business results of the affiliated companies to adjust the adjusted net profit. Regarding the investment in the amount of (10,878,750) SAR for 2017AD, with reference to the attached case documents, it became clear that the Taxpayer did not submit the financial statements of the company invested in outside the Kingdom from a certified public accountant, nor did he attach proof of payment of zakat for that investment in order to accept its deduction, which leads the Circuit to reject the Taxpayer's appeal in this request. With regard to the Taxpayer's claim if the foreign investment deduction is not accepted, the Taxpayer claims to exclude the amount of SAR (28,100,519), which he added in the 2017 Zakat return in the table of additions, and the Circuit decides that the Taxpayer has the right not to add this clause in the 2017 Zakat return, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit with regard to this clause.

With regard to the Taxpayer's appeal on the clause (Dividends due for the year 2016), where the Taxpayer's appeal lies in the fact that the dividends announced by the investee company represent dividends that have been tzedakah in the investee company during the year the distribution was announced in 2016, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8. The balance of profits carried forward from previous years at the end of the year." Based on Article(3) of the Act 20, which stipulates the following: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Accordingly, the investee company is "Company ..." the investee company announced the distribution of profits worth (100) million riyals during the year of disagreement as shown in Note (19) in the lists of the investee company and distributed profits worth (50) million to the partners and the amount of (50) million was recorded as accrued profits within the liabilities in the lists of the investee company, that is, it was not distributed and in return the balance of (19,785,793) riyals was recorded within the account of amounts due from related parties in the Taxpayer's lists, as the amount mentioned in the adjudication stage is the Taxpayer's share of the amount of (50) million accrued profits, and the investee company's declaration shows that the amount of accrued profits is included in the account of retained earnings amounting to (327,205,714) SAR, and therefore it is clear that the amount of the dispute has not been received and was recommended in the investee company.

With regard to the Taxpayer's appeal on the clause "Loans financed with discounted assets for 2015", the Taxpayer's appeal lies in the fact that the Authority added loans financed with discounted assets to the Zakat



base in the amount of (28,344,440) riyals, and based on paragraph (1/5) of Article (4) of the Executive Regulation of Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:"

5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year." Based on the above, the circuit found that the dispute lies in the authority adding loans that financed discounted assets to the Zakat base in the amount of (28,344,440) Riyals on the basis that they financed discounted assets due to the lack of liquidity available to the Taxpayer. While the Taxpayer stated that there was no deficit and the results of the year showed a surplus in cash. The company financed additions to fixed assets during the year from available cash balances, and those additions during the year amounted to (28,344,440) Saudi Riyals, and the available cash at the end of the year amounted to (5,622,093) Riyals. After the circuit reviewed the financial statements "Appendix 8", it became clear to them that what was stated in the Taxpayer's appeal was correct, as it was evident that there was no deficit and that the available cash from operations during the year was used to finance the assets, which led the circuit to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer/company... Commercial register (...) , unique number (...) , against the decision of the third division for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6785) issued in case number (Z- 2021-67614) related to the Zakat assessment for the years from 2015 to 2017.

Second: On the Merits:

- 1- Partially accept the Taxpayer's appeal and amend the decision of the division regarding the clause (deduction of investments in affiliated companies and foreign companies).
- 2- Accept the Taxpayer's appeal and cancel the decision of the division regarding the clause (distributions of profits due for the year 2016).
- 3- Acceptance of the Taxpayer's appeal and cancellation of the decision of the division regarding clause (Loans financed assets settled for the year 2015).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-196918

Case No. Z-2023-196918

Keywords:

Zakat - Additions to the zakat base - Loans and the like - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority objected to the decision of the First Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2023-152338), where its appeal lies on the clause (loans and the like) in order to clarify its point of view, which is to add loans and the like to the Zakat base after referring to the account statement, it is not clear that the loan was used for the purpose of purchasing the shares of (...). After reviewing the loan facility agreement with Al Rajhi Bank, the Appellate Committee found that the loan was intended to finance the Taxpayer's projects as stipulated in the agreement, and furthermore, the Authority clarified in its regulation that the Taxpayer should use the loan to finance the Taxpayer's projects. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (I/5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 14/05/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-152338) issued in Case No. (Z-2022-152338) related to the 2016 Zakat assessment, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: proof of termination of plaintiff's... (unique number...) With Defendant Zakat, Tax and Customs Authority (ZTA), relating to a company's investment ... With an undisputed difference of (4,850,000) million eight hundred and fifty thousand riyals, the plaintiff accepts the defendant's action in this regard.



Secondly: the decision of the defendant, the Zakat, Tax and Customs Authority (ZTA), against the plaintiff, ... (unique number...) Related to the loans and similar clauses at issue in the lawsuit.

Third: the decision of the defendant, the Zakat, Tax and Customs Authority, against the plaintiff/company ... Unique number (...). Related to the shares of... With an undiscounted difference of (1,851,630) million eight hundred and fifty-one thousand six hundred and thirty riyals, which is the subject of the lawsuit.

Fourth: dismissing the other objections of the plaintiff ... (unique number...) On the decision of the defendant Zakat, Tax and Customs Authority regarding the assessment at issue.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

As for the Authority's appeal against the decision of the Dispute Resolution Circuit, its appeal lies with regard to (loans and the like), and where the appellant (the Authority) requests the annulment of the Circuit's decision regarding this clause, as the Authority added loans and the like to the Zakat base that financed assets or property rights in the amount of SAR 1,358,249. After referring to the account statement, it is not clear that the loan was used for the purpose of purchasing the shares of ...the Authority states that the documents submitted during the examination phase show that the Taxpayer submitted a statement to the Authority containing the sources of financing the Al Rajhi loan, and upon reviewing it, it was found that according to the Taxpayer's statement, projects under implementation were financed with the Al Rajhi loan, and an account statement was submitted, and upon reference to it, it was found that an amount of

1,358,249 riyals was financed, from the Al Rajhi loan for projects under implementation, below, and with regard to the Circuit's reasoning that the Authority did not provide evidence regarding the use of the loans and accordingly, the data attached to the Taxpayer's case sheet, including copies of the loan ledger accounts and real estate, as well as a copy of the bank's facility agreement with Al Rajhi Bank and based on the copies of the agreement and the purpose of using the loan, which came to finance the company's projects, this confirms the use of the loan to offset assets with value, including the expansion of projects under implementation, which were deducted from the Zakat base in the amount of 62,282,170 riyals, as stated in the Taxpayer's declaration and the Authority's assessment , in addition to the Taxpayer's statement during the examination. Therefore, the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clause under appeal for the above reasons.

On Monday, 05/08/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated:08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and



documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, with regard to the Zakat, Tax and Customs Authority's appeal regarding the clause (loans and the like); the Authority clarified its point of view, which is to add loans and the like to the Zakat base that financed assets or property rights in the amount of 1,358,249 riyals. After referring to the account statement, it is not clear that the loan was used for the purpose of purchasing company shares. The Circuit considered the merits of the dispute, and reviewed Article 4, paragraph (1/5) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." based on the above, it is clear that the dispute is that the Authority states that the loans were used to finance assets, as it appears that the Authority added an amount of (1,358,249) Riyals, and upon reviewing the Authority's appeal list, which argues that the loan was used to finance the assets as stated in the Taxpayer's statement during the examination phase, as well as the facility agreement from Al Rajhi Bank, which also clarifies that the facility came to finance the Taxpayer's projects (a copy of the Taxpayer's response and a copy of the agreement are attached in its list), and after reviewing and studying the case file and the defenses and documents it contains, as loans are considered a component of the Zakat base regardless of their type, source or classification provided they are turned over or used in financing the assets deducted from the Zakat base without the requirement of turning over after reviewing the facility agreement for the loan from Al Rajhi Bank, it is clear that the loan came to finance the Taxpayer's projects as stipulated in the agreement. Moreover, the Authority clarified in its regulation that the Taxpayer used the loan to finance the Taxpayer's projects, and therefore it is clear that the Authority's action is correct and that the Taxpayer did not submit his response to what the Authority argued, which places the burden of proof on him, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit in this clause. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (FR-2023-152338) issued in case number (Z-2022-152338) related to the Zakat assessment for the year 2016.

Secondly: On the merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with respect to the clause (Loans and the like).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-131744

Case No. Z-2022-131744

Keywords:

Zakat - Additions to the zakat base - Other precautions - Accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit for resolving income tax violations and disputes in Jeddah Governorate No.(IZJ-2022-743), where his appeal is based on the clause (Government receivables for the year 2018) as the Authority did not deduct all receivables from the Zakat base, and the clause (Other reserves formed for the year 2018) according to the following reasons that the other reserves were not carried over from previous years but were formed during the year and did not reach the end of the year. The Appellate Committee found that the reserves are added to the Zakat base at the beginning of the year, and the Authority deducted the reserves at the end of the year due to the existence of the corresponding investments, so the amount of SAR (106,897,000) SAR is deducted and SAR (362,599,000) is added to the Zakat base. Consequently; partially accepting the Taxpayer's appeal and amending the decision of the adjudication circuit.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 18/05/2022 AD from /... National ID number (...) As an agent for the appellant company under Agency No. (...), and the appeal filed on 08/06/2022 AD from the Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah governorateno.(IZJ-2022-743) issued in Case No.

(Z-2021-78645) related to the 2018 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer is entitled to the following:



First: the plaintiff's objection to the 2018 receivables clause was rejected.

Second: modification of Defendant's action on the line clause Loans to Affiliates for 2018.

Third: dismissed the plaintiff's objection to the long term investments clause in the Electricity and Investment Assessment Authority (EILA) to the 2018 maturity date.

Fourth : dismissed the plaintiff's objection to the other reserves constituted for 2018.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (Government Receivables for 2018) that fuel is not considered a fixed asset, and he stated that the Authority's action was incorrect as the Authority did not deduct all receivables from the Zakat base, as it excluded the receivables owed by the Public Corporation ..., and therefore the Taxpayer demands that they be deducted from the Zakat base. Regarding the clause (Other Reserves Formed for 2018), the Taxpayer claims that the other reserves were not carried over from previous years, but were formed during the year and did not come due, and the Authority partially accepted the Taxpayer's objection by adding the balance of other reserves in the amount of

(362,599,000 riyals) in the amended Zakat assessment instead of (606,713,000,000)riyals in the original Zakat assessment. The Taxpayer also objects to the clause (Long-term investments for 2018), so the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, it submitted a list of appeals, which was reviewed by the Circuit and included that the Authority requests the acceptance of its appeal and the reversal of the decision of the Adjudication Circuit regarding the clause (loans granted to subsidiaries for the year 2018).

On Tuesday, 16/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; and by calling on the opponents, he/she attended ... National ID No. (...), as agent for the plaintiff under agency No. (...). (National ID No. ...), in her capacity as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) And the date is 19/03/1445 AH. When the appellant's representative was asked about the lawsuit, he replied that he does not deviate from what was stated in the objection memorandum filed with the General Secretariat of the Zakat, Tax and Customs Committees and the supplementary memorandums, and that he is satisfied with them and adheres to the



arguments, defenses and requests contained therein, and when this was brought to the Defendant's representative, she replied that she does not deviate from what was stated in the reply memorandum and the supplementary memorandums, and that she is satisfied with the submissions filed on the General Secretariat of the Zakat, Tax and Customs Committees' portal, and adheres to the arguments, defenses and requests contained therein. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the pleadings and adjourn the case to Tuesday, January 23, 2024 AD, at 11:00 am.

On Tuesday, January 23, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Article 15, clause (2) of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; calling on the litigants, / ..., National ID No. (...), as the plaintiff's agent under agency No. (...), attended..., National ID No. (...), as agent for the plaintiff under agency No. (...), and ... (National ID No. ...), as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., and because the pleadings in the case have already been closed, this session is dedicated to the pronouncement of the decision.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal regarding the clause (Government Receivables for the year 2018), wherein his appeal is that the Authority's action was incorrect, as the Authority did not deduct all receivables from the Zakat base, as it excluded the receivables owed by the Public Corporation. Where paragraph (5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade offers and has passed the hawl." And where Fatwa No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Fatwa on the debts owed by government agencies to: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required



entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is consolation, it is not obligatory on a person who cannot receive it and has nothing in his hand." Paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and whereas the correct Zakat treatment is to set off the debit and credit balance if it is for a single customer with debit and credit accounts, and after reviewing the case file and the defenses and documents contained therein; and whereas after reviewing what was stated in the Authority's reply memorandum, it appears that the Authority, when performing the deduction of receivables with the corresponding credit receivables only, as the difference claimed by the Taxpayer is receivables that were not offset by credit receivables, and the difference claimed by the Taxpayer, upon reviewing the case file, it was found that the government receivables amounted to 92 billion riyals, and therefore the entire government receivables amounting to (19,675,526,000) riyals must be deducted due to the existence of the corresponding creditors, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal regarding the clause (Other Reserves Formed for 2018), and where his appeal lies in the fact that other reserves were not carried over from previous years, but were formed during the year and did not fall due, the Authority partially accepted the Taxpayer's objection by adding the balance of other reserves in the amount of (362,599,000) riyals in the amended Zakat assessment instead of (606,713,000) riyals in the original Zakat assessment, which was added to the original Zakat assessment. Whereas paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 7 - Reserves carried forward from previous years at the end of the year. 8 - Balance of profits carried forward from previous years at the end of the year. 9 - Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting their use during the year." based on the above, and since what the Authority did after reviewing its reply note was to add an amount of (362,599,000) riyals to the Zakat base, which represents the balance of the last period other reserve (companies invested in the equity method), the balance of the first period other reserve (employee benefit liabilities) and the balance of the last period other reserve (financial assets), and it was found from the audited financial statements that it is included in the amount of (106,897,000 riyals, which represents the total other reserves, as the audited financial statements show that the other reserves added to the Zakat



base by the Taxpayer are as follows: - the Company's share in other comprehensive income of equity investees at the beginning of the year in the amount of SAR (296,810,000) - Employee benefit obligations in the amount of SAR 370,715,000, - Financial assets through other comprehensive income in the amount of SAR (32,992,000) - Total SAR (106,897,000). Other reserves are as follows: - the Company's share in other comprehensive income of equity investees at year-end amounted to SAR(34,851,000) - Employee benefit obligations amounted to SAR (370,715,000) - Financial assets through other comprehensive income at year-end amounted to SAR (26,735,000)- Total amounted to SAR (362,599,000) and. Since the reserves are added to the Zakat base at the beginning of the year, and the Authority deducted the reserves at the end of the year due to the existence of the corresponding investments, the amount of SAR (106,897,000) is deducted and SAR (362,599,000) is added to the Zakat base, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part,

And since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject

The Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province with number (IZJ-2022-743) issued in case number (Z-78645-202) related to the Zakat assessment for the year 2017.

Secondly: On the merits:

1- Acknowledging the Taxpayer's appeal accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Government Payables for 2018).



- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Long-term investments for 2018).
- 3- Acknowledging the Taxpayer's appeal in part accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit with respect to the clause (Other Reserves Formed for 2018).
- 4- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Loans granted to subsidiaries for the year 2018).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-172650

Case No. Z-2023-172650

Keywords:

Zakat - Additions to the zakat base - Subcontractors - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) objected to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Governorate No. (IZJ-2022-2568), where its appeal lies on the clause (subcontractors for 2017), as the Circuit issued its decision to accept the Taxpayer's objection and stated that the company had sold its projects to the bank. However, the Authority argues that it is not clear to it that these balances belong to the project that was sold, as upon sale, these balances are closed in the project's accounts and therefore will not appear in the 2017 financial statements. Whereas the Appellate Committee found that the journal entry for the bank's loans ... The Taxpayer did not provide financial statements to verify that the balances remained until the end of 2017, and the Taxpayer also stated that the company (...) I sent a final clearance that the company had received all its dues. After reviewing the clearance document at both the adjudication committee and appeal stages, it became clear that the document could not be opened due to a technical malfunction. The implication is that the appeal of the authority is partially accepted and the decision of the adjudication committee is amended.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 28/01/2023 AD, from (...), National ID No. (...) As agent for the appellant company under Agency No. (...) Lawyer's license No. (...), and the appeal filed by the Zakat, Tax and Customs Authority on 29/01/2023 AD, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2568) issued in Case No. (Z-2021-87070) related to the Zakat assessment for 2017 AD, in the case filed by the appellant against the Zakat, Tax and Customs



Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: the plaintiff's objection to the end-of-service gratuity provision was rejected.

Secondly: accepting the plaintiff's objection to the subcontractors clause.

Third: modify the defendant's procedure for the payables for projects under implementation by adding the first or last balance of the period, whichever is less.

Fourth: deny the plaintiff's objection to the deferred revenue clause.

Fifth: rejecting the plaintiff's objection to a dividend clause that has already passed its due date.

Sixth: deny the plaintiff's objection to the receivables clause.

Seventh: the plaintiff's objection to the Murabaha loan against real estate investments was rejected.

As this decision was not acceptable to the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit and included the following: The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit on the clauses that are the subject of his appeal. This decision did not go down well with the organization, which filed an appeal list

The Authority's appeal lies on the clause (Subcontractors for the year 2017), where the Authority added the mentioned clause to the Zakat base for the turn of the year on the balances according to the submitted movement. Accordingly, the Taxpayer's objection to the turn of the year on the payments added to the Zakat base was rejected based on Article 4, paragraph (first), clause 5 of the Zakat Executive Regulations, which states that (the Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: the Circuit issuing the decision under appeal canceled the Authority's action, as the company sold its projects to the Arab Bank on December 13, 2016 AD, i.e. Before the turn of the year, according to the journal entries that show the sale of the entire project, which shows that the amounts in dispute did not turn over. The Authority responds that the decision is incorrect, as the decision indicated that the amounts in dispute did not turn around due to the sale of the projects before the turn of the year, and with reference to the financial statements, it is clear that the amounts in dispute appear in the financial statements and according to the movement provided by the aforementioned Taxpayer, the turn of the year has occurred and is subject to the Zakat base. The Authority also clarified that the amounts in dispute are subject to hawl according to the movement provided, and it is not clear to the Authority that these balances belong to the project that was sold, as upon sale, these balances are closed in the project accounts and therefore will not appear in the financial statements for the year 2017, so what is clear to the Authority is that the balances are still in the financial statements for the year 2017, therefore, what is subject to Zakat, based on the fourth article, paragraph five of the first



paragraph of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which states: "The Zakat base consists of all the Taxpayer's funds that are subject to Zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. In the Authority's view, this provision is valid and valid and its origin has not been lost, so in what legal way did the Circuit violate the established practice, which means that the Circuit's conclusion is contrary to the legal requirement.

On Sunday, on: 17/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Regarding the Taxpayer's appeal, after reviewing the appeal list submitted by ... Company, it became clear that it was submitted by ... Company, and after reviewing the memorandum of association of ... Company, it became clear that the memorandum of association stated the activities of the company as (practicing the profession of consulting activities in the field of zakat and income tax, educational and educational consulting activities), and after reviewing the appeal list drafted on ... Company's printed materials. It turns out that it contains the company's activities announced to third parties, including (legal consultations), and since the reference to the company's services in providing legal consultations, filing lawsuits and appeals on behalf of others and other activities are limited to licensees according to the Companies Law and the Lawyers Law and their executive regulations, and since the company - according to the attached memorandum of association - is not authorized to practice the legal profession and legal consultations,

And Articles (2), (5), (7), (10), (197) and (201) of the Companies Law and its Executive Regulations, and since the appellant's agent is a licensed lawyer who submitted the appeal request and signed it on the official papers of the company.... The lawyer is not licensed to practice the legal profession, while he should have submitted applications and regulations on his own printouts as stipulated in Article (13/01) of the Executive Regulations of the Lawyers Law, which stipulates that "the lawyer must take his own papers to submit his writings to the authorities, and they must include his name, the name of the headquarters, branch office, license number and date, telephone numbers, mailbox, and zip code, and he must not submit any writing



to the authorities on papers that do not include this, or papers that do not belong to him." since the firm, as the appellant's representative, is not licensed to practice law, the Circuit concludes that the Taxpayer's appeal is inadmissible procedurally because it was filed without standing. Whereas, with regard to the Authority's appeal, upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal is procedurally accepted because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, regarding the Authority's appeal regarding the clause (Subcontractors for 2017), the Authority's appeal lies in the appeal against the Circuit's rejection of its objection regarding the disputed clause, as it claims the turnover of the balances according to the movement submitted by the Taxpayer. Based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on Article 20, paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, subcontractors are considered one of the components of the Zakat base provided that they are turned around or used to finance the assets deducted from the Zakat base, and where the dispute about this clause is a based dispute, and upon reviewing the documents attached to the case file and where the Circuit issued its decision to accept the Taxpayer's objection and stated that the company had sold its projects to the Arab Bank on 13/12/2016 AD, that is, before the turn of the year while the Authority argues that it is not clear to the Authority that these balances are specific to the project that was sold, as upon sale, these balances are closed in the project accounts and therefore will not appear in the financial statements for 2017, so it is clear to the Authority that the balances are still in the financial statements for 2017, and accordingly, what is subject to the current year, and after reviewing the attached documents from the parties to the lawsuit, it appears that the journal entry for the bank's loans.... It is not clear that it is for subcontractor projects, and the Taxpayer did not provide financial statements to validate that the balances remain until the end of 2017, as well as the Taxpayer's statement that ... Hesent a final clearance dated 13/12/2016 AD that the company had received all its dues, after reviewing the clearance document at both stages of the adjudication committee as well as the appeal, it became clear that the document could not be opened due



to a technical malfunction, which led the Circuit to partially accept the Authority's appeal and modify the decision of the Adjudication Circuit regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Procedurally:

1- Inadmissibility of the appeal procedurally by the Taxpayer / Company ..., Commercial Register (...), Unique Number (...) Against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2568) issued in Case No. (Z-2021-87070) related to the 2017 Zakat assessment, because it was filed without status.

2- Accepting the appeal procedurally from the applicant Zakat, Tax and Customs Authority, against the decision of the First Circuit for adjudicating income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2568) issued in Case No. (Z-2021-87070) related to the 2017 Zakat assessment.

Secondly: On the merits:

Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit with respect to the 2017 subcontractors.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-191812

Case No. Z-2023-191812

Keywords:

Zakat – Additions to the zakat base – Revenues received from clients – Acceptance of the authority's appeal

Summary:

Objection The Zakat, Tax and Customs Authority to the decision of the third division regarding violations and disputes of income tax in Riyadh number (ITR-2023-90169), where its appeal lies on clause (Revenues received from clients for the year 2020 claiming the addition of the opening balance for the client as it is the lesser balance that has completed the year. And it has been established to the appellate committee that the Taxpayer submitted an analytical account statement for the revenues received for the year 2020, which showed that the client (Kitchen Revenues) has an opening and closing balance, and it appears that the authority is demanding the addition of the opening balance for the client as it is the lesser balance that has completed the year, amounting to (12,153) riyals. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal was heard on: 09/04/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (ITR-2023-90169) issued in Case No. (Z-2022-90169) regarding the Zakat assessment for the years 2019 and 2020, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

Accepting the objection of the plaintiff/company ... (Commercial Registration No. ...) The decision of the Defendant/Zakat, Tax and Customs Authority is upheld procedurally, and the Defendant's decision is overturned On the merits.



As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, as the Authority's appeal lies on the clause (Revenue from customers for 2020), where the Authority added the balance of the clause in the amount of (1,097,909) riyals for the year 2020, based on paragraph (2) of Article (4) of the Executive Regulations governing the collection of Zakat issued under No. (2216) dated 7/7/1440 AH, and when studying the objection, the Taxpayer stated that he attached the revenue analysis provided by the customers, and after verification, it appears that no documents or movement of the account were attached, therefore, the Authority confirms the validity of its procedure of adding the balance of the clause by taking the balance of the first or last period, whichever is less, based on the regulation, and therefore the Taxpayer's objection was rejected based on paragraph (2) of Article (4) of the Executive Regulations for Zakat Collection, which stipulates: "Revenues and payments made to the Taxpayer at the beginning or end of the tax year, whichever is less." upon reviewing the Excel file submitted by the Taxpayer to the dismissal committee, the clause was addressed by taking the balance of the first or last period, whichever is less, for each payment submitted separately, based on the aforementioned Article (2216), which shows the following: in 2020, the customer's first term balance of kitchen revenues was found to be the lowest and subject to Zakat under the above-mentioned article, and based on the above, the decision of the Circuit in this case under appeal is legally incorrect and should be judicially annulled without any doubt, and therefore, the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit regarding this clause be overturned.

On Tuesday, 11/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

In the merits, and with regard to the Authority's appeal regarding the clause (Revenue from customers for 2020), its appeal lies in demanding the annulment of the Circuit's decision, as it claims to add the balance



of the customer's first term as the lowest balance that has already passed the hawl. Based on paragraph (2) of Article (4) of the executive regulation for collecting zakat issued by the ministerial decision number (2216) dated 07/07/1440 AH, which states that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 2- Revenues and advances received by the Taxpayer at the beginning or end of the year, whichever is less." Based on the above, it appears that the dispute lies in the authority's demand to add the opening or closing balance, whichever is less, of the revenues received for the year 2020, and where the Taxpayer argues that calculating zakat on the revenues received will lead to double taxation, once as revenue advances and once as recognized revenues, however, based on the above article, revenues and advances received are considered one of the elements of the zakat base for the Taxpayer and are subject to zakat according to the opening or closing balance, whichever is less, and upon reviewing the submitted documents, it appears that the Taxpayer submitted an analytical account statement for the revenues received for the year 2020, and it is clear that the client (Kitchen Revenues) has an opening and closing balance, and it appears that the authority is demanding the addition of the opening balance for the client as it is the lesser balance that has completed the year, amounting to (12,153) riyals, which leads the division to accept the authority's appeal and cancel the decision of the division.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (ITR-2023-90169) issued in case number (Z-2022-90169) related to the zakat assessment for the years 2019 and 2020.

Secondly: On the merits:

Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (Revenues received from clients for the year 2020).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178674

Case No. Z-2023-178674

Keywords:

Zakat - Additions to the zakat base - Construction credits - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appealed the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6719), where its appeal lies on the clause (depreciation differences for the year 2016) because it excluded the differences because the Taxpayer discounted the assets according to the book values, and the clause (accounts payable for construction in progress for the year 2016) because it added the first or last balance of the period, whichever is less, when assessment, due to the Taxpayer's lack of response and submission of the account statements provided by the Taxpayer. Whereas, the Appellate Committee found that the Authority paid for the addition of construction credits in order to deduct the credits for construction in progress; and WHEREAS, the Zakat treatment of credits according to the above-mentioned statutory bases is that all the Taxpayer's funds must be added if they are used to finance what is intended for Acquisition. The implication is that the appeal of the authority is partially accepted and the decision of the adjudication committee is amended.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (7) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on February 16, 2023 AD, from/... National ID number (...) In his capacity as a statutory representative of the appellant company under the Memorandum of Association, and the Zakat, Tax and Customs Authority (ZTA), on the decision of the Third Circuit for Adjudicating Income Tax Violations and



Disputes in Riyadh (IFR-2022-6719) issued in Case No. (Z -2021-87353) related to the 2016 Zakat assessment, in the lawsuit filed by ... Company against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of procedurality.

Secondly: On the merits:

- 1- Disregard the clause (short-term loans for 2016).
- 2- Cancellation of the defendant's decision regarding the clause (consumption differences for the years 2016 to 2018).
- 3- Amending the Defendant's decision with respect to the clause "Parties due to related parties for the year 2016".
- 4- Amending the Defendant's decision with respect to the clause (Reserves payable for construction work in progress for the year 2016).
- 5- Cancellation of the defendant's decision regarding the clause (Accounts payable for construction in progress for the year 2016).
- 6- Amending the Defendant's decision with respect to the clause (allocations provided for 2018).
7. Reject all other objections.

As this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit, and included, in essence, that the Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (depreciation differences for 2016), as the Authority explains that it discounted the assessment (412,847,869) riyals, which is higher than the Taxpayer's declaration of (409,777,286) riyals and a difference of (3,070,696) riyals, which is the same amount that was returned to the net profit from the depreciation difference. This is the same amount that was returned to the net profit from the depreciation difference, which means that the impact is zero on the zakat base, and because the Taxpayer discounted the assets based on the net book value according to the financial statements of the years in dispute, and after review, it was found that the Taxpayer discounted the assets at the book values in the lists in addition to discounting the depreciation differences from the financial statements therefore, the Taxpayer's procedure is incorrect, and what the Authority did was to exclude the differences because the Taxpayer discounted the assets according to the book values, and therefore the straight-line method was reversed and taken into account when discounting the assets from the deductions of the base, and therefore the differences should not be deducted from the net profit. Regarding the clause (Accounts



payable for construction in progress for the year 2016), the Authority explains that when assessment , it added the balance of the first or last period, whichever is lower, due to the Taxpayer's failure to respond and submit the account statements provided by the Taxpayer. The Authority also states that the movement presented in the Taxpayer's letter of objection is consistent with the financial statements, and therefore an amount of SAR (36,357) should be added, as construction work has been deducted from the Zakat base. She asks that her appeal be accepted and that the decision of the Adjudication Circuit on the clauses in question be reversed.

On Sunday, April 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated:08/04/1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal on the clause (depreciation differences for the year 2016), where the Authority's appeal lies in its exclusion of the differences because the Taxpayer discounted the assets according to the book values, and based on paragraph (1) of clause (II) of Article 4 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: the net value of fixed assets (Acquisition assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle that prevents the transfer of ownership - and are used in the activity." Based on paragraph (2) of Article (7) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH, which stipulates that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: ...". Based on the above, and upon reviewing the case file, it became clear that the dispute lies in that the Taxpayer deducted the assets at the book values stated in the statements in addition to deducting depreciation differences from the assets at book values at the end of the year and also deducting depreciation differences from the net profit, indicating the existence of double deduction, and what the authority did was to add the clause to the net profit in the amount of



(3,070,696) riyals for the year 2016, and that the Zakat treatment is to deduct the depreciation expense from the net profit and also calculate the book value of fixed assets at the end of the year according to the financial statements and deduct it from the Zakat base, which leads the division to partially accept the authority's appeal and amend the decision of the division regarding this clause.

With regard to the Authority's appeal on the clause (Accounts payable for construction in progress for the year 2016), and where the Authority's appeal lies in the fact that it added the balance of the first or last period, whichever is less, due to the Taxpayer's failure to respond and submit the submitted account statements, and based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed the hawl." Based on the above, and upon reviewing the case file, the Circuit found that the dispute lies in the Authority's action of adding the disputed clause to the Zakat base for the year 2016 in the amount of (36,356) riyals, and whereas the Authority argued that it added credits for construction in progress for the year 2016 in the amount of (36,356) riyals, because the Authority deducted in return accounts for construction in progress whereas, the Zakat treatment of accounts payable in accordance with the statutory bases referred to above is that all the Taxpayer's funds must be added if they are used to finance what is prepared for the Acquisition, which concludes that the Circuit partially accepts the Authority's appeal and modifies the decision of the Adjudication Circuit with respect to this clause.

With regard to the Taxpayer's appeal regarding the clause (Short Term Loans for 2016), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and this being the case, it is proven that the decision under appeal regarding the disputed clause was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and as this circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on this clause, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company commercial Register No. (...), distinctive number (...), and the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6719) issued in Case No. (Z-2021-87353) related to the 2016 Zakat assessment.

Secondly: On the merits:

- 1-Partially accepting the authority's appeal and amending the decision of the division regarding clause (depreciation differences for the year 2016).
- 2-Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (Accounts payable for construction in progress for the year 2016).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (short-term loans for the year 2016).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-194390

Case No. Z-2023-194390

Keywords:

Zakat - Additions to the zakat base - Advance payments - Rejection of the Authority's appeal - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) appeal against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-94476), where the Taxpayer's appeal lies on the clause (rounded profits) to indicate that the deduction of the entire dividend amount from rounded profits was not taken into consideration, and the Authority's appeal lies on the clause (advance payments) to demand that the Taxpayer cancel the Authority's decision and add the outstanding balances to each creditors' liabilities. Whereas, the Appellate Committee, upon reviewing the financial statements, found that the Authority added the balance of the advance payments clause at the beginning or the end of the period, whichever is less, and therefore the balance of the advance payments added to the Zakat base should be adjusted by (120,719.95) riyals, which is represented by the current balances of each creditor's receivables. This means rejecting the authority's appeal and accepting the Taxpayer's appeal.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal was heard on: 04/05/2023, from/..., National ID No. (...) The Zakat, Tax and Customs Authority (ZTA) appeals the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-94476) issued in Case No. (Z-2022-94476) related to the 2019 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: amending the action of the defendant/Zakat, Tax and Customs Authority against the plaintiff/... (unique number...) Related to the advance payment clause at issue, as explained in the reasons.



Secondly: the plaintiff's other objections are dismissed. (unique number...) On the decisions of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

As this decision was not acceptable to the Taxpayer (...), he filed an appeal list, which was reviewed by the Circuit and included the following: with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (Related Party Liabilities), the clause (Creditors and Suppliers), the clause (Credits), and the clause (Accrued Wages), where the appellant indicated that there are two records, the financial system, and the financial statements, each of them separately... For contracting and the second is for a factory... A branch of the head office, and then the chartered accountant issues consolidated financial statements, and that the Taxpayer has already sent the statements for the disputed clauses, and that the amounts subjected by the Authority to Zakat have not reached the end of the year according to paragraphs 4 and 5 of Article 4 of the Executive Regulations for the Collection of Zakat, and there is no amount subject to Zakat. With regard to the clause (rounded profits), the appellant pointed out that the deduction of the full amount of the profit distribution from the rounded profits for 2019 was not taken into account, knowing that the decision to distribute profits and distribution mechanisms was submitted and documents were sent, and that the distribution mechanism is bank transfers and in-kind withdrawals, and the distributions were approved by the Authority in the amount of (790,000) riyals out of (1,587,176 riyals), i.e. The difference is (797,176) riyals, where we object to this because there are works carried out through a factory ... For the owner... (752,483) riyals, which are in-kind works worth (752,483) riyals, which are works belonging to the Taxpayer, and this was baptized and deducted from the amount of (1,600,000) riyals, leaving a difference of (44,693) riyals, which is a separate invoices and deducted from the retained earnings according to the internal administrative decision, so the Taxpayer closed the current balance of the Taxpayer in retained earnings at the end of the year, so the retained earnings of the Taxpayer becomes (3,750,868) riyals. With regard to the "other deductions" clause, the appellant requests that the Circuit's decision be annulled, as this intangible asset is a test certificate awarded to the product (metal doors) for the activity of the factory ... The ability of the product to resist fire for (120) minutes, which increases the ability of the product to sell more, which increases the value of the asset manufactured by the Taxpayer, so it is an intangible asset that is paid for obtaining this industrial mark that gives the product the advantage that the doors are fire resistant.

This decision was not accepted by the Authority and it submitted a list of appeals, which was reviewed by the Circuit and summarized as follows: with regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority requests the annulment of the Circuit's decision on this clause on the basis that the Authority requested the Taxpayer to submit a statement for the clauses (suppliers, customers, advance payments, accrued expenses, and other credits), indicating the name of the beneficiary and the ages of the debts, and the Taxpayer submitted the above request on 02/01/2022 AD, the Taxpayer submitted the above request, and upon reviewing the statements of accounts submitted and comparing the first period balance in these statements with the first period balances in Note No. (11) and (12) in the



financial statements, it is clear that they do not match and therefore it is not possible to track the turnover of these accounts, and the legal accountant abstained from the opinion, and among the reasons for the abstention is the failure to submit the required documents therefore, it appears that the Authority's action was correct based on the provisions of Article (4) paragraph (3) of the Zakat Collection Regulation issued by Ministerial Decision No. (2216) dated 07/07/1440 AH and Article (18) of the same regulation, and that the Circuit issuing the decision under appeal modified the Authority's decision due to the Taxpayer's submission of documents in support of his point of view the Authority responds that the Circuit partially accepted the Taxpayer's objection based on the analytical statement submitted and conforming to the financial statements, where the current year was calculated, and the Authority clarifies that its procedure came in application of paragraph (2) of Article 4 of the Zakat Regulation, which stipulates adding the balance of the first period or the last period, whichever is less.

On Monday, 15/07/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated:08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The appellant pointed out that the deduction of the full amount of the profit distribution from the rounded profits for 2019 was not taken into account, knowing that the decision to distribute profits and distribution mechanisms was submitted and the documents were sent, and that the distribution mechanism is bank transfers and in-kind withdrawals, and the distributions were approved by the Authority in the amount of (790,000) riyals out of (1,587,176,176) riyals, meaning that the difference is (797,176) riyals, where we object to this because there are works implemented through a factory ... For the owner... (752,483) riyals, which are in-kind works worth (752,483) riyals, which are works belonging to the Taxpayer, and this was baptized and deducted from the amount of (1,600,000) riyals, leaving a difference of (44,693) riyals, which is a separate invoices and deducted from the retained earnings according to the internal administrative decision, so the Taxpayer closed the current balance of the Taxpayer in retained earnings at the end of the year, so the retained earnings of the Taxpayer becomes (3,750,868) riyals. Article 4, paragraph (8) of the



Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated:07/07/1440 AH: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 8. Profits under distribution, except for profits that were announced to be distributed but whose owners did not come forward to receive them; provided that they are deposited in a special account that the Taxpayer is not allowed to dispose of." Based on the above, and upon reviewing the case file, the Circuit found that the Taxpayer submitted the profit distribution decision and proof of profit distribution, and reviewed the current statement issued by the factory of ... This does not undermine the Authority's argument that it did not reconcile it with the consolidated financial statements, which makes it necessary for the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit with regard to the clause Revised Dividends.

Regarding the Authority's appeal regarding the "Advance Payments" clause, the Authority clarifies that its procedure came in application of paragraph (2) of Article 4 of the Zakat Regulations, which stipulates that the balance of the first period or the last period, whichever is less, shall be added. Article 4, paragraph (2) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH stipulates that "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 2based on the above, advance payments are considered one of the clauses of the Zakat vessel and are added to the Zakat vessel at the beginning or end of the year, whichever is less, for each customer separately, and upon reviewing the case file, the Circuit found that the Taxpayer is requesting to cancel the Authority's decision and add the balances that have passed the hawl for each creditor a review of the financial statements shows that the Authority added the balance of the advance payments clause at the beginning or at the end of the period, whichever is less, and therefore the balance of the advance payments added to the Zakat base should be adjusted by the amount of (120,719.95) riyals, which is represented by the outgoing balances of each creditor, which is why the Circuit must reject the Authority's appeal and amend the Circuit's decision by the amount of (120,719.95) riyals in relation to the Advance Payments clause.

With regard to the Taxpayer's appeal regarding the remaining clauses, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons do not contain anything new, since in upholding them, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since it is established that the decision under appeal regarding the disputed clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome of the appeal, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., resident ID number (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2023-94476) issued in case number (Z-2022-94476) related to the zakat assessment for the year 2016.

Secondly: On the merits:

Regarding the Taxpayer's appeal:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the related party liabilities clause.
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the creditors and suppliers clause.
- 3 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (other credit balances).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause of accrued wages.
- 5- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit with regard to the rounded profits clause.
- 6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause of other deductions.

Regarding the Authority's appeal:

Rejecting the Authority's appeal and amending the Circuit's decision to the amount of SAR 120,719.95 in relation to the advance payments clause.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-227251

Case No. Z-2023-227251

Keywords:

Zakat - Additions to the zakat base - White land fees - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appeals the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-113667), as its appeal is based on the clause (White Land Fees), claiming that the Taxpayer did not provide proof that the legal reviewer made a mistake during the classification of the clause. The Appellate Committee found that the clause is classified within the amounts payable and other liabilities under the name White Land Fees Allowance, thus, the Taxpayer's argument that the clause is an accrued expense is incorrect, as he did not provide evidence that the legal auditor made a mistake during the classification of the clause. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (6) of Article(4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Article (18) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on December 03, 2023 AD, from ..., National ID No. (...) Was considered authorized by the Authority under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 18/10/1443 AH, on the decision of the First Circuit for adjudicating income tax violations and disputes in Riyadh, No. (IFR-2023-113667) issued in case No. (Z-2022-113667) related to the 2019 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the Adjudication Circuit's decision ruled as follows:



First: modification of the defendant/Zakat, Tax and Customs Authority's action against the plaintiff/company. (unique number...) Related to the real estate fund investment clause at issue in the lawsuit, as explained in the reasons.

Secondly: annulment of the other decisions of the defendant/Zakat, Tax and Customs Authority against the plaintiff/company ... (distinctive number ...) Related to the assessment in question.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

As the Authority disagrees with the decision of the Appellate Circuit, it claims that with regard to the clause (White Land Fees), the Authority clarifies that it added the provision for white land fees as stated in the financial statements for the year 2019 "General and Administrative Expenses" by adding the first balance for the year 2019 in the amount of (4,519,000)riyals to the Zakat base, while the component of (17,191,000) riyals was added by the Taxpayer, and the Authority asked the Taxpayer to submit documents related to white land fees, and upon reviewing the documents submitted, the Authority clarifies that the amount of (4,519,000) riyals is disputed is the balance of the first period as stated in the financial statements for the year 2019 "White Land Fees Allocation", and the movement showed that there is no user from the clause for 2019, and therefore the clause's objection was rejected based on paragraph (6) of Article 4 of the Executive Regulations of the Zakat Collection Law issued by Ministerial Resolution No. (2216) dated

7/7/1440 AH, which stipulates that: "As for what the Taxpayer referred to in his list of claims that the tabulation of the legal accountant is wrong and that the clause is an accrued expense, it is legally incorrect according to what the Authority explained above because there is no user of the clause for 2019, as for the Circuit's reasoning, the Authority responded that it is incorrect and contrary to the statutory requirement, which confirms the validity and soundness of its procedure, and the Circuit issuing the decision under appeal accepted this clause, reasoning that the white land fees do not meet the definition of an allowance and that they are definite and certain amounts and not baseential, and in light of the above, it is clear that the allowance was formed during the previous years as a contingent and non-contingent liability therefore, it is clear that there is no validity to the Circuit's conclusion and the reasons for the decision are not clear, as the committee concluded that the obligation is certain, ignoring the classification of the financial statements and also the nature of the amounts. Therefore, the Authority maintains the validity of its procedure based on the aforementioned article, and the Authority maintains the validity and soundness of its procedure, and therefore the Authority requests the reversal of the decision of the Circuit of Adjudication of the clauses under appeal for the above-mentioned reasons.

On Wednesday, on: 03/07/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article



15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH; By calling on the litigants, she/... (National ID No. ...), as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) And the date 19/03/1445 AH, and I attended (...) National ID No. (...), as agent for the appellant under agency No. (...), and by asking the appellant's representative what she would like to add, she stated that she maintains what has already been submitted in this case. When this was brought to the attention of the appellant's agent, he replied that he was adhering to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the hearing and deliberations.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

The Authority's appeal is regarding the clause (White Land Fees), and the Authority's appeal is to challenge the decision of the Adjudication Circuit regarding this clause, as it claims that the Taxpayer did not provide evidence that the legal reviewer erred in categorizing the clause. Based on paragraph (6) of Article (4) of the executive regulation for collecting zakat issued by the ministerial decision number (2216) dated 07/07/1440 AH, which states that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 6- Allocations at the beginning of the Zakat year after deducting the amount used during the Zakat year. Based on Article (18) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that "Without prejudice to the provisions of Article (10) of the Regulation, every Taxpayer shall maintain, within the Kingdom and in Arabic, the commercial books necessary to accurately determine the amount of Zakat, as well as the documents that prove their authenticity and the data and explanations that support them. The burden of proving the authenticity of the clauses and any other data in the declaration shall fall on the Taxpayer, and if he is unable to prove the authenticity of what is stated in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make an estimated assessment according to the view of the Authority in light of the circumstances and facts related to the case and the information available to it." based on the above, it is clear that the dispute lies in the Authority's addition of SAR (4,519,000) as the first term balance of the white land fees provision because there was no user of the clause in the year in dispute, and the Taxpayer argues that the fees are accrued expenses for which confirmed, fixed-value, and payable claims have been issued, however, a review of the documents



and the unconsolidated financial statements prepared for the special purpose of the company shows that the clause is classified within the amounts payable and other liabilities under the name of a provision for fees on white lands, and thus the Taxpayer's argument that the clause is an accrued expense is not valid as he did not provide evidence that the legal auditor made a mistake during the classification of the clause, the Authority also argued that the Taxpayer refunded the component of the clause to the net profit within the provisions clauses, which confirms that it is a baseential expense, and that the Taxpayer formed the provision during previous years as a baseential and uncertain obligation that was paid in 2020 AD after the issuance of the execution order from the Ministry of Justice, and it is clear that there are claims for white land fees and were considered within the commitments and baseential obligations because the cases were not decided by the administrative court in the year in dispute, and this confirms that the definition of the provision applies to white land fees, and thus the Authority's action is correct, which ends with Da'wa

With regard to the Authority's appeal on the clauses at issue in the lawsuit, and after the Circuit's reflection On the merits of the dispute, and after the Circuit's review of the Authority's appeal, and where the Circuit may adopt the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and where that is the case and it is proven that the decision under appeal regarding the disputed clauses was consistent with the sound reasons on which it was based and sufficient to carry its judgment the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and where this Circuit found that the conclusion reached by the adjudication Circuit in its decision is correct, and that the reasons on which it based its decision are sufficient to support that decision, and where this Circuit did not notice anything that requires a response or comment in light of the defenses raised before it, which leads this Circuit to reject the Authority's appeal and uphold the decision of the adjudication Circuit in the appeal in terms of the result it reached in the clauses at issue in the case, bearing in mind the reasons therein.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from its submitter/ Zakat, Tax and Customs Authority, against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam with the number (IFR-2023-113667) issued in case number (Z-2022-113667) related to the Zakat assessment for the year 2015.

Secondly: On the merits:

1 accepting the Authority's appeal and cancelling the decision of the Adjudication Circuit with regard to the clause (White Land Fees).



- 2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (sold lands).
- 3- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (lands ... Riyadh).
- 4- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Investment in Real Estate Funds).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-196749

Case No. Z-2023-196749

Keywords:

Zakat - Additions to the zakat base - Due to related parties - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority's appeal against the decision of the First Circuit for adjudicating income tax violations and disputes in Riyadh (IZD-2023-94725), where its appeal lies on the clause (Investments in affiliated companies) because when assessment, it discounted the investment balance by the company's share of the capital of the invested company, and the clause (Due to related parties) because when assessment, it discounted the clause according to the ownership share of the company and there is no Zakat flexing; since it added the balance that has passed the turnover according to the financial statements, taking into account the debit movement included in the statement. Whereas the Appellate Committee established that the receivable to related parties is a source of funding and is considered a source of funds subject to the collection of Zakat, and it is found that the Taxpayer pays the right to deduct the entire receivable to related parties (... Company) what the Authority did in the Zakat assessment for the disputed years was to take the percentage of ownership of what is due to the related parties and add what has passed the hawl, which is the standard procedure. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The Executive Regulations for Zakat Collection issued by Decision No. \(2082\) of the Minister of Finance dated 01/06/1438H.](#)



Facts:



The appeal filed on 10/05/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IZD-2023-94725) issued in Case No. (Z-2022-94725) related to the Zakat assessment for the years 2016 and 2017 in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: the plaintiff/company's objection was rejected.... (unique number...) On the decision of the Defendant/Zakat, Tax and Customs Authority regarding the reassessment of the due to third parties for the year 2017, which is the subject of the lawsuit.

Second: annulment of the other decisions of the defendant/Zakat, Tax and Customs Authority against the plaintiff/... (unique number...) Related to the assessment in question.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority disagrees with the decision of the Appeals Circuit, as it argued that the Taxpayer filed a grievance with the Secretariat in Case No. (Z -2022-94716) regarding the Zakat assessment for the year 2016, and then submitted a request to apply Ministerial Decision No. (13957) dated 23/03/1444 AH on the application of the provisions of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH to the fiscal years beginning before 01/01/2019 AD on 22/11/2022 AD for the fiscal year 2016, and one of the conditions for accepting this request is to withdraw the objection or lawsuit related to the fiscal year in question within the statutory period referred to in the ministerial decision, and accordingly, the Taxpayer requested the Secretariat to abandon lawsuit No. (Z-2022-94716) dated 08/02/2023 AD related to the Zakat assessment for the year 2016, and then this request was approved on 06/12/2022 AD and the case was closed, so the Authority approved the Defendant's request to apply the aforementioned ministerial decision, and the Defendant completed his case No. (Z -2022-94726) dated 08/02/2023 related to the Zakat assessment for the year 2017, but the Circuit issuing the decision under appeal issued its decision for the years 2016 and 2017, while it should have ruled only for the year 2017. Therefore, the Authority requests that all clauses related to the year 2016 be canceled due to the fact that the Defendant submitted a request to leave the case related to it, and one of the conditions for applying the ministerial decision is that the Taxpayer has no right to withdraw this request after submitting it. Regarding the clause (Investments in Subsidiaries), the Authority claims that when assessment the investment balance to the company's share of the investee's capital for the year 2017, as follows: $(500,000 \times 60\% = 300,000 \text{ riyals})$. Upon reviewing the Taxpayer's financial statements and the documents submitted with the objection, including the investment ledger statements and the financial statements of the investee company, since the company has the right to control the investee company, and



referring to the financial statements for the year 2014, it is clear that the company disclosed that these investments are accounted for using the cost method. By reviewing the financial statements of the investee company, the investment was recorded at 60% of the capital in 2017, equivalent to (300,000) riyals. The Taxpayer did not explain why the investment in the investee company did not show the purchase value of (6,000,000) riyals in 2017, nor did the Taxpayer submit the purchase documents to verify the purchase cost; therefore, his objection was rejected based on Article (20/3) of the Executive Regulations for the Collection of Zakat. With regard to the clause (Due to Related Parties), the Authority claims that when assessment the clause to the company's ownership share for 2017, the following: $(21,735,403 \times 60\%) = 13,041,242$ riyals. It is clear that a assessment has been made between the loan being fully subject to the invested company (the borrower) and its deduction in the invested company (the lender) by the percentage of ownership, and that this is a Zakat bending; this is incorrect, because the loan was granted to a company in which the Taxpayer owns 60% during the year in question, otherwise the Zakat bending would be removed the clause is deducted from the lender's Zakat base by the percentage of his ownership in the borrowing company 60% in 2017, because the lender here lent a part to himself at 60% (which must be removed by deduction at the lender) and a part to the other partners at 40%, which is not deducted as there is no bending, and by referring to the Authority's 2017 assessment on the investee company (a company .. - it is clear that the Authority added the balance that has turned over according to the financial statements, taking into account the debit movement in the statement and adding the amounts that have turned over as follows: company... In the amount of (10,867,702) SAR, the company ... In the amount of SAR (10,867,702), the debit movement of ... (354,543) riyals, bringing the amount that has come due for Zakat addition to the Zakat base to (21,380,861) riyals. What has been resolved by the Authority is as follows: $(21,735,403 \times 60\%) = 13,041.242$ riyals. According to the Authority, the Taxpayer is claiming a deduction due from a related party (an investee company) of 60% in full due to his full recommendation to the investee company, therefore, the Authority requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the foregoing reasons.

On Wednesday, 17/07/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

Whereas, with regard to the Authority's appeal regarding (2016), and where its appeal lies in the fact that the Taxpayer filed a grievance with the Secretariat in Case No. (Z -2022-94716) related to the Zakat assessment for 2016, and then submitted a request to apply Ministerial Decision No. (13957) dated 23/03/1444 AH for the fiscal year 2016, and the Taxpayer requested the Secretariat to abandon Case No. (Z- 2022-94716), and the request was approved on 06/12/2022 AD ,and the case was closed the request was approved and the case was closed. Accordingly, the Authority approved the Defendant's request to apply the aforementioned ministerial decision, and the Defendant completed his case No(Z-2022- 94726) dated 08/02/2023 AD regarding the Zakat assessment for 2017, but the Circuit issuing the decision under appeal issued its decision for 2016 and 2017, while only 2017 should have been ruled on. Based on the above, and the Circuit's review of Case No. (Z -2022-94716), and where it turns out that the status of the case is "the case was abandoned" at the request of the Taxpayer, and where the Taxpayer did not dispute the validity of his request to abandon the case and his request to apply the ministerial decision referred to in the Authority's appeal list, which shows the validity of the Authority's request to remove the 2016 Zakat year from the decision under appeal, as the Taxpayer had previously requested to abandon the case related to the year 2016 in application of the ministerial decision, while the Taxpayer's right to demand the implementation of Ministerial Decision No. (13957) remains or in case of a dispute regarding it, which leads the Circuit to accept the appeal of the Authority and cancel the decision of the Adjudication Circuit in this clause.

On the merits, and wherein regarding the Authority's appeal regarding the clause (Investments in Subsidiaries), and wherein its appeal lies in the fact that at the time of the assessment, it discounted the investment balance by the company's share of the investee's capital for the year 2017 as follows:

(500,000 x 60% = 300,000 riyals). By reviewing the financial statements of the investee company, the investment was recorded at 60% of the capital in 2017, equivalent to SAR (300,000). The Taxpayer did not explain why the investment in the investee company did not show the purchase value of SAR (6,000,000) in 2017, nor did the Taxpayer provide the purchase documents to verify the purchase cost. Paragraph (107) of the Accounting Standard for Equity Method Investments issued by the Accounting Standards Committee in 1423 AH (2002) stipulates that "An investment shall be measured, recognized and disclosed in the financial periods subsequent to its acquisition date at its historical cost adjusted by the investee's net income



(loss) and dividends." Paragraph (123) of the standard states that: "The following must be disclosed: 2.5 Reasons for not applying the equity method even though the investee owns 20% to 50% of the investee's net assets." Paragraph (10) - Equity Method - IAS 28 states: "Under the equity method, on initial recognition, an investment in an associate or joint venture is recognized at cost, the carrying amount is increased or decreased to recognize the investee's share of the investee's profit or loss after the acquisition date, and the investee's share of the investee's profit or loss is recognized in the investee's profit or loss. Dividends received from the investee reduce the carrying amount of the investment. Adjustments to the carrying amount may also be necessary for changes in the investee's proportionate share of the investee arising from changes in the investee's other comprehensive income. Such changes include those arising from the revaluation of property, plant and equipment and foreign currency translation differences. The invested entity's share of these changes shall be recognized in the other comprehensive income of the invested entity." Article (4) clause (II) paragraph (4/a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates that "The following shall be deducted from the zakat base:" 4- (A): investments in establishments inside the Kingdom - in partnership with others - if these investments are subject to Zakat collection under this regulation, if the investment in these establishments is not subject to collection, it shall not be deducted from the base." Clause (1/3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH also stipulates that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 3. Loans of the owners or partners of the establishment shall be treated as capital." Based on paragraph (3) of Article (20) of the same Law, which states that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the foregoing, and since the decision under appeal resulted in the cancellation of the Authority's puppies, and upon reviewing the case file and the pleadings and documents it contains, it is clear from the pleadings of the parties to the case that the dispute can be over the basis and method of accounting for investments; as the Taxpayer applied in his books the method of accounting for investments on the basis of cost, while the Authority made the assessment and accounted for it on the basis of equity While the Authority conducted the assessment and accounting on the basis of equity rights, and given that the Taxpayer owns 60% of the investee company, according to the accounting standards adopted at the time, the Taxpayer should have applied the equity method; the Taxpayer did not provide documents supporting his objection and did not explain the reasons that prevented him from applying this method despite his ownership of more than (20%), which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit on this clause.



Whereas, regarding the Authority's appeal regarding the clause (Due to Related Parties), and where its appeal lies in the fact that at the time of the assessment, the clause was deducted according to the company's ownership share for 2017 as follows: $(21,735,403 \times 60\%) = 13,041,242$ riyals. There is no Zakkawi discouragement, as the Authority added the balance that has come due according to the financial statements, taking into account the debit movement included in the statement. Whereas clause (1/2) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates that "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 2. The current account credited to the owner or partner at the beginning or end of the year, whichever is less, as well as the increase in the current account if the source of the current account is equity, or if it is the financing of a Acquisition asset." Article 4, clause (1/3) of the same Law stipulates that: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 3. Loans of the owners or partners of the enterprise shall be treated as capital." Paragraph(3) of Article (20) of the same Law also stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the foregoing, and where the decision under appeal ended up canceling the Authority's action, and based on the above, the receivable to the related parties is considered a source of funding and is considered as one of the funds subject to the collection of Zakat, and therefore the amount due must be added to the Zakat base, and by reviewing the documents submitted in the case file, it is clear that the Taxpayer claims the right to deduct the entire receivable to related parties (... Company) what the Authority did in the Zakat assessment for the disputed years was to take the percentage of ownership of what is due to the related parties and add what has come due, which is the standard procedure, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit on this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IZD-2023-94725) issued in case number (Z-2022-94725) related to the Zakat assessment for the year 2016.

Secondly: rescind the decision of the Dismissal Panel with respect to (2016), in accordance with the reasons and rationale set forth in this decision.

Third: On the Merits:



- 1- Accepting the Taxpayer's appeal and canceling the decision of the division regarding the clause (investments in subsidiaries).
- 2- accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with regard to the clause "Due to Related Parties"



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-177946

Case No. Z-2023-177946

Keywords:

Zakat - Additions to the Zakat Base - Amounts payable to trade creditors - Acceptance of Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) objected to the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6673), where its appeal lies on the clause (amounts payable to trade creditors for the year 2015), requesting to cancel the Circuit's decision on this clause, on the grounds that it requested the Taxpayer to submit the movement of accounts of amounts payable to trade creditors, showing the balance of the first period, added and paid during the year and the balance of the last period from the general ledger, but he did not respond to the Authority and stated that the clause had not come due for hawl. Whereas, the Appellate Committee found that the balance of the first period shown in the submitted movement does not match the balance shown in the declaration, therefore, since the Taxpayer did not provide any document that could support his point of view, the Authority followed the whichever is less rule by adding SAR (1,295,746) in accordance with the financial statements. The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- Paragraph (4/1) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 13/02/2023 AD, from /... The appeal filed on 14/02/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6673) issued in Case No. (Z-2021-83963) related to the 2015 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the plaintiff's objection/ Company ... (Business Register...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of proceduralist.

Second: On the merits:

- 1- Amending the Defendant's decision regarding the clause "Accrued expenses for the years 2015 and 2016".
- 2- Amending the Defendant's decision with respect to the clause (Accounts Payable for the years 2016 and 2017).
- 3- Cancellation of the defendant's decision with respect to the 2016 import difference.
- 4- Amending the Defendant's decision with respect to the clause (Import Difference for 2017).
- 5- Amending the Defendant's decision with respect to the clause "Amounts payable to trade creditors for the year 2015".
- 6- Reject all other objections.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (Miscellaneous Expenses for 2015) and the clause (Carryover Profits for 2015). He submitted a list of appeals, which was reviewed by the Circuit, which included the Taxpayer's request to accept his appeal and reverse the decision of the Adjudication Circuit.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority states that the decision under appeal relates to the year 2015, while the operative part of the Circuit ruled for the years 2015, 2016 and 2017, while the years 2016 and 2017 were issued by the same Circuit, and therefore the Authority requests the removal of all that relates to the years 2016 and 2017 due to the fact that the case relates to the year 2015. Regarding the clause (Accrued expenses for 2015). With regard to the clause (amounts payable to trade creditors for the year 2015), the appellant (the Authority) requests the



annulment of the Circuit's decision on this clause on the grounds that it requested the Taxpayer to submit the accounts of the amounts payable to trade creditors, indicating the balance of the first period, added and paid during the year and the balance of the last period from the general ledger, but he did not respond to the Authority, accordingly, the adjustment was made in accordance with the explanations of the financial statements, while the Defendant's (the Taxpayer) response before the Circuit issuing the decision stated that the clause had not come due, and where the decision of the adjudication concluded to amend the Authority's action by (1,003,137) riyals instead of (1,295,746) riyals, as a review of the detailed movement provided by the Taxpayer showed that what has come due is (1,003,137) riyals.

On Sunday, April 21, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the two parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal on the clause (material error in the operative clause of the decision), and upon reviewing the decision of the Adjudication Circuit (IFR-2022-6673) issued in Case No.(Z- 2021-83963), it turns out that the decision initially stated that the year of the dispute is 2015, but the operative clause included amending the Authority's action with the following clauses (Accrued expenses for 2016 and 2017, import difference for 2016 and 2017), which has a separate case for each year, receivables for the years 2016 and 2017, import differences for the years 2016 and 2017), which have a separate case for each year separately and a decision was also issued, so it is clear to us that the Authority's request to amend the decision is correct, and to prevent duplication and confusion during implementation, which should cancel the decision of the Adjudication Circuit related to (the years 2016 and 2017).

Whereas, regarding the Authority's appeal regarding the clause (Accrued expenses for 2015), and where Article 70 of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in



acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is filed, the substance of the case and the answer must be monitored before the agreement is recorded, provided that the origin of the case is within the jurisdiction of the Circuit, even if the substance of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." based on the foregoing, and whereas this Circuit has established the Authority's request to leave the appeal in the above clauses, as stated in the letter issued by the Authority in the supplementary memorandum, which includes: "The Authority would like to inform the Honorable Circuit to leave its appeal with regard to the above clause specifically and the procedures resulting from the Authority's appeal, in accordance with the decision of the Dispute Resolution Circuit in terms of its reasoning." therefore, the Circuit must accept the abandonment of the litigation.

Whereas, regarding the Authority's appeal regarding the clause "Amounts payable to commercial creditors for the year 2015", and based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438H, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the text of Article 20(3) of the Constitution, which stipulates the following: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make an estimated assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the foregoing, as trade payables are considered a component of the Zakat base provided they are turned around or used to finance assets deducted from the Zakat base the Circuit modified the Authority's action based on the movement submitted by the Taxpayer, and by reviewing the movement referred to in the Circuit's decision and comparing it with the explanation of the receivables submitted by the Authority in its appeal list, it was found that the balance of the first period shown in the submitted movement does not match the balance shown in the explanation, therefore, and because the Taxpayer did not submit any document that could support his point of view, and since the Authority followed the whichever is less rule by adding the amount (1,295,746) riyals according to the financial statements, which means that the Authority's appeal should be accepted and the decision of the Adjudication Circuit regarding the clause "Amounts payable to trade creditors for 2015" should be canceled.



Whereas, with regard to the Taxpayer's appeal regarding the clause (Miscellaneous Expenses for 2015) and the clause (Phase Profits for 2015), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, which leads this circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal with respect to the outcome it reached on the clauses at issue in the case, in accordance with its reasons.

Based on the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6673) issued in case number (Z-2021-83963) related to the zakat assessment for the year 2016.

Secondly: On the merits:

- 1- Annulment of the decision of the Adjudication Circuit (for the years 2016 and 2017)
- 2- Accepting the abandonment of the litigation regarding the Authority's appeal on the clause (Accrued Expenses for 2015).
- 3- accepting the Authority's appeal the decision of the Adjudication Circuit regarding the clause "Amounts payable to trade creditors for 2015" is annulled.
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Miscellaneous Expenses for 2015).
- 5- Reject the Taxpayer's appeal and uphold the decision of the division regarding clause (retained earnings for the year 2015).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and
Disputes

Decision No. Z -2023-177948

Case No. Z- 2023-177948

Keywords:

Zakat - Additions to the zakat base - Accrued expenses - Acceptance of the Authority's appeal - Rejection of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh, No.(IFR-2022-6664) related to the Zakat assessment for 2016, where the Authority's appeal lies on the clause (material error in the operative part of the decision) in that it requests the removal of all that relates to the years 2015 and 2017 due to the fact that the case relates to the year 2015 and the clause (Accrued Expenses) and the clause (Accounts Payable) in that it requests the cancellation of the Circuit's decision on this clause because it requires the Taxpayer to submit an accounts payable movement showing the balance of the first period, added and paid during the year. Whereas the Taxpayer's appeal lies on the clause (Miscellaneous Expenses) and the clause (Dividends) in that the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed, and where it was proven to the Appellate Committee that the Authority added the accrued expenses, whichever is lower, according to the financial statements, and by referring to the movement submitted by the Taxpayer, it turns out that he submitted the movement of the accrued expenses and it is clear that it is prepared manually, and by reviewing it and matching it with the explanation provided in the Authority's appeal list, it turned out that the balance of the first period did not match the movement submitted by him, and the Taxpayer did not submit the financial statements and movement extracted from the system. This means accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with regard to the "Accrued Expenses" and "Accounts Payable" clauses. Rejecting the Taxpayer's appeal on the clauses: (Miscellaneous Expenses), (Dividends), and canceling the decision of the Adjudication Circuit (for the years 2015 and 2017).



Document:

- Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (70) of [The executive Regulations of the Law of Pleadings before the Board of Grievances issued by Decision No. 127 and dated 12/26/1435 AH](#)

Facts:

The appeal filed on 02/13/2023 AD, from / Company ... The appeal filed on 14/02/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6664) issued in Case No. (Z-2021-83969) related to the 2016 Zakat assessment, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim against the Zakat, Tax and Customs Authority:

First: accepting the objection of the plaintiff/company...(Commercial Register...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of proceduralist.

Second: On the merits:

- 1- Amend the Defendant's decision with respect to the clause (Accrued expenses for 2015 and 2016).
- 2- Modification of the Defendant's decision with respect to the 2016 and 2017 Accounts Payable.
- 3- Annulment of the Defendant's decision with respect to the 2016 import differential.
- 4- Modification of the Defendant's decision with respect to the 2017 import differential.
- 5- Modification of the Defendant's decision with respect to the clause "Amounts payable to trade creditors for the year 2015".
- 6- Reject all other objections.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (Miscellaneous Expenses (SAR 773,635) for 2016) and the clause (Dividends (SAR



(2,038,198) for 2016). He submitted a list of appeals, which was reviewed by the Circuit and included that the Taxpayer requests acceptance of his appeal and reversal of the decision of the Adjudication Circuit.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority states that the decision under appeal relates to the year 2016, while the operative part of the Circuit ruled for the years 2015, 2016 and 2017, while the years 2015 and 2017 were issued by the same Circuit. Therefore, the Authority requests the removal of all that relates to the years 2015 and 2017 as the case relates to the year 2015. Regarding the clause (Accrued Expenses for the year 2016), where the appellant (the Authority) requests the annulment of the Circuit's decision on this clause on the grounds that it requested the Taxpayer to submit a movement of accrued expenses accounts indicating the balance of the first period, added and paid during the year and the balance of the last period from the general ledger, but he did not respond to the Authority, and therefore the accrued expenses were adjusted by (291, 053) riyals according to the notes to the financial statements, whereas, the Defendant's (the Taxpayer) response before the decision-making circuit stated that the clause had not been turned over, and whereas the decision of the adjudication concluded that the Authority's action was modified in the amount of (250,627) riyals, whereby by reviewing the detailed movement of the accrued expenses, which appears to be included with the zakat provision, it appears that the turnover on the amount of (250,627) riyals has taken place. Regarding the clause (Accounts payable for the year 2016), where the appellant (the Authority) is requesting the cancellation of the Circuit's decision on this clause on the grounds that it requested the Taxpayer to submit the accounts payable movement indicating the balance of the first period, added and paid during the year, and the balance of the last period from the general ledger, but he did not respond to the Authority, accordingly, the adjustment was made according to the notes to the financial statements in the amount of (1,418,384) riyals, while the Defendant's (the Taxpayer) response before the Circuit issuing the decision stated that the clause had not turned around, and whereas the decision of the adjudication concluded to modify the Authority's action in the amount of (43,563) riyals, as a review of the detailed movement provided shows the turnaround on my account No. (...).....) And the number (...) For a total amount of (43,563) riyals. Regarding the clause (import differences for 2016).

On Sunday, April 21, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the two parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing



a decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to Authority's appeal regarding (material error in the operative clause of the decision), and upon reviewing the decision of the Adjudication Circuit (IFR-2022-6664) issued in Case No. (Z-2021- 83969), it turns out that the decision initially stated that the year of the dispute is 2016 and its operative clause included amending the Authority procedure with the following clauses (Accrued expenses for the years 2015 and 2016, payables for the years 2016 and 2017, import differences for the year 2017), which turned out to have a separate case and decisions for each year separately, so it is clear that the Authority's request to amend the decision is correct, and to prevent duplication and confusion during implementation, which should cancel the decision of the Adjudication Circuit related to (the years 2015 and 2017).

Whereas, regarding the Authority's appeal regarding the clause (Accrued Expenses for 2016), and based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the text of Article 20, paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and where the accrued expense balances are one of the components of the Zakat base, provided that the turnaround period on these balances has passed, and with reference to the case file and its contents, it appears that the Authority's appeal lies in its objection to the Circuit's decision to amend its procedure by adding (250,627) riyals instead of (291,053) riyals, based on the detailed movement submitted by the Taxpayer for accrued expenses, based



on the detailed movement submitted by the Taxpayer for the accrued expenses, and accordingly, upon reviewing the clarification regarding the accrued expenses attached to the Authority's appeal list, it appears that the Authority added the accrued expenses, whichever is lower, according to the financial statements, by referring to the movement submitted by the Taxpayer, it turns out that he submitted the accrued expenses movement, which is clearly prepared manually, and by reviewing it and matching it with the explanation provided in the Authority's appeal list, it turns out that the first period balance does not match, as the first period balance according to the explanation is (539,730)SAR, while the movement submitted by the Taxpayer amounts to (272,287) SAR, and the Taxpayer did not submit the financial statements and the movement extracted from the system to ensure that the detailed movement matches what is stated in the financial statements, which makes it necessary for the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause (Accrued expenses for the year 2016).

Whereas, regarding the Authority's appeal regarding the clause (Accounts Payable for 2016), and based on paragraph (5) of clause (I) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the text of Article 20, paragraph (3) of the Constitution, which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and where trade payables are considered one of the components of the Zakat base, provided that they turn around or are used to finance the assets that are deducted from the Zakat base, and with reference to the case file and its contents, it appears that the Authority's appeal lies in its objection to the Circuit's decision to amend its procedure by adding (43,563) riyals instead of (1,418,384) riyals ,based on the detailed movement submitted by the Taxpayer for the payables, and accordingly, upon reviewing the clarification regarding the payables attached to the Authority's appeal list, it appears that the Authority added the payables, whichever is lower, according to the financial statements, and with reference to the movement submitted by the Taxpayer, it appears that he submitted the payables movement and it is clear that it is prepared manually, by reviewing it and matching it with the clarification provided in the Authority's appeal list, it was found that the first balance of the period does not match, where the first balance of the period according to the clarification is (2,502,725) SAR, while in the movement submitted by the Taxpayer is (2,664,565) SAR, and the Taxpayer did not submit the financial statements and the movement extracted from the system to ensure that the detailed movement



matches what is stated in the financial statements, which is why the Authority's appeal should be accepted and the decision of the Adjudication Circuit regarding the clause (Payables for 2016) should be canceled.

Whereas, regarding the Authority's appeal regarding the clause (import differences for 2016), and where Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is filed, the substance of the case and the answer must be monitored before the agreement is recorded, provided that the origin of the case is within the jurisdiction of the Circuit, even if the substance of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." based on the foregoing, and whereas this Circuit has established the Authority's request to leave the appeal in the above clauses, as stated in the letter issued by the Authority in the supplementary memorandum, which includes: "The Authority would like to inform the Honorable Circuit to leave its appeal with regard to the above clause specifically and the procedures resulting from the Authority's appeal, in accordance with the decision of the Dispute Resolution Circuit in terms of its reasoning," therefore, the Circuit must accept the abandonment of the litigation.

Whereas, with regard to the Taxpayer's appeal regarding the clause (Miscellaneous Expenses for 2016) and the clause (Dividends for 2016), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons do not contain anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses the issuing circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and this circuit did not observe anything that warrants appeal or comment on it in light of the defenses raised before it, which leads this circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached on the clauses at issue in the case, bearing in mind its reasons on the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6664) issued in case number (Z-2021-83969) related to the zakat assessment for the year 2016.

Secondly: On the merits:



- 1- Annulment of the decision of the Adjudication Circuit (for the years 2015 and 2017)
- 2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Accrued Expenses for the year 2016).
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Accounts Payable for 2016).
- 4- Accepting the abandonment of litigation regarding the Authority's appeal on the clause (import differences for 2016).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Miscellaneous Expenses for 2016).
- 6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Dividends for 2016).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-174193

Case No. Z-2023 -174193

Keywords:

Zakat - Additions to the zakat base - Accrued and miscellaneous expenses - Acceptance of the Authority's appeal - Rejection of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2637) and related to the 2017 Zakat assessment, where the Authority's appeal on the clause (Miscellaneous Accrued Expenses) lies on the acceptance of the Taxpayer's objection on the disputed clause, as it claims that the Taxpayer did not provide the documents supporting his objection, where the Taxpayer's appeal on the clause (External Purchase Differences) lies in the fact that there is a conflict in the Authority's defenses as what was added to the assessment in the assessment statement issued in the amount of (25,396) riyals and what the Authority indicated in its response note that what was added in the assessment is (45,430) riyals, while the Taxpayer stated that what the Authority had to do was to add the profit from the purchase difference worth (33,080) riyals to the Zakat base. The Appellate Committee found that the accrued expense balances are one of the components of the Zakat base, provided that these balances have been transformed. This means accepting the Authority's appeal on the miscellaneous accrued expenses clause and rejecting the Taxpayer's appeal on the remaining clauses.

Document:

- Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:

The appeal filed on 31/01/2023 AD, from ..., National ID No. (...) Was considered as the statutory representative of the appellant company by virtue of agency no lawyer's License No. (...) And the Zakat, Tax and Customs Authority (ZTA), on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2637) issued in Case No. (Z-2021-87155) related to the 2017 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: the plaintiff's objection to the supplier receivables clause was rejected.

Secondly: the plaintiff's objection to the receivables clause was rejected.

Third: deny the plaintiff's objection to the salaries, wages and allowances clause.

Fourth: rejecting the plaintiff's objection to the rent's due clause.

Fifth: modify the defendant's action on the miscellaneous accrued expenses clause, according to the merits of the decision.

Sixth: dismissing the plaintiff's objection to the foreign procurement differences clause.

As this decision was not accepted by the Taxpayer (Company ...), he submitted an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (external procurement differences), the Taxpayer explained that the committee's decision regarding the external procurement differences clause for 2017 was a copy/repeat of what was mentioned in its decision for 2016, and that it was not its task to investigate the evidence and data supporting the claimant's position regarding the external procurement differences, given that all supporting documents were submitted on the one hand, and on the other. On the other hand, in the assessment for 2017, the Authority approved (10%) as the profit of undeclared foreign purchases, amounting to (25,400) riyals. Were added to the Zakat base and this appeared in the assessment letter, a copy of which was provided, and when we objected, our objection was rejected and the assessment was not reviewed (increase / decrease) and we did not receive any response from the Authority, and after submitting to the Secretariat and providing data on purchases and clearance, the Authority went and varied the value of the assessment to the base to an amount of (330803) riyals to talk about another topic and other amounts different in clause and value not previously reported to us, namely the talk about not capitalizing fixed assets and adding them as purchases, the Authority continued to fix the assessment (25,400) riyals,. This means that all the requirements were met in the objection related to adding the profit of external purchases and the Authority did not review and cancel the clause, and the submitted statement shows the account balances and movements during the year in accordance with the balance sheet. In addition, the audited financial statements submitted to the Authority showed the value of



asset purchases (as additions during the year) in Clause 8 of the notes to the financial statements, yet it was not taken into consideration, in addition to showing an amount of SAR(165,401) as the value of imported assets, and this amount does not match our real purchases shown in the clearance report, so the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit regarding this clause be overturned.

This decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (Miscellaneous Accrued Expenses), where the Authority added the balance of accrued rents for the first or last period, whichever is less, amounting to (251,272) riyals and (246,594) riyals for the years 2016 and 2017, respectively, because a detailed statement of the clause was requested, 594) riyals for the years 2016 and 2017, respectively, because a detailed statement of the clause was requested and the plaintiff submitted a detailed statement for the year 2016, and the movement during the year did not match the financial statements, and he also submitted a statement of the balance of the last period for the year 2017: in 2017, the Taxpayer submitted a statement indicating the balance of the first and last period only and did not provide the movement during the year, and the Taxpayer also submitted unclear daily entries, so the data submitted was not considered and the first or last period, whichever is less, was added, and accordingly, the Authority's procedure in adding the balance of the first or last period is confirmed as follows: the balance that fell due and was added to the Zakat base = (210,159) riyals therefore, the objection was rejected on the basis of paragraph (5) of the first clause of the fourth article of the Executive Regulations for the Collection of Zakat and on the basis of paragraph (3) of the twentieth article of the same regulations, and the Authority's action to reject the clause in the absence of supporting documents was supported by the decision of the Tax Appellate Committee No. (1629) in 1438 AH, paragraph (1/b), and therefore the Authority maintains the validity and soundness of its procedure and requests that its appeal be accepted and that the decision of the Adjudication Circuit in the clause under appeal be overturned.

On Thursday, on: on March 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.



Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal is regarding the Taxpayer's appeal regarding the clause (differences in foreign purchases), where the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the Authority's defenses are inconsistent with the assessment statement, which is summarized in the value of what was added in the assessment for the disputed year. Based on paragraph number (3) of article (20) of the executive regulation for Zakat collection issued by ministerial decision (2082) dated 1/6/1438 AH which stated that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and upon reviewing the Taxpayer's appeal list, the Taxpayer pointed out the contradiction between the Authority's arguments, as what was added to the assessment in the issued assessment statement amounted to SAR(25,396) and what the Authority indicated in its response note that what was added in the assessment amounted to SAR (45,430), while the Taxpayer stated that what the Authority had to do was to add the profit from the purchase difference of (33,080) riyals to the Zakat base, while the Taxpayer stated that what the Authority had to do was add the profit from the purchase difference of (33,080) with reference to the Authority's response memorandum, it is clear from the calculation provided that the value of the purchase differences to be added (330,803)riyals is greater than the assessment, so it adopts what was added by the Authority in the assessment amounting to (25,396) riyals, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding this clause.

With regard to the Authority's appeal regarding the (Miscellaneous Accrued Expenses) clause, the Authority's appeal is to challenge the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, claiming that the Taxpayer did not submit documents supporting his objection. Based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2082 dated 1/6/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the



Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the text of Article (20), paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, the accrued expense balances are one of the components of the Zakat base, provided that these balances have been turned around. A review of the case file and the defenses and documents it contains shows that the Taxpayer did not submit the detailed movement of the various accrued expenses in dispute to prove that the balance has not been turned around, but only submitted the financial statements for the year 2017 showing the balance of the beginning and the end of the period, since the regulator placed the burden of proving the validity of the Zakat declarations on the Taxpayer, and since the Taxpayer submitted documents that did not support his appeal, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit on the remaining clauses in the case with respect to the result it reached, taking into account its reasons.

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2637) issued in case number (Z-2021-87155) related to the zakat assessment for the year 2018.

Secondly: On the merits:

1-Accepting the Authority's appeal, canceling the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal regarding the clause (Miscellaneous Accrued Expenses).



- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (supplier receivables).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Workers' receivables).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (salaries and wages due).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (rents due).
- 6- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (differences in external purchases).



Deductions from the Zakat Base



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR- 2024-175065

Case No. Z-2023-175065

Keywords:

Zakat – Deductions from the Zakat Base – Deduction required from related parties – Acceptance of the authority's appeal – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection and the Zakat, Tax and Customs Authority to the decision of the second division regarding violations and disputes of income tax in Riyadh number (ISR-2022-1949), where the authority's appeal lies on clause (Profits of subsidiary companies) because the Taxpayer adjusted and excluded the effect of these profits from the adjusted net profit, and thus it is not permissible to exclude them again from the investment balance in the zakat base, and the Taxpayer's appeal lies on clause (Required from related parties) for the following grounds that zakat was paid on the amount in a related party company (subsidiary). And it has been established to the appellate committee that the amount due to a related party for a owned company is treated as a loan from the parent company to the subsidiary and is deducted according to the ownership percentages of the parent company in the subsidiary, and since Company (A) owns (100%) of Company (B). The result of that; acceptance of the authority's appeal and acceptance of the Taxpayer's appeal.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 02/02/2023 AD , by ..., National ID No.(...), as an agent for the appellant company under agency No.(...), and the appeal filed on 02/02/2023 AD, by the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1949) issued in Case No. (Z-2021- 68898) regarding the Zakat assessment for 2018, in the lawsuit filed by



the company ... Against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the lawsuit procedurally.

On the Merits:

- 1- Cancel the defendant's action with respect to the share in the profits of subsidiaries.
- 2- Rejecting the claim regarding the retained earnings difference.
- 3- Dismiss the claim with respect to an clause requested by related parties.

This decision was not acceptable to the Taxpayer (Company ...), so he filed a list of appeals, which was reviewed by the Circuit. The Taxpayer's appeal is based on the clause (retained earnings difference). The Taxpayer explains that the dividends are paid by a related party in ... Company owned by ... Company company... (40%) and ... (40%) and ... (20%), and that the former ...Former Holding Company owns ... (100%), and that the statement of financial position and Note (6) in the Taxpayer's financial statements for the year 2018 shows the payment of dividend receivables, which were paid by ... Dividends paid by a related party is the result of offsetting the balance of the related party liability with retained earnings. The Taxpayer explains that the company's ... The company owns ... (100%) according to the Memorandum of Association and that the amounts due from related parties Company... (2018 Zakat assessment attached), in accordance with the Zakat Regulation in accordance with the equity rule, which includes the addition of capital, statutory reserves, retained earnings and current account credit to partners, and therefore the recommendation of a balance due to a related party to ... Company this leads to zakat flexing, and the amounts due from related parties (a company...) In order for the equation to be straight from the accounting and legal point of view, the required deduction from the Zakat base must be deducted from the Zakat base, and he requests that his appeal be accepted and that the decision of the Adjudication Circuit be reversed. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, as the Authority's appeal lies on the clause (profits of subsidiaries), as the Authority explains that it deducted revenues from subsidiaries in the amount of (164,146,941) riyals , Whereas a meeting was held with the Taxpayer on 29/7/2021 AD and a request was made to provide the unique numbers of the subsidiaries and the Taxpayer provided them after reviewing the objection letter and its attachments, the Authority clarifies that it has deducted this amount from the net profit as claimed by the Taxpayer and that the treatment of the investment is done in one of two ways: 1- Deducting the Taxpayer's share of the results of the invested companies from the adjusted profit and deducting the investment with the beginning balance of the period to remove these results from the deducted investment. 2- No adjustment to the adjusted profits and investment discount for the end-of-period balance, which includes the Taxpayer's share of the results of the investee companies. It is noted that the Authority processed the investment in the first way, and requests that its appeal be accepted and that the decision of the Adjudication Circuit on the clause under appeal be reversed.



On Monday, March 18, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH , after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

In the merits, and with regard to the Authority's appeal on the clause (Profits of subsidiaries), and where the Authority's appeal lies in its deduction of revenues from subsidiaries in the amount of SAR (164,146,941), and based on Article (4) clause (II) paragraph (4/a) of the Zakat Collection Regulation issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH which stipulates that "The following shall be deducted from the zakat base:" 4- (A): Investments in establishments within the Kingdom – in partnership with others – if those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Therefore, based on the above, and by referring to the case file and the defenses and documents it contains, it became clear to the committee through the responses of the parties to the case that the dispute lies in adding the Taxpayer's share in the profits of the subsidiary companies from the investment deducted from the zakat base, and since the authority acknowledges that it has deducted the Taxpayer's share from the results of the invested companies in the amount of (164,146,941) riyals from the adjusted net profit and deducted the investment with the opening balance to remove the effect of these results from the deducted investment, and by referring to the declaration submitted by the Taxpayer for the year in dispute, it is clear that it adjusted the adjusted net profit and deducted all the apparent revenues (the company's share in the profits of the invested company) from the adjusted net profit and by the same amount, which indicates that the Taxpayer adjusted and excluded the effect of these profits from the adjusted net profit, and therefore it is not permissible to exclude them again from the investment balance in the zakat base, which leads the committee to accept the authority's appeal and cancel the decision of the division regarding this clause.

Regarding the Taxpayer's appeal on the clause (Retained Profits Difference), where the Taxpayer's appeal lies in not adding the retained profits difference, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated



01/06/1438 AH, which stipulates the following: "The Taxpayer's appeal is based on the retained profits difference: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8. The balance of profits carried forward from previous years at the end of the year." Based on Paragraph (3) of Article (20) of the Law, which stipulates the following: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the correctness of what is contained in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on all of the above, and upon the Circuit's review of the case file and the defenses and documents it contains, it found that the company claims to deduct a dividend amount of (70) million riyals, and has attached financial statements, bank statements, and a dividend decision of (10,000,000) riyals, as for the amount of (60,000,000) riyals, upon reviewing the financial statements and documents, it is clear that it is related to the year 2017, as evidenced by the list of changes in shareholders' equity, where it turns out that in 2017, the distribution of profits during the period was approved in the amount of (100,000,000) riyals, as for what was distributed in cash last year (40,000,000) SAR only and the remaining (60,000,000) SAR that the Taxpayer claims relates to the year in dispute, and with reference to the list of cash flows, it became clear that the net cash used in the activities that were discharged from the company as paid dividends appeared in the amount of (70,000,000) SAR, which makes it clear that the Authority's action is incorrect, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal on the "Related Parties Required" clause and where the Taxpayer's appeal is that the company ... Owned by Public Company with 100% ownership according to the Memorandum of Association, based on Article (4) Clause (II) Paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The following shall be deducted from the zakat base:" 4- (A): Investments in establishments within the Kingdom – in partnership with others – if those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, the additional contributions made by the parent company to the subsidiaries may be in the form of an increase in investment or loans to be repaid to the investing company, and based on the above, and by reviewing the case file and the defenses it contains, it became clear to the committee that the above clause represents loans provided by the company to the subsidiaries, therefore the decision issued to deduct the investment percentage is correct, and since the opinion of the tax and zakat appeal judiciary has settled that the contributions made by holding companies to subsidiaries, which represent a loan (advances) provided to the subsidiary company, the Taxpayer (the lender) has the right to deduct part of the loans and advances provided to the subsidiary from its zakat base in proportion to its investment in the subsidiary to which the loan was provided because they are considered one entity, and since the related party (Company



...) Is 100% owned by Company ... As shown in the financial statements note No. (1) and in the decision of the partners to waive their shares to Company (...) For investment, in addition to the fact that by referring to note No. (6), it is clear that the Taxpayer is a member of a group of sister companies that are managed directly or indirectly by the partners in the company, and by referring to the company's articles of incorporation, this is evident, and therefore the Taxpayer requests to deduct the required amount from the related party on the grounds that zakat is paid on the amount in the related party company (subsidiary), and by reviewing the documents attached to the case file, the committee found that the amount in the financial statements of Company (...) (288,826,824) SAR, as it amended the financial statements for the previous year and the amount that the Taxpayer claims to deduct (293,934,874) SAR, and considering that the due to a related party of a subsidiary company is treated as a loan from the parent company to the subsidiary company and is deducted by the proportions of the parent company's ownership in the subsidiary company, and since the company ... The Circuit partially accepts the Taxpayer's appeal by deducting the amount of SAR (288,826,824) as shown in the financial statements of ... And amend the decision of the committee regarding this clause.

Decision:

First: Accepting the appeal procedurally from the Taxpayer/company... Commercial registration number (...), distinctive number (...), and the Zakat, Tax and Customs Authority, against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-1949) issued in case number (Z -2021-68898) related to the zakat assessment for the year 2018.

Second: On the merits:

- 1- Accept the authority's appeal and cancel the decision of the division regarding the clause (profits of subsidiary companies).
- 2- Accept the Taxpayer's appeal and cancel the decision of the division regarding the clause (difference in retained earnings).
- 3- Accept the Taxpayer's appeal partially and amend the decision of the division regarding the clause (amount due from related parties).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-173743

Case No. Z-2023-173743

Keywords:

Zakat - Deductions from the Zakat Base - Foreign Currency Translation Reserve Deduction - Taxpayer's Appeal Rejected - Taxpayer's Appeal Rejected

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2600). The Taxpayer's appeal on the clause (excluding the share in the results of affiliated companies) is that the Authority did not allow adjustments to the net profit, and the clause (the Taxpayer's share of the net profit or loss in ... Company for the year 2016) in that the Authority did not allow the discount due to the lack of a balance on the financial statements. The Authority's appeal lies on the clause (Investment in local subsidiaries for the year 2017), where it states that what the Taxpayer claims to deduct the value of accumulated losses within the investments has been deducted in the invested company, and the clause (foreign currency translation reserve) because it did not allow the deduction of the currency translation reserve from the zakat base because it is not deductible and there is no provision in the Zakat Collection Regulation issued in 1438 AH to deduct it. Since the Appellate Committee found that the Taxpayer provided proof of the investment's recommendation, what is related to it is also subject to the same ruling. This means that the Authority's appeal is dismissed, and the Taxpayer's appeal is dismissed.

Document:

- Article (3) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 30/01/2023 AH, from (...), National ID No. (...), as an agent of the appellant company under agency No. (...), was considered.), and the Zakat, Tax and Customs Authority (ZTA), on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2600) issued in Case No. (Z-2021-78231) related to the Zakat assessment for the years 2016 to 2018, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: dismissed the plaintiff's objection to the provision of taking into account the plaintiff's share of profit or loss in foreign subsidiaries for the years 2016 to 2018, and dismissed the plaintiff's objection with respect to not taking into account the plaintiff's share of the net profit or loss in ... Company for 2016 and 2017.

Second: accepting the plaintiff's objection to the foreign currency translation reserve clause for the years 2016 to 2018.

Third: rejecting the plaintiff's objection to the foreign investment clause for the years 2016 to 2018.

Fourth: rejected the plaintiff's objection to the clause of accrued board fees and the amount owed to related parties outstanding for more than 12 months for 2017 and 2018.

Fifth: accepting the plaintiff's objection to the investment in local subsidiaries clause for 2017.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer claims that the Authority did not allow adjustments to the net profit of the company for its share in the profit and loss of foreign investments in the results of subsidiaries, and did not take into account the entire share in companies (... - Lebanon), (... - Syria) the Taxpayer points out that for the year 2016, the deduction was not allowed due to the lack of a balance in the financial statements, while for 2017, the Authority did not take into account the closing balance of the deducted investments and added SR (55,951) to the adjusted net profit. The Taxpayer requests that the full amount of the share in all subsidiaries for the years 2016 through 2018 be taken into account. With regard to the clause (foreign investment), the Taxpayer requests the cancellation of the Circuit's decision on this clause on the basis of not deducting the foreign investment for the years 2016 to 2018, as the Taxpayer indicates that he submitted the audited financial statements for the disputed years and submitted the calculation of zakat for foreign investments, and provided the mail proving that the Taxpayer paid the outstanding zakat liability in the amount of (519,359) riyals, and adds that the Circuit will allow the deduction of foreign investments from the zakat base based on the explanations and documents submitted by the Taxpayer. Regarding the clause (Accrued expenses and amounts due to related parties), the Taxpayer requests that the Circuit's decision on this clause be canceled



on the basis of the objection filed by the company before the Authority against the rulings issued by it, on the grounds that the amounts added to the Zakat base were not used to finance fixed assets.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (foreign currency translation reserve), so the Authority explains that it did not allow the currency translation reserve to be deducted from the Zakat base because it is not deductible and there is no provision in the Zakat Collection Regulation issued in 1438 AH to deduct it during the stage of studying the objection, the Authority held a hearing with the Taxpayer on 18/08/2021 AD, in which he stated in accordance with what was stated in his objection letter, and the Authority asked him to provide a simple definition of the foreign currency translation reserve from its inception to its use and its daily restrictions, and after studying and reviewing it, it was found in addition to what has been clarified above, the Authority would like to state that the Zakat Collection Regulation in its Article (4) specifies the clauses that are deducted from the Zakat base, and there is no provision for deducting the currency translation reserve with regard to the Circuit's reasoning, the Authority responds that it is incorrect and contrary to the statutory requirement, and the Circuit issuing the decision under appeal overturned the Authority's decision as it took into account the results of the foreign currency translation valuation the reason for not deducting foreign investments within the elements of the Zakat base is that the foreign financial statements have not been approved by the official authorities in the country of investment, as the actual calculation or payment of Zakat has not been proven, which is represented in the investments since the foreign currency translation reserve clause is directly related to the clause of recognizing gains or losses from a foreign investment that was not deducted within the Zakat base for the reasons referred to above, as the decision of the Adjudication Circuit is not based on fact or reality, so how can the gains or losses incurred from foreign investments that have not been accepted and the impact resulting from these differences be recognized? In addition, the Circuit's decision referred to its reliance on Article (IV) paragraph (h) of the Zakat Regulation does not apply to the clause as it is related to the results of revaluation of securities from profit or loss according to the market value, while the clause is related to foreign investments that have not been accepted, which supported the Authority's action in the third clause of the same decision. Regarding the clause (Investment in local subsidiaries), the Authority states that it deducted the balance of the first period of investments after adding the additional contribution to the capital during the year (61,633,888) SAR for the year 2017, and after studying and reviewing the movement of investments for the company's factory ... After reviewing the financial statements of the subsidiary company, it turns out that the Taxpayer owns it 100%, as the Taxpayer reported that there is a bend in the zakat, and therefore the subsidiary's declaration was reviewed and found to be (zero) and did not pay zakat during the year under objection, and the losses carried forward at the beginning of the year amounting to (78,366,111) riyals were deducted from the zakat base, and by reviewing the list of changes



in equity in the subsidiary company, where this loss appears at 50 million, so Therefore, it is clear that the Taxpayer used the amount of 50 million to reduce the beginning balance of the period from the accumulated loss, from which the subsidiary benefited by fully deducting it in its Zakat base as explained above. In addition, the Taxpayer benefited from the net loss of SAR (19,439,700) by adjusting the net profit in the assessment. Therefore, it is clear that the amount of

50 million has not been subjected to Zakat twice and Zakat has not been paid on it to be deducted from the Taxpayer's Zakat base, in addition to not representing an additional investment as shown in the financial statements. In light of what has been detailed above and based on the provisions of paragraph (A/4) of Article (4) of the Zakat Collection Regulation issued in 1438 AH. As for the Circuit's findings, the Authority responds that they are incorrect and contrary to the statutory requirement, as the Circuit issuing the decision under appeal annulled the Authority's decision by stating that the investee company is subject to the collection of Zakat in the Kingdom. The Authority responds that after reviewing the financial statements of the investee company (International Company Factory ...) With unique number (...), it is clear that the disputed company owns 100% according to Note (13). By reviewing the list of changes in equity of the investee company, it is clear that the value of the accumulated losses at the beginning of the year is (78,366,111) riyals, and it is clear that there are losses borne by a related party (the Appellee) amounting to (50,000,000) riyals. With reference to the assessment approved by the Authority in the investee company, it turns out that the accumulated losses were treated according to the assessment of the Authority, i.e. After the Authority's adjustments to the adjusted net profit without deducting the loss coverage of the accumulated losses provided by the Taxpayer, and therefore it clarifies what was approved from the deduction of the accumulated losses in the investee company based on Article (3/II) paragraph (9) amounted to (26,273,634) riyals and therefore what the Taxpayer did was to cover the accumulated loss but it turns out that the deduction of the entire loss in the investee company (the company's factory) Therefore, the Taxpayer's claim to deduct the value of the accumulated losses within the investments has been deducted in the investee company, in addition to the fact that the amount of covering the accumulated losses does not represent an additional investment as it is in the financial statements, and the Authority's treatment of the investment in the investee company (the International Company Factory ...) With the addition of the first period and the additional financing in addition to a share of the year's loss, and based on the above, the Authority maintains the validity and soundness of its procedure, based on Article (4) paragraph (4/a) of the Zakat Regulation issued in 1438 AH.

On Wednesday, March 13, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the



papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the subject of the Authority's appeal regarding the clause (Investment in local subsidiaries for the year 2017), the Authority states that it deducted the first period balance of investments after adding the additional contribution to the capital during the year (61,633,888) SAR for the year 2017. Based on paragraph (4/b) of clause (second) of Article (4) of the executive regulations for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The following shall be deducted from the zakat base:" 4- (A): investments in establishments inside the Kingdom - joint venture with others - if those investments are subject to the collection of Zakat under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." The Circuit considered the subject of the dispute, and with reference to the supplementary memorandum submitted by the Authority, it stated that with reference to the declaration of the subsidiary company, which is the factory of ... Company according to Article (3) of the Executive Regulations for Zakat Collection, it turns out that the accumulated losses were processed according to the Authority's assessment, i.e. After the Authority's adjustments to the adjusted net profit, where the carried forward and adjusted losses after the Authority's adjustments amounted to (29,426,554.88) SAR, based on Article (3) of the Executive Regulations for Zakat Collection, it turns out that the deduction of the entire loss in the investee company (the company's factory ...) Was utilized therefore, what the Taxpayer claims to deduct the value of the accumulated losses within the investments has been deducted in the invested company, and therefore the amount of (50) million has not been subjected to Zakat twice and Zakat has not been paid on it to be deducted from the Taxpayer's Zakat base, in addition to not representing an additional investment as shown in the financial statements, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause "Investment in local subsidiaries for 2017." The Circuit concludes that the Authority's appeal should be accepted and the decision of the Adjudication Circuit should be overturned.

Regarding the Taxpayer's appeal regarding the clause (excluding the share in the results of subsidiaries), the Taxpayer claims that the Authority did not allow adjustments to the company's net profit by its share in the profit and loss of foreign investments in the results of subsidiaries, and by not taking into account the full



share in companies (... - Lebanon), (... - Syria) on the basis that these investments are not discount clauses, and the Authority did not allow adjustments to the net profit of the company with its share in the loss of the company ... The Taxpayer points out that for the year 2016, the discount was not allowed due to the lack of balance in the financial statements for 2017 on the basis that the Authority did not take into account the closing balance of the discounted investments and added (55,951) SAR to the adjusted net profit and the Taxpayer demands that the full share amount be taken into account in all subsidiaries for the years 2016 through 2018. Whereas paragraph (107) of the Accounting Standard for Equity Method Investments issued by the Accounting Standards Committee in 1423 AH (2002) stipulates that "An investment shall be measured, recognized and disclosed in the financial periods following the date of acquisition at its historical cost, adjusted for the investee's net income (loss) and dividends." Based on the above, with respect to (foreign investment in subsidiaries), namely (... Company limited (... -Lebanon) and a ... (Syria), where the Authority stated that it did not accept the deduction of this investment because it is a foreign investment that has not been recommended, and where the decision of the Circuit concluded to reject the Authority's appeal regarding the clause Foreign Currency Translation Reserve for the years 2016, 2017 and 2018, as the Taxpayer provided proof of the recommendation of the investment and therefore what is related to it follows its judgment, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding (foreign investment in subsidiaries). Regarding the Taxpayer's appeal regarding the clause (Taxpayer's share of the net profit or loss in ... Company the Authority explained that it accepted the discount during the examination phase and stated that the company is registered with the Authority and the financial statements of the subsidiary did not show any first period balance for the year 2016, and upon reviewing the financial statements of the Taxpayer, it found that the investments in 2016 amounted to (490,763) SAR, as the Taxpayer submitted the financial statements and a balance appeared in Note No. 6, the Authority accepted the discount for 2017, but the adjustment was not made for 2016 because there was no balance for this year other than what was shown in the financial statements, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding (the Taxpayer's share of the net profit or loss in a company .. For 2016).

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit



concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal filed by the Zakat, Tax and Customs Authority against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2600) issued in Case No. (Z-2021-78231) related to the Zakat assessment for the years 2016 to 2018.

Secondly: On the merits:

1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (rejecting the appeal regarding the foreign currency translation reserve clause for the years 2016, 2017 and 2018).

2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Investment in local subsidiaries for the year 2017".

3- Regarding the Taxpayer's appeal on the clause (excluding the share in the results of subsidiaries for the years 2016, 2017 and 2018):

A. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (foreign investment in subsidiaries).

B. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (the Taxpayer's share of the net profit or loss in ... Company for 2016).

C. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (the Taxpayer's share of the net profit or loss in ... Company for the year 2017).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (foreign investment for the years 2016, 2017 and 2018).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (accrued expenses and amounts owed to related parties for 2017 and 2018).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-191526

Case No. Z-2023-191526

Keywords:

Zakat – Deductions from the Zakat Base – Unutilized lands in the main activity of the Taxpayer –
Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (ITR-2023-97448), where his appeal lies on clause (Lands for the year 2018 – Land ...) This is because the authority did not deduct the lands from the zakat base despite meeting the deduction conditions. The appellate committee established that the Taxpayer provided a copy of the contracts of the company's employees residing in the residential villa and a copy of their housing receipt as well as copies of their residency permits for the villa land ... Also, the deed of transfer was completed in the year 1434 AH. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 04/04/2023 AD, by (...), National ID No. (...), as an agent under agency No. (...), and law license No. (...), against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2023-97448) issued in Case No. (Z -2022-97448) related to the 2018 Zakat assessment, in the suit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Acceptance of the plaintiff's objection/ Company ... (Business Register...) The decision of the defendant/Zakat, Tax and Customs Authority is upheld procedurally and rejected in substance. As this decision was not accepted by the Taxpayer (... Company), he filed an appeal list, which was reviewed by the



Circuit, where the Taxpayer's appeal is based on the clause (Lands for 2018 - Land ...) The Taxpayer explains that the Authority did not deduct the lands from the Zakat base amounting to (11,034,636).the Taxpayer explains that the Authority did not deduct the lands from the Zakat base amounting to (11,034,636) despite their compliance with the conditions for deduction based on the Zakat collection regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH. The Taxpayer indicated that the lands were purchased for the purpose of using them in the main activity of the company in the contracting sector and not for trading, as they are used in the company's activity as warehouses, administrative buildings and housing for employees. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. On Saturday, 08/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated:08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal is based on the fact that the Authority did not deduct the lands from the Zakat base amounting to (11,034,636) despite their compliance with the conditions for deduction, and based on paragraph (1) of clause (2) of Article 4 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which stipulates that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: Net value of fixed assets (capital assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity," based on paragraph (3) of article (20) which states: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it," Based on the above, it became clear to the circuit that the dispute lies in the authority's failure to deduct the lands due to their non-utilization in the main activity of the company, while



the Taxpayer claims that they are utilized in the activity, and after reviewing the case file, the authority indicated in its response memorandum that the description of the property in the real estate evaluation submitted by the Taxpayer showed that the properties are for personal use, and a copy of the contracts of the company's employees residing in the residential villa and a copy of their housing receipt as well as copies of their residency permits for the villa land (...) Was provided. Also, the deed of transfer was completed in the year 1434 AH, which leads the circuit to partially accept the Taxpayer's appeal and amend the decision of the adjudication circuit regarding this clause by accepting the Taxpayer's appeal concerning the land (...). With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial register (...) Number distinctive (...) Against the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (ITR-2023-97448) issued in case number (Z-2022- 97448) related to the zakat assessment for the year 2018.

Second: On the Merits:

1- A - Accept the Taxpayer's appeal and annul the decision of the adjudication circuit regarding clause (Lands for the year 2018 – Land ...).

B - Reject the Taxpayer's appeal and uphold the decision of the adjudication circuit regarding clause (Lands for the year 2018 – Remaining lands)

2 - Reject the Taxpayer's appeal and uphold the decision of the adjudication circuit regarding clause (Advance payments from customers for the year 2018).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR -2024-178373

Case No. Z-2023-178373

Keywords:

Zakat - Deductions from the Zakat base - Land and real estate registered in the name of the partner -
Accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first division regarding violations and disputes of income tax in Riyadh number (IFR-2022-2485), where his appeal lies in clause (the zakat base for foreign investments for the year 2018) as he objects that zakat on long-term foreign investments is on the profit and not the principal investment, and clause (lands and properties registered in the name of the partner for the years 2017 and 2018) as he claims to have submitted supporting documents for the transfer of ownership. And where the appellate committee established the permissibility of deducting the assets in the name of the partners from the zakat base, provided that these assets are used in the activity with proof submitted, and since the dispute over this clause is a documentary dispute, and after reviewing the case file and the documents it contains, it appears that the Taxpayer has submitted the lease contract for the villa, a property inventory, and a copy of the ownership deeds, and where the transfer of ownership to the company has been proven ... (the Taxpayer). Consequently; the Taxpayer's appeal is accepted and the decision of the division is canceled.

Document:

- Paragraph (4/2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 15/02/2023 AD, from / ..., National ID No. (...) Was considered as the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 16/02/2023 AD against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2022-2485) issued in Case No.



(Z-2021-80471) related to the Zakat assessment for the years 2017 and 2018, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: the decision of the defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Relating to the clause of the plot of land registered in the name of the partners for the year 2018, which is the subject of the lawsuit.

Secondly: the decision of the defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Related to the real estate investment clause at issue in the lawsuit.

Third: rejecting the other objections of the plaintiff/company ... (unique number...) On the decisions of the defendant/Zakat, Tax and Customs Authority related to the assessment at issue in the lawsuit.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, he claims that the Circuit's decision indicated that the company did not provide the movement of the disputed loans and accounts receivable to prove that they did not turn over, and never referred to the documents and explanations provided by the company, which are as follows: The Taxpayer's appeal relates to the clause (Zakat base for foreign investments for the year 2018):

The Circuit's decision did not address the Sharia principles on which the company relied in the mechanism of calculating Zakat on foreign investments, since Zakat is a devotional obligation and a pillar of Islam, and its law issued by royal decree requires it to be collected in accordance with the provisions of Islamic Sharia, and whether it is obligatory or not is proven by Sharia evidence from the Holy Qur'an, the Sunnah of the Prophet and the consensus before accounting standards and tax laws, and since Zakat is not obligatory in investments and assets intended for qania, but is obligatory in the profits of these investments and not their origin, and this is reinforced from the legal aspect by the fatwas issued by the Permanent Committee for Scientific Research and Iftaa No. 18680, question two, and Fatwa No.(19643), question five, all of which indicate that when a company owns a group of shares in other companies outside the Kingdom for the purpose of investing them for acquisition, zakat is payable on their profit and is deducted from the base, and no zakat is payable on the original investment intended for acquisition. In line with this, the explanatory guide to the Zakat Collection Law issued by the General Secretariat of Tax Committees in Resolution No. (IR -2020-61) supported that zakat on long-term foreign investments is on the profit and not the principal of the investment. The Circuit only requested the submission of the movement of loans and credit balances to confirm that a year has not passed on these balances at the request of the Defendant (the Authority). It also did not take into account that the investee company is a company based in a foreign country and listed on the stock market in the Republic of Singapore, and its accounts are not prepared to prepare such



statements for the purposes of collecting Zakat, which is not considered a statutory requirement in that country, but disclosures and financial statements are prepared based on the requirements of the stock market and government agencies in Singapore only. These companies do not cooperate with the investors' request for different disclosures and disclosures that are not compatible with the requirements of the government agencies in Singapore. The Circuit's decision also did not address that the audited financial statements of this investment have been attached as well as the Zakat calculation certified by the Chartered Accountant, and the Circuit's mere endorsement of the Zakat calculation issued by the Authority will lead to Zakat on money that is not subject to Zakat, which is contrary to the principles and legal provisions for the collection of Zakat. Regarding the Taxpayer's appeal regarding the clause (land and real estate registered in the name of the partner for the years 2017AD and 2018AD), the Taxpayer explained that the Circuit's decision referred to the failure to provide proof of the partner's payment of rents, and that the partner's current account corresponding to these assets has been added accordingly and not because he financed these assets, and the Circuit did not take into account the points mentioned below: the decision did not address that these properties are credited against the partner's current account prior to 2017, and this is proven by the financial statements, as there are no additions to the properties registered in the name of the partner during 2017 and 2018, and therefore these properties must be deducted as they are within the limits of the partner's current account added to the base based on the decision of the Director General of the Authority No. (1413/1) and the decision of the Appellate Committees based on Circular (35/1) dated 02/03/1413 AH paragraph (18), the ownership of these properties was transferred in the name of the company in 2020 AD, and the Authority and the Circuit were provided with the title deed proving the transfer of ownership, as well as the lease contract for the year 2020 AD, and it is clear from this that the Circuit was incorrect in refusing to deduct this property from the Zakat base based on the above-mentioned reasons, and therefore the Taxpayer requests that the decision of the Circuit of Determination of the clauses under appeal be overturned for the above reasons. This decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit and included the following statement: The Authority requests that its appeal be accepted and that the decision of the Appeals Circuit be overturned.

On Thursday, on: 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, and the papers and documents contained in the case file, and at this session, the Circuit reviewed the request for postponement attached to the case file by the Authority. Accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024 AD, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024 AD, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the



documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

On Saturday, on: 07/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

On Tuesday, on: 25/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal relates to the clause (Zakat base for foreign investments for 2018), where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that zakat on long-term foreign investments is on the profit and not the principal of the investment. Based on paragraph (4/b) of clause (second) of Article (4) of the executive regulations for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. Based on the above, and where the Taxpayer has the right to deduct foreign investment from their zakat base, provided that they comply with what is stated, which is to submit to the authority audit



accounts from a certified accountant in the country of investment, in order to calculate the zakat due on these investments and submit it to the authority, and then deduct those investments from the invested company's base to avoid zakat evasion, and since the dispute over this clause is a documentary dispute, and it has become clear that the Taxpayer has submitted the financial statements of the company for the disputed year 2018 and the invested company, as well as the calculation issued by a certified accountant for the zakat due on foreign investments, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the adjudication circuit regarding this clause.

Regarding the Taxpayer's appeal regarding the clause (lands and real estate registered in the name of the partner for the years 2017 and 2018), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims to have submitted documents supporting the transfer of ownership. Based on paragraph (Second/1) of Article (4) of the executive regulation for zakat collection issued by ministerial decision number (2082) dated 1/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: Net value of fixed assets (capital assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity." And where the appellate committee established the permissibility of deducting the assets in the name of the partners from the zakat base, provided that these assets are used in the activity with proof submitted, and since the dispute over this clause is a documentary dispute, and after reviewing the case file and the documents it contains, it appears that the Taxpayer has submitted the lease contract for the villa, a property inventory, and a copy of the ownership deeds, and where the transfer of ownership to the company has been proven ... (the Taxpayer), resulting in the Circuit's decision to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

Regarding the Authority's appeal regarding the clause (the plot of land registered in the name of the partners for the year 2018), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Circuit the Authority's request to leave the appeal as stated in the letter it issued in the appended note, which includes the following: "The Authority informs the Honorable Circuit that it



has left its appeal regarding the above-mentioned clause set out in the decision referred to, as well as the procedures resulting from the appeal of the Authority..." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Taxpayer's and the Authority's appeal on the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them, it is clear that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the adjudication Circuit with respect to the rest of the clauses in the case, in accordance with its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-2485) issued in case number (Z-2021-80471) related to the zakat assessment for the years 2017 and 2018.

Second: On the Merits:

- 1- Accepting the withdrawal of the lawsuit regarding the authority's appeal on the clause (the piece of land registered in the name of the partners for the year 2018).
- 2- Rejecting the authority's appeal and upholding the decision of the adjudication circuit regarding the clause (real estate investments for the year 2018).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the clause (the zakat base for foreign investments for the year 2018).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (short-term loans for the year 2017).



5- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (investments registered in the name of the partner (Prince Mohammed University) for the years 2017 and 2018).

6- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the clause (lands and properties registered in the name of the partner for the years 2017 and 2018).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-168952

Case No. Z-2023-168952

Keywords:

Zakat - Deductions from the Zakat Base - Calculation of Fixed Assets - Accepting the Authority's Appeal -
Accepting the Taxpayer's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority objected to the decision of the First Circuit for adjudicating income tax violations and disputes in Jeddah governorate No. (IZJ-2022-2443), where the Taxpayer's appeal lies on the clause (Investments for 2015 (a) shares of Bank ...) That's because the shares in Bank of... (A company listed on the Saudi Stock Exchange) are investments that meet the conditions for deduction from the base according to the Executive Regulations for Zakat collection. The Authority's appeal lies on the clause (Fixed Assets for 2015) according to the following reasons that the Taxpayer's calculation of fixed assets and depreciation difference is incorrect according to Table No. (4), so the Authority maintains the correctness of its procedure in approving fixed assets according to the financial statements. The Appellate Committee found that the Taxpayer's calculation was incorrect because the initial committee, which was supported by the Appellate Committee, examined the statement submitted by the Taxpayer and found that his calculation was incorrect. This means accepting the appeal of the authority and accepting the appeal of the Taxpayer.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (7) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article(20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 11/01/2023 from (...), National ID No. (...), as an agent of the appellant company under the agency (...), and the appeal filed on 12/01/2023 from the Zakat, Tax and Customs Authority.), and the appeal filed on 12/01/2023 from the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2443) issued in Case No. (Z-2021-68548) related to the 2015 Zakat assessment, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: rejecting the plaintiff's objection to the clause of withdrawals to the partners from the profits carried forward.

Second: accept the plaintiff's objection to the fixed assets clause.

Third: deny the plaintiff's objection to the creditors clause.

Iv: a. Rejecting the plaintiff's objection to the shares clause .

B. Reject the plaintiff's objection to the (...) Clause.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal is regarding the clause "Investments for 2015 (a) Bank of ... Shares" that the shares in Bank of ... (a company listed on the Saudi stock market) are investments that meet the conditions for deduction from the base according to the Executive Regulations for the Collection of Zakat, and states that proof was provided to the Authority and the portfolio account statement issued by Riyadh Capital in addition to the financial statements' note related to the clause, he points out that, despite this, the regulation issued in 1438 AH was issued after the declaration was submitted. The Taxpayer also objects to the clause (Withdrawals to the partners from the carried forward profits for the year 2015), the clause (Creditors for the year 2015) and the clause (Investments for the year 2015 (b) shares of a company .accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal with regard to the clause (Fixed Assets for 2015) lies in the fact that it discounted the fixed assets according to the approved financial statements because the Defendant is a Zakat Taxpayer and used the fixed premium in depreciation with reference to the rejection of the appeal in a previous decision for adding depreciation differences in excess and noting that he did not calculate the depreciation difference correctly and discounted assets for more than their book value in subsequent years, during the objection phase, a meeting was held with the Taxpayer on 21/6/2021, and he was asked to submit Table No. (4) showing the assets



and their depreciation, and the Authority's action was upheld for the same Taxpayer by Appeal Decision No. (IR-2020-61) issued in Case No. (Z-2018-1602) for the same Taxpayer. In addition, the Taxpayer's calculation of the fixed assets and depreciation difference is incorrect according to Table No. (4), and therefore the Authority maintains the correctness of its procedure in approving the fixed assets according to the financial statements, as it is more accurate in calculating the real amount of net fixed assets and preventing the Taxpayer from calculating fixed assets greater than their value, whereas, the Taxpayer did not submit a settlement in the calculation of fixed assets in accordance with the aforementioned appeal decision until 2015 in order to be reviewed and audited by the Authority and continued his incorrect calculation in the years following the decision issued against him, and based on these facts, the Circuit issuing the decision canceled this clause because the Authority did not provide proof that the appellant's calculation was incorrect, and the Authority responds that the Circuit's conclusion is incorrect, whereby by reviewing the course of the Taxpayer's objection, it is clear that the Authority through its study of the objection submitted by the Taxpayer before its submission to the General Secretariat was requested to submit Table 4 (Statement of assets and depreciation of the Taxpayer...) The Taxpayer submitted this, and after the Authority reviewed the objection and its annexes, it was found that there was an Appeal Decision No. (61) of 2020 AD that upheld the Authority's decision in 2008 AD for the same Taxpayer (.... Company), as mentioned above. Accordingly, the Authority adheres to the validity and integrity of its procedure and requests the decision of the Circuit of Adjudication on the clauses under appeal for the above-mentioned grounds.

On Sunday, January 28, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.



On the merits, regarding the Authority's appeal regarding the clause (Fixed Assets for 2015), and where its appeal is that the Taxpayer's calculation of fixed assets and depreciation difference is incorrect according to Table 4, the Authority maintains the correctness of its procedure in recognizing fixed assets according to the financial statements, as it is more accurate in calculating the real amount of the net fixed assets. Where paragraph (2) of Article (7) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: Where paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, it is clear that the dispute lies in the Authority's procedure of discounting the fixed assets according to the approved financial statements as the Defendant is a Zakat Taxpayer and using the fixed premium in depreciation based on the Taxpayer's incorrect calculation of the depreciation difference in the correct form and his discounting of assets greater than their book value. A review of the case file reveals that the Taxpayer did not submit his calculation of fixed assets and depreciation difference in light of a previous decision (IR-2020- 61) issued against him⁶¹) mentioned above, where it was proven that the Taxpayer's calculation was incorrect, as the First Instance Committee, which was supported by the Appellate Committee, examined the disclosure submitted by the Taxpayer and found that his calculation was incorrect, so the burden of proof in the case under consideration lies on the Taxpayer to prove the correctness of his calculation, and the Authority indicated that the Taxpayer did not submit a settlement in the calculation of fixed assets in accordance with the aforementioned appeal decision until 2015 to be reviewed and audited by the Authority and continued his incorrect calculation in the years following the decision issued against him, this does not affect the Circuit's acceptance of the Taxpayer's objection based on the non-retroactivity of laws, as the regulation issued in 1438 AH supersedes all previous decisions and circulars related to the collection of Zakat, and therefore, since the Taxpayer did not provide proof that his calculation is correct, the Circuit concludes to accept the Authority's appeal and annul the decision of the Circuit in this clause.

With regard to the Taxpayer's appeal regarding the clause (Investments for 2015 (a) Bank shares...), his appeal is that the shares in a bank (a company listed on the Saudi stock market) are investments that meet the conditions for deduction from the base according to the Executive Regulations for Zakat collection, and he states that proof was provided to the Authority and the portfolio account statement issued by Riyadh Capital as well as the financial statement clarification related to the clause. Article (4), clause (II), paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH stipulates that "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments



within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on the above, two basic conditions must be met for investments to be considered as Acquisition offers and may be deducted from the Zakat base, namely the documented intention of the authority holder that clarifies the intention of the investment, and the absence of sales made during the year on those investments, and by reviewing the case file, it appears that the Taxpayer submitted Note (15) of the financial statements related to investments, which showed that the shares of... Bank are (1,200) shares and no movement has been made on them for two consecutive years, namely 2014 AD and 2015 AD... The Taxpayer also submitted an extract from the system with the investment income from 2007 to 2016 and showed that there was no sale on the shares, so it is clear that the shares of the bank ... There is no intention to sell based on the documents submitted, which leads the Circuit to accept the Taxpayer's appeal and overturn the decision of the Adjudication Circuit in this clause

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2443) issued in case number (Z-2021-68548) related to the zakat assessment for the year 2015.

Secondly: On the merits:

1-Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the 2015 Fixed Assets clause.



2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Withdrawals to the partners from the 2015 carry-over profits).

3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the 2015 creditors.

4- Regarding the Taxpayer's appeal on the clause (Investments for 2015):

A- Accepting the appeal and canceling the decision of the Adjudication Circuit with respect to the clause (Bank shares...).

B- Rejecting the appeal and upholding the decision of the Adjudication Circuit with respect to the clause (shares of a company...)



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-196545

Case No. Z-2023-196545

Keywords:

Zakat - Deductions from the Zakat Base - Exclusion of land registered in the name of partners - Rejection of Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appealed the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (ITR-2023-96697), as its appeal is based on the clause (investments), because when assessment, it deducted real estate investments and the investment in a tower was not deducted (...) The clause (Exclusion of lands registered in the name of the partners) because it excluded the lands because they are not in the name of the company, and when studying the objection, the Taxpayer provided a copy of the land deed in Hayy Laban and maintained his objection that if the lands are not resolved, they should also be excluded from the partners' neighbors. The Appellate Committee found that the Authority partially abandoned the appeal in the amount of SR (29,320,296). Regarding the difference of SAR 34,610,618, it was proven that the Taxpayer provided a declaration from the partners that the land belongs to the company and that there are ongoing development operations on these lands. This means rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit in the amount of SAR 34,610,618, and accepting the appeal for (Investments).

Document:

- Paragraph (2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 07/05/2023 by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2023-96697) issued in Case No. (Z-2022-96697) related to the 2018 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



First: Procedurally: accepting the plaintiff's objection/...(distinctive number (...)) On the decision of the Defendant/Zakat, Tax and Customs Authority.

Secondly: On the merits:

1- Revoke the defendant's action with respect to the exclusion of land registered in the name of partners for the year 2018.

2- Revoke the defendant's action regarding the 2018 investments clause worth SR 990,461.

3- Dismissing the plaintiff's objection with regard to the partners' current clause for the year 2018 amounting to SAR 112,837,242.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority objects to the decision of the Adjudication Circuit, claiming that with regard to the clause (exclusion of lands registered in the name of the partners), the Authority clarifies that when assessment, it excluded the lands because they are not in the name of the company, and when examining the objection, the Taxpayer provided a copy of the land deed in the Laban neighborhood and maintained his objection that if the lands are not resolved, they should also be excluded from the partners' streams referring to the company's activity, it is clear that it consists of establishing and developing housing, entertainment, commercial and industrial projects and selling or leasing them for the benefit of the company, buying land to erect buildings on it by selling or leasing it for the benefit of the company, and owning and selling real estate for the benefit of the company, i.e. They are trade offers and not technical offers as they are intended for sale and therefore are not deducted from the base

In addition to the fact that they are not in the name of the company but in the name of the partners, as shown in Note No. (8) of the financial statements and instruments submitted by the Taxpayer, and they correspond to an activity of the Taxpayer, which is the purchase and sale of land and real estate, which means that they are goods even if their stay in the books of the Taxpayer exceeds more than a year, as they are in this case current assets intended for sale and the period of their stay with the company depends on supply and demand factors in the market, as two basic conditions must be met to consider such investments as long-term investments, namely the availability of documented intention of the authorized person before the decision to invest and the absence of trading operations that took place during the year on these investments in response to the Taxpayer's list, the Authority responds that the land that is not in the name of the company and whose ownership has not been transferred according to the latest financial statements has been excluded, and since the land that the company claims to deduct from the Zakat base is not in the name of the company and is not used in the activity, the Taxpayer's objection is rejected based on Article (IV/1) of the Executive Regulations governing the collection of Zakat. Regarding the "Investments" line clause, the Authority discounted real estate investments at the time of assessment and did not discount the investment in the ... In Cairo Square for failure to provide documents and its purpose, which was discussed on 5/10/2021 AD, and the draft assessment was sent on 27/10/2021 AD, and due to the failure to provide data supporting his point of view and the failure to respond to the previously requested data attached to his objection, the Taxpayer's objection was rejected based on Article (20/3) of the executive regulations



regulating the collection of Zakat as for what the Taxpayer referred to in his claim list, it is not legally valid for what the Authority explained above, and there is no validity to what he addressed in his list, as it is not based on valid evidence that can be relied upon, and as for the Circuit's recommendations, the Authority answers that they are incorrect and contrary to the statutory requirement, and the Authority maintains the validity and soundness of its procedure.

On Sunday, 16/07/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, with regard to the Authority's appeal with regard to the clause (exclusion of land registered in the name of the partners), the Authority clarifies that at the time of assessment, it excluded the land because it was not in the name of the company. When examining the objection, the Taxpayer provided a copy of the land deed in the Laban neighborhood, and maintained his objection that if the lands are not excluded, they should also be excluded from the partners' current account. With reference to the company's activity, it is clear that it is to establish and develop housing, entertainment, commercial and industrial projects and sell or lease them for the benefit of the company, buy land to construct buildings thereon by selling or leasing for the benefit of the company, and own and sell real estate for the benefit of the company, i.e. They are trading deals and not acquisition deals as they are intended for sale. Therefore, they are not deducted from the Zakat base, in addition to the fact that they are not in the name of the company but in the name of the partners, as explained in Note (8) in the financial statements and instruments submitted by the Taxpayer. It also corresponds to the Taxpayer's activity of buying and selling land and real estate, which means that it is a commodity even if its stay in the Taxpayer's books exceeds more than a year, as it is in this case a current asset intended for sale and the period of its existence with the company depends on supply and demand conditions in the market. In addition, two basic conditions must be met for such investments to be considered long-term investments: The existence of a documented intention of the authorized party prior to the issuance of the decision on the investments, and the absence of trading operations during the



year on these investments, which the company did not comply with. It turns out that part of the land has been disposed of. In response to the Taxpayer's statement, the Authority responds that the land that is not in the company's name and whose ownership has not been transferred according to the latest financial statements has been excluded; given that the land that the company claims to deduct from the Zakat base is not in the name of the company and is not used in the activity; the Taxpayer's objection was rejected based on Article (IV II/1) of the Executive Regulations governing the collection of Zakat. Based on paragraphs (1) and (2) of Clause (II) of Article (IV) of the Executive Regulations for the Collection of Zakat, which stipulates the following: "The following is deducted from the Zakat base: 1- Fixed assets, which include the following: The net value of fixed assets (capital assets) and any payments for purchasing fixed assets and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer (unless there is an obstacle preventing the transfer of ownership) and that they are used in the activity." 2- The Taxpayer's capital construction in progress, which is constructed for use in the activity and not for sale." based on the above, it appears that the assets in the name of the partners may be deducted from the Zakat base provided that these assets are used in the activity with proof of the justifications that prevent the transfer of ownership to the company. The Circuit reviewed the case file and the documents it contained, and found that the Authority partially abandoned the appeal in the amount of (29,320,296 riyals). Regarding the difference amounting to SAR 34,610,618, and the Taxpayer provided a declaration from the partners that the land belongs to the company and stated in his reply memorandum that there are ongoing development operations on these lands, noting that the Taxpayer's activity, according to the commercial register attached to the adjudication stage (Real Estate Register 1444), "is to establish and develop residential, recreational, commercial and industrial projects, sell and lease them for the benefit of the company, purchase land to erect buildings on it by selling or leasing for the benefit of the company and own and sell real estate for the benefit of the company..." therefore, the Circuit must accept the partial dismissal of the appeal in the amount of (SAR 29,320,296), reject the Authority's appeal, and uphold the decision of the Adjudication Circuit in the amount of (SAR 34,610,618).

Whereas, with regard to the Authority's appeal regarding the clause (Investments), the Authority, at the time of assessment, discounted real estate investments and did not discount the investment in a tower ... Due to the failure to submit the documents and their purpose, which was discussed on 5/10/2021, and the draft assessment was sent on 10/27/2021, and due to the failure to provide data supporting his point of view and the lack of

The Taxpayer's objection was rejected on the basis of Article (20/3) of the Executive Regulations governing the collection of Zakat. As for what the Taxpayer referred to in his claim list, it is not legally valid due to what the Authority explained above, and there is no validity to what he addressed in his list, as it is not based on valid evidence that can be relied upon, and with regard to the Circuit's recommendations, the Authority responds that they are incorrect and contrary to the legal requirement, and the Authority upholds the



validity and integrity of its procedure. Based on paragraph (4a) of Article 4 (ii) of the Executive Regulations for Zakat Collection, which stipulates the following: "The following shall be deducted from the zakat base:"

4- (A): investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, if the investment in those establishments is not subject to collection, it is not deducted from the base." Based on the above, where two basic conditions must be met for investments to be considered as Acquisition offers and may be deducted from the zakat base, namely the documented intention of the authority holder that clarifies the intention of the investment, and the absence of sales made during the year on those investments Whereas the Circuit found that there was no movement on the investments of the ... Tower project for the year (2018 AD), but the Authority referred to the financial statements for the subsequent year (2019 AD). And found that there was a sale movement on these investments, indicating that the subsequent year is considered revealing of the company's intention towards the project and stating that it turned out to be for sale, and upon reviewing the case file, the Circuit found that the appellant against her submitted an account of the investment from the ledger for only one year the appellant did not clarify the years he owned this investment and what his intention was, especially since in the year after the year of the dispute he disposed of the investment by more than 40% of its value, which makes it necessary for the Circuit to accept the Authority's appeal and cancel the decision of the investment Adjudication Circuit.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (ITR-2023-96697) issued in case number (Z-2022-96697) related to the Zakat assessment for the year 2018.

Secondly: On the merits:

1- Regarding the clause (exclusion of land registered in the name of partners):

A- accepting the abandonment of the appeal partially in relation to Authority's appeal in the amount of (29,320,296) riyals.

B- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit in the amount of (34,610,618) riyals.

2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding (Investments).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2023-168162

Case No. Z-2023-168162

Keywords:

Zakat - Deductions from the Zakat base - Exclusion of other non-current assets (Home Ownership Program)
- Acceptance of Taxpayer's appeal - Acceptance of the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam (IZD-2022- 2378), where the Authority's appeal lies on the clause (paid from the return) because the dispute lies in whether or not the Authority took into account the amounts paid in dispute when filing the return, and the Taxpayer's appeal lies on the clause (exclusion of other non-current assets (home ownership program)) according to the following reasons that the Authority believes that the clause is not deductible as the receivables of employees under the ownership of housing units are not considered as deductible clauses according to the provisions of the Executive Regulations for Zakat Collection for 1440 A.H. whereas, the Appellate Committee's review of paragraph (f) of Article (V) of the Zakat Regulation for 1440 A.H., as amended by Ministerial Decision No. (58705), reveals that it authorizes the deduction of housing loans granted to employees if the company does not accrue any financial profits or fees for these loans since Ministerial Decision No. (58705), which amended the above article, included in clause (II) that the decision is effective from the date of its issuance, the company is entitled to deduct other non-current assets (home ownership program) from the Zakat base for the years 2019 and 2020. This means accepting the Taxpayer's appeal.

Document:

- Paragraph (2) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal filed on 08/01/2021, from /... (Licensed by the Ministry of Justice under the attached license) as an agent of the company. The appeal filed on 10/01/2021 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2378) issued in Case No. (Z-2022-113359) related to the Zakat assessment for 2019 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority (ZTA):

- 1-Modify the defendant's decision regarding the deduction of the company's share of profits from ...
- 2- Dismissing the plaintiff's objection with respect to the other non-traded assets clause (Home Ownership Program)
3. Annul the defendant's decision regarding the reimbursement section of the declaration.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Severance Circuit, the Taxpayer appeals the decision of the Severance Circuit, stating that he disagrees with the decision of the Circuit as the company (...) Is a company... With a commercial register number (...) A copy of the Zakat declarations and audited financial statements for the years 2019 and 2020, and the company relies on the equity method of accounting to record its investments in other companies, where they are initially recorded at cost and adjusted later, and the company reports that the share of income from these investments has been subject to Zakat in the Zakat declaration, as the share of income from local invested companies has been excluded to avoid flexing in Zakat. With regard to the clause (Exclusion of other non-current assets (Home Ownership Program)), the Taxpayer appeals the dismissal decision where he stated that the company builds housing units for its Saudi employees and the houses under construction are capitalized as part of the construction in progress. Upon completion and distribution of these houses to eligible employees, allocation agreements are signed, which stipulate that the housing unit remains owned by the company until the conditions in the allocation are met, which is the employee's stay for a period of time in the company and it is not entitled to sell or rent it, and the housing allowance is deducted.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority appeals the decision of the Adjudication Circuit, stating that it has taken into account the amounts paid with the return amounting to SR 36,362,273 and SR 53,114,338 for the years 2019 and 2020, respectively, according to the statement of account in the system, an explanation of which is attached to the appeal regulations, as



it is clear from the above statement of account that what was paid by the Taxpayer when he submitted the return was taken into account, as the amounts appear in the statement of account with a negative movement since they were paid by the Taxpayer to the Authority. According to the above, it is clear to Your Excellency that the Circuit's decision is incorrect and that the Authority's action is correct and valid.

On Tuesday, 16/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause No. 2 of the Working Rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. 26040, dated: 21/04/1441 A.H.; At the call of the parties, Mr. ..., National ID No. (...), appeared as the plaintiff's agent under agency No. (...), and Mr. ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits of the Taxpayer's appeal regarding the provision (disallowing the deduction of investments up to the share in the profits of the ... Company), and where the Taxpayer's appeal lies in his claim to exclude the company's share in the profits of the investee company "Company ..." when calculating the profit subject to Zakat, and upon reviewing the reasons for the contested decision, it appears that it was concluded to amend the Authority's decision regarding the exclusion of Zakatable profits from the profits of the investee company to avoid double deduction, and the deduction of investments after excluding the company's share in the profits to avoid double deduction, which shows that the Authority accepted the company's request to exclude the company's share in the profits of the investee company "Company ..." therefore, the company's request regarding this clause should be dismissed, and the operative part of the decision should be amended to "accept the plaintiff's objection" instead of "modify the defendant's decision".

Whereas, regarding the Taxpayer's appeal regarding the clause "Exclusion of Other Non-Current Assets (Home Ownership Program)", and based on Article (5) of the Zakat Collection Executive Regulation issued by Ministerial Decision No. (2216) dated 7/7/1440 AH and amended by Ministerial Decision No. (58705) dated 21/9/1444 AH, which stipulates the following: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books: (f) Housing loans paid to employees



through employee housing support programs, if their contracts include a statement that the financing was through Hassan loan or forward sale without the company accruing any financial profits or fees in excess of the principal amount of the financing."

Based on the above, and wherein the dispute lies in the appellant's claim to deduct the long-term receivables of the home ownership program from the Zakat base for the years 2019 and 2020, while the Authority believes that the clause cannot be deducted as the receivables of employees under the ownership of housing units are not considered a deductible clause according to the provisions of the Executive Regulations for Zakat Collection for 1440 AH, and upon reviewing paragraph (f) of Article (5) of the Zakat Regulations for 1440 AH, as amended by Ministerial Decision No. (58705), it is clear that it permits the deduction of housing loans granted to employees if the company does not accrue any financial profits or fees for these loans, and since Ministerial Decision No. (58705), under which the above article was amended, included in clause (II) that the decision is effective from the date of its issuance, the company is entitled to deduct other non-current assets (home ownership program) from the Zakat base for the years 2019 and 2020, which means that the Circuit must accept the Taxpayer's appeal and cancel the dismissal decision regarding this clause.

Whereas, with regard to the Authority's appeal on the clause (paid from the declaration), since the dispute lies in whether or not the Authority took into account the amounts paid in dispute when submitting the declaration, and upon reviewing the Authority's supplementary memorandum, it turns out that the Authority provided copies of the Taxpayer's account statement in the system, which shows that the Authority reversed the payments made by the Taxpayer for (36,362,273) and (53,114,338) SAR for the years 2019 and 2020, which appear on the account statement with a negative movement as it was paid by the Taxpayer to the Authority, which means that the appeal should be accepted and the decision of the Circuit should be annulled.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in the city of Dammam with number (IZD-2022-2378) issued in case number (Z-2022-113359) related to the zakat assessment for the year 2019.

Secondly: On the merits:

1- Dismissing the Taxpayer's appeal on the provision (disallowing the deduction of investments within the limits of the share in the profits of ... Company).



- 2- accepting the Taxpayer's appeal and annulling the decision of the Adjudication Circuit regarding the "Exclusion of Other Non-Current Assets - Home Ownership Program" clause.
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (paid from the return for the years 2019 and 2020).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171504

Case No. Z-2023-171504

Keywords:

Zakat – Deductions from the Zakat Base – Lands and buildings in the names of the partners – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit regarding the resolution of income tax violations and disputes in Dammam City No. (IZD-2022-2588), where his appeal lies on the clause (investments for the year 2015) as he claims that these investments were financed from the company's funds in long-term (capital) assets and not trade (offers) for the purpose of achieving an annual return when distributing profits, and the clause (lands and buildings for the year 2015), as the circuit rejected his objection regarding the disputed clause, claiming that they are (capital assets) long-term purchased several years ago without being sold or traded, thus they are not designated for sale from the zakat base. The appellate committee has established that it is permissible to deduct the assets in the name of the partners from the zakat base provided that these assets are used in the activity with evidence presented that justifies the non-transfer of ownership to the company. Upon reviewing the documents attached to the case file, it is clear that the Taxpayer submitted declarations of the partners' waiver of these lands to the Taxpayer, in addition to all payments made by the Taxpayer to finance and purchase the assets as the Taxpayer is the one who financed these assets. Consequently, the Taxpayer's appeal is accepted and the decision of the circuit is annulled.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 26/01/2023, from/..., National ID No. (...) In his capacity as a director of the appellant company under the commercial registry, on the decision of the First Circuit for adjudicating income tax violations and disputes in the city of Dammam No. (IZD-2022-2588) issued in case No. (Z-2021-73621) related to the 2015 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Rejecting the plaintiff's objection in all the clauses at issue.

As this decision was not accepted by the Taxpayer (.... Company), he submitted an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (Investments for 2015). The Taxpayer explained that these investments were financed from the company's funds in long-term (canal) assets for the purpose of realizing an annual return when distributing the profits of these companies for this purpose. There is a written waiver from the partner and third parties about these investments in favor of the company, which is a definitive and final waiver that gave the company the full right to exercise all its rights over these investments, so they appeared in its financial statements and within its non-current assets, and that any form of proof of ownership is acceptable and not limited to the share certificate, but the letter of waiver is one of the main pillars of proof of ownership and this is legally and legally permissible if the regulation does not specify the form of proof of ownership, ownership on the share certificate is not an absolute requirement to allow the resolution of the cases filed against these companies by the shareholders, as the purchase of these investments from the company's funds is a proof of the company's ownership of them cases filed against these companies by shareholders, as the purchase of these investments from the company's funds is essential evidence of the company's ownership of them. This is supported by the decision of the Board of Grievances No. (188/D/A/4) of 1429 AH , which states: "Since the obligation and amount of Zakat is a legal ruling and legal rulings are proven according to the truth of the matter and the reality of the situation without changing this fact by proving the reality therefore, it is obligatory to calculate the Zakat base for the concerned company considering that the asset is owned by it and purchased from its funds, in accordance with the above, as stated in the fatwa of the Permanent Committee for Scientific Research and Fatwa No. (22644) dated 9/3/1422 AH which confirmed that assets used in business should be allowed to be deducted from the base even if they are not registered in the name of the company." as these investments are in shares in the capital of local Saudi companies in closed joint stock companies (long-term investments (Acquisition assets) and not trading shares traded on the stock market (trading offers) and appeared in the financial statements within non-current assets according to accounting standards and there is no conflict between accounting standards and Zakat standards, and these investments are Zakat from another source in the Kingdom, that is, by the invested companies, which are local Saudi companies registered with the Authority. These companies submitted their audited financial statements and Zakat declarations, paid the Zakat due on them, and finalized their Zakat status according to the audited financial



statements and Zakat certificates submitted to the Authority, so how are these funds and assets to be Zakated again from our company in the same Zakat period? It is not permissible to zakat the same amount twice in the same zakat period, as it is not permissible to (bend in zakat) double in charity, which is prohibited in the saying "Do not bend in charity." This is also supported by the fatwa of the Council of Senior Scholars in the Kingdom of Saudi Arabia No. (22665) dated 15/4/1424 AH his Eminence the Grand Mufti of the Kingdom wrote to clarify this fatwa by his letter No. (3077/2) dated 8/11/1426 AH , which stated (As for what you mentioned that some companies asked why the debts of the company are not counted in the Zakat base, the answer is that the evidence of the obligation of Zakat is general and includes all Zakat funds there is no evidence to deduct debts from this, nor does it entail the obligation of zakat twice in one money, because the creditor zakatizes the money that he owns and is in the debtor's debt, while the debtor zakatizes another money that he owns and is in his hand and can dispose of it, and there is a difference between the money in a person's hand and the money that is in his debt). Thus, His Eminence's response confirmed that Zakat is obligatory for both the creditor and the debtor, provided that the debtor did not spend the money, pay off the debt, or transfer it to what is not obligatory for Zakat, because in this case he does not owe Zakat on this debt. Also, Fatwa No. (20452) dated 7/9/1415 AH. This implies that the Taxpayer is obligated to zakat only on the funds in his possession and employed in his activity. The cash used in these investments has left the company's ownership and possession and has become part of the funds and possession of the invested companies, so it is not zakatable in our company but in those companies because it is part of their funds and not part of our available funds. If the Authority did not recognize these investments as uses of the sources of funds added to the Zakat base and thus deducted them from the Zakat base calculations, why are these rejected investments not excluded from their sources of funding (equity and related parties), The legal opinion issued by the Permanent Committee for Scientific Research and Fatwa No. (23408) dated 18/11/1426 AH, which states that "Any portion of the Establishment's Revenues that is allocated towards asset acquisition or expended by the Owner on clauses not constituting Trading Stock prior to the lapse of a full lunar year shall not be subject to Zakat, by reason of such expenditure occurring before the completion of the Zakat Year." Similarly, the Permanent Committee issued Fatwa No. 22644 (9/3/1424 AH) stating: "What the company buys in terms of investment property and the like for the purpose of using it and not for the purpose of trading in it is not subject to zakat." This is equal to what is transferred and what is not, as this does not affect the proof of this. Also, the Authority's refusal to deduct investments from the Zakat base contradicts the text of the article referred to by the Authority, Article 4 - Second - Paragraph (1) of the Executive Regulations for the Collection of Zakat issued by Royal Decree No. (M/40) dated 2/7/1405 AH and Ministerial Resolution No. (2082) dated 1/6/1438 AH corresponding to 28/2/2017, where Article 4 in it, concerning the determination of the Zakat base, referred to the following text (second – paragraph 4(1)): - the following shall be deducted from the Zakat base:(1) - Investments in establishments inside the Kingdom in partnership with others if these investments are subject to the Zakat levy according to the regulation. If the investment in these establishments is not subject to the levy, it shall not be deducted from



the base." Our local investments in Saudi companies are subject to the Zakat levy and the provisions of the referred article apply to them and therefore they are deductible from the Zakat base. The Authority's Circular No. (2/8443/2/1) dated 8/8/1392 AH stipulates conditions for deducting investments, including the fact that they are not acquired for trading or speculation and financed from the company's funds and their returns are included in the Zakat declaration, and therefore they are deductible from the Zakat base because the basis for the financial event lies in the availability of substantive documents supporting it and not the procedural financial event lies in the availability of substantive documents supporting this and not the procedural, and this is supported by some decisions of the General Secretariat of the Tax Committees, such as its decision No. (1859) for the year 1439 AH, in order to achieve the principle of justice because there is a clear right in the company to accept its deduction from the Zakat base. Most of the invested companies are troubled and have achieved losses and have been sued by our company and others, and no amounts have been collected or recovered from these investments, and this is one of the main reasons for not transferring ownership until now, so how can the company pay Zakat on an investment that achieved a loss on the equity added to the base in our company and again in those invested companies.

Regarding the Taxpayer's appeal regarding the clause (Land and Buildings for 2015), the Taxpayer explained that the Authority and the First Circuit refused to accept the deduction of land and buildings (long-term technical assets purchased more than (5-10) years ago without any sale or trade as they are not intended for sale from the Zakat base in violation of the Zakat Law and the Executive Regulations amounting to (12,032,125) SAR, and the Authority and the First Circuit did not accept the deduction of these properties from the base on the grounds that they are not transferred in the name of the company and are for personal use and not used in the company's activity, contrary to the Zakat Executive Regulation, which emphasizes that fixed or non-current assets are an essential clause of the Zakat base in accordance with Article 4, Clause II, Paragraph (1), and the regulation specifies two conditions the first is to pay its value from the company's funds and the second is to be within the limits of equity, and these two conditions have been met as they were financed from the company's funds and cash available to it and most of them are used to achieve the company's purposes and achieve its revenues, whether currently or in the future. According to the attached table, it was found that clause (1,2), whose value is respectively (707,625) SAR and (2,567,500) SAR are real estate, i.e. Land and building together, and they were not mistakenly separated in the accounts and are not land only and are used in the company's activity, as the first is a villa for the residence of the company's general manager.... In his capacity as an employee of the company registered with the social insurance, and the second is the building of the company's branch headquarters in Jeddah, part of which is dedicated to the residence of the branch manager In his capacity as an employee of the company and registered with the social insurance, i.e. It is used in the company's activity and the realization of its revenues, and the director of the company and the director of the Jeddah branch are employees of the company and according to the Labor and Workers Law, which states that "the enterprise must provide housing or housing allowance for its employees" and the company chose to allocate their own housing for them as the law does



not specify the value, form or conditions of housing for workers, and the land of the new Jeddah branch headquarters worth (257,000) Saudi riyals, on which a fence has been erected, appeared as part of the construction under implementation (SAR 43,000), on which a new headquarters for the Jeddah branch will be built, i.e. It is also dedicated to the company, its uses and the realization of its revenues from its activity. Therefore, we hope to deduct the properties worth (707,625) Saudi riyals, (2,567,500) Saudi riyals (257,000) Saudi riyals, the system did not specify the form of documentary proof required to prove ownership, not just the deed, as the letter of assignment is a form of transfer of ownership and its proof and its appearance in the company's records and financial statements supports that these lands belong to the company, and this is supported by the decisions of the tax committees and legal opinions that the basis for proving and calculating Zakat clauses is the objective and not the procedural aspect. The tax committees have recognized in similar cases that the availability of substantive and not procedural documents is the basis for calculating zakat, and since lands are fixed assets or investment properties (Acquisition assets), they are deducted from the zakat base if they are transferred on the deed or not because the basis for calculating zakat is the intention of the company, as they are Acquisition assets funded by the company's funds and are fully utilized in its operational activity and achieving its profits and not for personal use, according to what was stated by the Authority. Land valued at SAR 8,757,000 is also financed from the company's funds, they are also financed from the company's funds and are long-term real estate investment assets (Acquisition assets) that are not intended for sale and trade and are of the type of long-term real estate investments held by the company for long periods and the company has recorded them in its accounts within its non-current assets and has the intention to establish real estate investment facilities for the company for leasing and to establish fixed assets on them intended as warehouses for use or offices for the company, and there is an assignment in favor of the company there is a waiver in favor of the company for these lands and a letter supporting the company's intention to purchase these lands as fixed assets and real estate investments to achieve a monthly return and their appearance in its financial position as long-term assets supports this, and therefore they are assets of the company and are intended for the company's use and realization of its current or future revenues. The other thing is that there are other equity and credit accounts of the partners other than their current accounts payable, according to the FRA, that cover the value of these lands, namely partner equity. The decisions of similar tax committees have supported the deduction of immovable lands to the extent of property rights and (not only the partners' current account), as private property rights are the sources of financing for these lands, so how can all sources of financing be added to the base and not reduce the investment aspects of this financing as deductions from the sources of financing, including fixed assets (lands), so either the rejected amount should be reduced from property rights if the Authority insists on rejecting these lands as deductions from the base in exchange for the reduction of these lands from the property rights and the partners' current account as sources of financing it is not permissible to "bend" in charity, as all property rights are included in the base and the calculation of zakat on them is repeatedly calculated by the Authority in the event that they are rejected by the Authority,



and this is indicated in Sharia fatwas, such as decision No. (20452) dated 7/9/1415 AH and No. (23408) dated 18/11/1426 AH as it is not permissible to zakat the same amount twice in the same year or added to the deductible lands, and also emphasizes once again that the current accounts of the credit and debit partners in the financial statements represent one common account for all partners because it is a solidarity company and therefore the current account of the creditor partner.... The amount of (108,337,186) SAR is a joint account of all the joint partners and not a single partner, as well as the rest of the accounts of the debtor partners do not belong to each partner in his own name but are also joint accounts. Not because they are separate accounts, but rather joint accounts registered according to the source of their deposit or withdrawal from the partners, but they belong to all partners because it is a solidarity company and there is no separation between the right or obligation of the partner appearing in the accounts and the rights and obligations of the other partners because the responsibility is solidarity among them, so their joint current accounts are considered one account, and therefore part of this credit account belongs to the partner ... And the partner... This covers the value of the land registered in their name, and a reference to the fact that the determination of the Zakat base by law requires the deduction of fixed assets under the first conditions, the first of which is proof that the Taxpayer has paid the full value of their value, and the second is that the value is within the limits of property rights and the intention is for the purpose of Acquisition and not trading, and this has been achieved here, as this has not affected the net profit subject to Zakat as this did not affect the net profit subject to Zakat, this was confirmed by the Authority's Circular No. (1173) on 12/7/1409 AH and the Authority's Circular No. (8443/2/1) dated 8/8/1392 AH and No. (22644) dated 9/3/1424 AH This is an established and stable principle applied to both Taxpayers and is consistent with the Sharia rules on the subject of capital gain subject to Zakat. This confirms that these lands were purchased from the cash available to the company, and this is in accordance with the Shari'ah fatwa, which states that "what was made from revenues in the purchase of assets or spent by its owner in other than trade offers before the completion of the circulation, there is no zakat in it." In practical terms, the Zakat base in another form is Zakat in equity minus all non-current assets or working capital, i.e. The difference between current assets and current liabilities how can fixed assets be added to the Zakat base despite the fact that these assets did not exceed the elements required for the base (property rights), and the legal opinion issued by the Permanent Committee for Scientific Research and Fatwa No. (23408) dated 18/11/1426 AH , which states that what was made from the revenues of the establishment that must be zakatable in the purchase of assets or its owner in non-trade offers before the completion of the Tawl, there is no zakat on it because it was spent before the completion of the Tawl on it. Also, one of the pillars of the Zakat base is the deduction of fixed assets and the like, regardless of their size and type, as long as they represent non-current assets and help in current and future production, and these lands, even if the sukuk is not registered in the name of the company, are financed from the company's capital and its available cash funds, and the capital and other property rights of the partners are worth more than these lands, and all these rights are subject to Zakat in the base the value of the partners is greater than these lands and all these rights are subject to zakat in the



base, so how can it not be deducted from it what was used to buy lands and the content of the legal opinion No. (22644) dated 9/3/1424 AH which states that (what the company buys of property for the purpose of use and not for the purpose of trading in it is not entitled to zakat and this is equal to what is transferred and not transferred ownership) the fatwa issued and the fatwa issued by the Standing Committee is that what the company buys from real estate, cars and the like for the purpose of use and not for the purpose of trading is not subject to Zakat, and this is equal to what has been transferred or not, as this has no effect as long as these lands are within the limits of property rights and do not require the transfer of ownership in the name of the company therefore, the Authority adopts in its Zakat assessments issued to most Taxpayers to deduct the purchase payments of fixed assets from the Zakat base and before transferring their ownership on the deed, as it is only required here to prove that they are (Acquisition assets) owned by the company in any form, such as a letter of assignment, for example, and that they were paid from the company's funds, and this has been achieved in our case. Also, the principle of deducting fixed assets from the Zakat base is the essence and not the form as long as these properties were paid for with the company's funds and there is an assignment of them to the company and they are acquisition assets that appeared in the company's records and financial statements as fixed assets according to the accounting standards and are not intended for trading we also point out that the reason for registering the sukuk in the name of the partners is to facilitate the procedures for purchasing these lands and obtaining construction and service licenses on them, and that the reason for not owning them is that there are some procedural issues from some official authorities that prevented the transfer of ownership, for example, a land worth (257,000,00) Saudi Riyals, sar 257,000,00 which turned out to be sold more than once with the same deed. Accordingly, the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit regarding the clauses under appeal be reversed.

On Thursday, March 14, 2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



On the subject of the Taxpayer's appeal regarding the clause (Investments for 2015), the Taxpayer's appeal lies in the appeal against the Circuit's rejection of his objection regarding the disputed clause, as he claims that these investments were financed from the company's funds in long-term assets (Acquisition) rather than trade offerings for the purpose of realizing an annual return when distributing profits. And based on Article (4) paragraph (2) clause (4/A) of the zakat collection regulations issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on the above, since two basic conditions must be met for the investment to be considered among the long-term investments that may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on these investments, where it is clear that the dispute lies in the fact that these investments are registered in the names of the partners, and by reviewing the documents attached to the case file it is clear that the Taxpayer submitted declarations of relinquishing these shares in the companies in which he is a shareholder (... , company ... , company ... And company ...), in addition to all payments made on these shares from the Taxpayer. in addition to all the payments made on these shares by the Taxpayer, as the Taxpayer is the one who financed these investments as he submitted all the documents proving his payment for these investments, and since these investments affected the Taxpayer's assets by increasing and were offset by financing the liabilities and property rights of the company, as they were financed by the company and according to the accounting formula, any increase in assets is offset by an increase in liability or property right and this increase affects the Zakat base, the Taxpayer has the right to deduct the corresponding amount, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause (Lands and Buildings for 2015), the Taxpayer's appeal lies in the appeal against the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that it is a long-term (Acquisition assets) purchased several years ago without being sold or traded, so it is not intended to be sold from the Zakat base. Based on paragraph (1) of clause (Second) of article (4) of the Zakat Collection Regulation issued in 1438 AH, which states: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: The net value of fixed assets (capital assets) and any payments for purchasing fixed assets and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer (unless there is an obstacle preventing the transfer of ownership) and that they are used in the activity." And based on paragraph (3) of article (20) of the executive regulation for zakat collection issued by ministerial decision No. (2082) dated 1/6/1438 AH, which states: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven to be accurate



as stated in his declaration, and the authority may not approve the clause that is not proven to be accurate by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, it is clear that it is permissible to deduct the assets in the name of the partners from the zakat base provided that these assets are used in the activity with evidence presented that justifies the non-transfer of ownership to the company. Upon reviewing the documents attached to the case file, it is clear that the Taxpayer submitted declarations of the partners' waiver of these lands to the Taxpayer, in addition to all payments made by the Taxpayer to finance and purchase the assets as the Taxpayer is the one who financed these assets, and all documents proving their payment. Since this clause has affected the Taxpayer's assets by increasing and is matched by financing on the liabilities and equity side of the company, as the financing was from the company and according to the accounting equation, any increase in assets is matched by an increase in liabilities or equity, and this increase affects the zakat base, the Taxpayer has the right to deduct what corresponds to it, which leads the circuit to accept the Taxpayer's appeal and annul the decision of the circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "Partners' current debit difference for the year 2015", wherein the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and wherein it is established that the decision under appeal regarding the disputed clauses as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., commercial registration (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2588) issued in case number (Z-2021-73621) related to the zakat assessment for the year 2007.

Secondly: On the merits:

1- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (partners' current account difference for the year 2015).



- 2- The Taxpayer's appeal is accepted and the decision of the circuit is annulled regarding clause (investments for the year 2015).
- 3- The Taxpayer's appeal is accepted and the decision of the circuit is annulled regarding clause (lands and buildings for the year 2015).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-168661

Case No. Z-2023-168661

Keywords:

Zakat – Deduction elements from the zakat base – Calculation of net fixed assets – Acceptance of the authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTCA) appeals the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2441), where its appeal lies on the clause (Retained Profits for 2017 and 2018) to cancel its procedure due to the submission of supporting documents by the Defendant, and the clause (Net Fixed Assets for 2018), according to the following reasons that the regulation was issued after the submission of the Taxpayer's return, and where the Authority responds that this is not true the Taxpayer submitted his declaration for the year 2018 on 17/09/1440 AH and the Zakat Regulation was issued on 01/06/1438 AH, meaning that the treatment of that clause for that year must be in accordance with the Regulation, as stated in Article 7(II) and Article 4(II/1) of the Executive Regulations for the Collection of Zakat. And it has been established to the appellate committee by reviewing the case file and what it contains of defenses and documents; the correctness of what the authority indicated as the year of dispute is 2018; accordingly, the executive regulation for zakat collection issued by ministerial decision (2082) dated 01/06/1438 AH is applied. The implication is that the appeal of the authority is accepted.

Document:

- Paragraph (2,8) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (7) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 10/01/2023 by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2441) issued in Case No. (Z-2021-65642) related to the Zakat assessment for the years 2015 to 2018, in the case filed by the Taxpayer against the ZTA, in which the decision of the Adjudication Circuit ruled as follows: "The Taxpayer's claim against the Zakat, Tax and Customs Authority:

- 1- Annulment of the decision of Defendant with respect to the 2015 and 2016 consumption differences.
- 2- Canceling the defendant's decision regarding the net fixed assets clause for the years 2015, 2016, and 2018.
- 3- Annulment of the Defendant's decision regarding the travel ticket allowance for the year 2017.
- 4- Annulment of the defendant's decision regarding the travel ticket allowance - the component - for the years 2015 to 2018.
- 5- Canceling the defendant's decision regarding the retained earnings clause for 2017 and 2018.
- 6- Annulment of the defendant's decision regarding the clause of goods received without invoices for the year 2018.
- 7- Canceling the defendant's decision regarding the clause transferred to the statutory reserve for the years 2015 and 2016.
- 8- Proving the end of the disagreement regarding the Zakat allocation clause for 2015.
- 9- Proving the end of the dispute regarding the vacation allowance clause for the years 2015 to 2018.
- 10- Proving the end of the dispute regarding the inventory allowance clause for 2015 and 2016.
- 11- Recognizing the end of the dispute regarding the dye allocation clause and the difference in steel prices for the years 2017 and 2018.
- 12- Recognizing the end of the dispute regarding the allowance for doubtful debts for the years 2015, 2016, and 2018.
- 13- Confirmation of the end of the dispute regarding the legal expenses clause for 2016.
- 14- Confirmation of the end of the dispute regarding the trade creditors clause for the years 2015 to 2018.
- 15- Recognizing the end of the dispute regarding an clause due to related parties for the years 2015, 2017, and 2018.
- 16- Proving the end of the dispute regarding the accrued vacation expense balance for 2017.



17- Confirmation of the end of the dispute regarding the clause of advance payments received from customers for the years 2015 to 2018.

18- Recognizing the end of the dispute regarding the employee benefits clause for 2015 and 2016.

19- Proving the end of the dispute regarding other clauses accrued for the years 2016 to 2018.

20- Recognizing the end of the dispute regarding the 2017 short-term loans line clause

21- Recognizing the end of the dispute regarding the clause of profits on import differences for the years 2015 to 2018.

22- Recognizing the end of the dispute regarding the clause of proposed dividends for 2018.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

The Authority objects to the decision of the Appealed Decision, claiming that with regard to the clause (Net Fixed Assets for 2018), the Circuit issuing the Appealed Decision annulled the Authority's action based on the principle of non-retroactivity of laws and that laws and regulations are not applied retroactively unless otherwise stated. The Authority states that the Taxpayer submitted his return and deducted the balance of net fixed assets according to the depreciation method using the decreasing premium, while the Authority did the assessment on the Taxpayer and deducted the assets according to the balance included in the financial statements in examining the objection, the Authority maintained its view that the Taxpayer is a Zakat Taxpayer, and with reference to the year referred to, it is clear that the details of the balance of the assets are as explained in the Authority's reply memorandum, and as for the Circuit's reasoning that the regulation was issued after the submission of the Taxpayer's declaration the Authority responds that this is incorrect, as the Defendant submitted its declaration for the year 2018 on 17/09/1440 AH and the Regulation was issued on 01/06/1438 AH, meaning that the treatment of that clause for that year must be an application of the Regulation in accordance with Article (4) paragraph (II/1). With regard to the clause (Retained Profits for 2017 and 2018), the Authority claims that it related the Taxpayer to add the retained profits to the Zakat base for 2017 and 2018 in the amount of (17,162,355) riyals and (18,355,648) riyals, respectively, representing the balance of the first period because the Taxpayer did not provide documentary proof of the distribution based on Article 4, paragraph (I/8) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, nor did the Taxpayer provide documentary proof of the distributions during the objection stage, represented by the partners' decision to distribute therefore, based on the above article, the Taxpayer's objection was rejected, and the Circuit canceled the Authority's action due to the Defendant's submission of the supporting documents. Accordingly, the Authority reviewed the case papers, including dividend distributions in the amount of (2,500,000 riyals for the year 2017 and 250,000 riyals for the year 2018, and where the Taxpayer provided supporting documents showing their distribution before the turn of the lunar calendar, which means that



the Authority believes that the distributions should be accepted according to the supported distributions of 2,500,000 riyals for the year 2017 and 250,000 riyals for the year 2018, as for the remaining amount, the Taxpayer did not prove the submission of these profits, which should be added to the Zakat base as detailed in the Authority's reply note. The Authority also objects to the clause (statutory reserve for 2015 and 2016), and therefore, the Authority requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

On Sunday, February 18, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits of the Authority's appeal regarding (Net Fixed Assets for 2018) whereas, its appeal lies in the fact that the Taxpayer submitted his return and deducted the balance of net fixed assets according to the depreciation method using the decreasing premium, while the Authority related the Taxpayer and deducted the assets according to the balance included in the financial statements, and the Authority adhered to its viewpoint when studying the objection as a Zakat Taxpayer, and that the Defendant submitted his return for 2018 on 17/09/1440 AH and the regulation was issued on 01/06/1438 AH, meaning that the treatment of that clause for that year should be in accordance with the regulation. Where paragraph 1/(Second) of Article (4) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438H states: "The following shall be deducted from the zakat base:" The net value of fixed assets (property assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." And where paragraph (2) of Article (7) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438H states: "Fixed assets are depreciated according to the straight-line method, and their



depreciation rate is as follows: ...". Based on the above, and since the authority's appeal revolves around what was stated in the circuit's reasoning that the regulation was issued after the Taxpayer submitted their declaration, the authority responds that this is incorrect as the Taxpayer submitted their declaration for the year 2018 on 17/09/1440H and the Zakat regulation was issued on 01/06/1438H, meaning that the treatment of that clause for that year should be in accordance with the regulation as stated in Article Seven paragraph (Second) and Article Four paragraph (Second/1) of the executive regulation for the collection of Zakat. Upon reviewing the case file and the defenses and documents it contains, it is clear that what the authority referred to is correct as the year of dispute is 2018; therefore, the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438H should be applied, which leads the circuit to accept the authority's appeal and cancel the decision of the circuit regarding this clause.

With regard to the Authority's appeal regarding the clause (Retained Dividends for the years 2017 and 2018), its appeal lies in reviewing the case documents, including dividends of (2,500,000) riyals for the year 2017 and dividends of (250,000) riyals for the year 2018, where the Taxpayer provided supporting documents showing their distribution before the turn of the lunar calendar, so the Authority believes that the distributions should be accepted according to the supported distributions, as for the remaining amount, the Taxpayer did not prove the submission of these dividends, which should be added to the Zakat base. And since paragraph (8) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." based on the above, and where the Authority 's appeal lies on the Circuit's decision to cancel the Authority's action due to the submission of supporting documents by the Defendant, and after reviewing the case file and the defenses and documents it contains, it appears that the Taxpayer has submitted documents proving the distribution of profits before the turn of the lunar calendar in the amount of (2,500,000) riyals for 2017 and (250,000) riyals for 2018, as for the remaining amount of SAR 14,662,355 for 2017 and SAR 18,105,648 for 2018, the Taxpayer did not prove the submission of these profits, which must be added to the Zakat base, which concludes that the Circuit partially accepts the Authority's appeal and modifies the decision of the Adjudication Circuit in this clause.

Whereas, with regard to the Authority's appeal regarding the clause (statutory reserve for the years 2015 and 2016), and after the Circuit's reflection On the merits of the dispute, and after the Circuit's review of the Authority's appeal, and where the Circuit may adopt the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with what these reasons contain, it is certain that it has not found any objections to the decision that merit a response beyond what is contained in those reasons, and where this is the case and it is proven that the decision under appeal regarding the disputed clause was consistent with sound reasons that it was based on and sufficient to carry its judgment the issuing Circuit scrutinized the



dispute and came to the conclusion it reached in its operative part, and where this Circuit found that the conclusion reached by the adjudication Circuit in its decision is correct and that the reasons on which it based its decision are sufficient to support that decision, and where this Circuit did not notice anything that warrants censure or comment in light of the defenses raised before it, which leads this Circuit to reject the Authority's appeal and uphold the decision of the adjudication Circuit in this clause on the basis of its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from its submitter/ Zakat, Tax and Customs Authority, against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam with the number (IZD-2022-2441) issued in case number (Z-2021-65642) related to the zakat assessment for the year 2015 till 2018.

Secondly: On the merits:

- 1- Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (net fixed assets for the year 2018).
- 2- Acceptance of the authority's appeal partially and modification of the decision of the circuit regarding the clause (retained earnings for the years 2017 and 2018).
- 3- Rejection of the authority's appeal and upholding the decision of the circuit regarding the clause (legal reserve for the years 2015 and 2016).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-168768

Case No. Z-2023-168768

Keywords:

Zakat - Deductions from the Zakat Base - Properties under development - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit regarding violations and disputes of income tax in Jeddah Governorate number (IZJ-2022-2489), where their appeal is based on the clause (Properties under development) to claim the deduction of properties under development from the Zakat base. And where it was established to the committee that the authority did not accept the deduction of the clause due to the sale of those properties in the following year 2016, and after reviewing the financial statements for the year 2016, it was confirmed that they were excluded and it was confirmed to them that these properties are not intended for property but rather for sale and trade, yet the existence of a single sale movement for the clause does not affect as long as it has not been proven to be related to sales operations that turn it into trade offers. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 11/01/2023 from ..., National ID No. (...) Was considered as an agent for the appellant company under agency No. (...), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2489) issued in Case No. (Z-2021-72424) related to the 2015 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



- 1- Rejecting the plaintiff's objection to the irregularity of opening the assessment and amending the 2015 Zakat return.
- 2- Proving the end of the dispute over the clause of investment losses in (...).
- 3- Rejecting the plaintiff's objection to the import profit clause (10%).
- 4- Rejecting the plaintiff's objection to the allowance difference clause.
- 5- Rejecting the plaintiff's objection to the payables, accruals, and other credits clause.
- 6- Rejecting the plaintiff's objection to the real estate under development clause.
7. Reject the plaintiff's objection to the phase loss clause.

Since this decision was not accepted by the Taxpayer (Company...), he filed a list of appeals, which included the following summary:

The Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause "Real Estate Under Development", the Circuit's decision rejected the Taxpayer's request to deduct real estate under development in the amount of SAR 12,539,621 on the grounds that the Taxpayer did not provide documents supporting the nature of the properties sold and that they represent assets acquired for the purpose of development and not intended for sale and trade, making it impossible to verify the availability of the Acquisition condition for the properties sold in dispute, the Taxpayer explained that the financial statements and ownership documents prove that the properties have been held for a year or more and that the Zakat Law is based on the Islamic Shari'ah, which requires the deduction of Zakat from the net assets by adding the capital, reserves and rounded profits, and on the other hand deducting the money invested in developing the properties as fixed assets that do not represent inventory of goods but are fixed assets and therefore must be deducted from the Zakat base, this opinion was supported by Appeal Decision No. (10) of 1417 AH, approved by the Minister of Finance No. (3/7513) dated 1/7/1417 AH, which confirmed that developed real estate represented in residential and commercial buildings and the lands built on them may be deducted from the Zakat base even if the intention changes to sale, as well as several letters and circulars, so the Taxpayer requests to cancel the decision of the Circuit and rule to deduct real estate under development in the amount of (12,539,621) riyals from the Zakat base. The Taxpayer also objects to the clauses (irregularity of opening the assessment and amending the 2015 Zakat return), the clause (10% import profit), the clause (difference in provisions), the clause (other receivables, payables and credits), and the clause (loss carryforward), so the Taxpayer requests the reversal of the decision of the Appeals Circuit for the above reasons.

On Monday, January 29, 2024, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution



Committees issued by Royal Decree No. (26040) and dated:21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (Real Estate Under Development) is based on the fact that the financial statements and ownership documents prove that the properties have been in operation for one year or more and that the Zakat Law is based on the Islamic Shari'ah, which requires the deduction of Zakat from the net assets by adding the capital, reserves and rounded profits, and deducting the money invested in developing the properties as fixed assets that do not represent inventory of goods but are fixed assets and therefore must be deducted from the Zakat base. Where paragraph number (1) of clause (Second) of Article Four of the executive regulation for the collection of Zakat issued by Ministerial Decision number (2082) dated 1/6/1438H states: "The following shall be deducted from the zakat base:" 2- The Taxpayer's capital constructions under construction which are being constructed for the purpose of using them in the activity and not for the purpose of selling them." As stated in paragraph number (1) of clause (Second) of Article Four of the executive regulation for the collection of Zakat issued by Ministerial Decision number (2082) dated 1/6/1438H: "The following is deducted from the Zakat base: 1- Fixed assets, which include the following: The net value of fixed assets (property assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." Based on the above, and upon reviewing the case file and the defenses and documents it contains; it is clear that the dispute lies in the Taxpayer's request to deduct properties under development from the Zakat base, and based on what was mentioned above; it is necessary to meet two essential conditions for considering properties under development as clauses that can be deducted from the Zakat base, which are the documented intention of the authorized person that clarifies the intention for these properties and the absence of sales operations that occurred during the year in question. Upon reviewing the submitted documents, it is clear that the Taxpayer submitted land deeds and an account statement extracted from the system and a detailed account statement which shows that there were no sales movements during the year in question. As for what the authority indicated that it did not accept the deduction of the clause due to the sale of those properties in the following year 2016, and after reviewing the financial statements for the year



2016, it was confirmed that they were excluded and it was confirmed to them that these properties are not intended for property but rather for sale and trade, yet the existence of a single sale movement for the clause does not affect as long as it has not been proven to be related to sales operations that turn it into trade offers. Therefore, since the Taxpayer submitted the documents supporting their objection, the circuit concludes to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

Whereas, with regard to the remaining clauses at issue in the lawsuit, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that it did not find any objections to the decision that merit a response beyond what was contained in these reasons since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the adjudication Circuit with respect to the remaining clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the appellant, the company (...), commercial registration (...), unique number (...). Against the decision of the first division for adjudicating violations and disputes of income tax in Jeddah province with number (IZJ-2022-2489) issued in case number (Z-2021-72424) related to the zakat assessment for the year 2015.

Secondly: On the merits:

- 1- The appellant's appeal is rejected, and the decision of the adjudicating circuit regarding the clause (illegality of opening the assessment and amending the zakat declaration for the year 2015) is upheld.
- 2- The appellant's appeal is rejected, and the decision of the adjudicating circuit regarding the clause (profit from imports at 10%) is upheld.
- 3- The appellant's appeal is rejected, and the decision of the adjudicating circuit regarding the clause (difference in allocations) is upheld.
- 4- The appellant's appeal is rejected, and the decision of the adjudicating circuit regarding the clause (creditors' accounts and other receivables and credit balances) is upheld.
- 5- The appellant's appeal is accepted, and the decision of the adjudicating circuit regarding the clause (properties under development) is canceled.



6- The appellant's appeal is rejected, and the decision of the adjudicating circuit regarding the clause (difference in losses carried forward) is upheld.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-190392

Case No. Z-2023-190392

Keywords:

Zakat – Deductions from the Zakat Base – Profit distributions – Acceptance of the authority's appeal.

Summary:

Objection of the Zakat, Tax and Customs Authority to the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh City number (IFR-2022-6748), where its appeal is based on the clause (profit distributions for the years 2016, 2017, and 2018) to subject it to zakat as it is considered distributions from previous years received that were deducted from the retained earnings of the investing company. And since it has been established to the appellate committee that what the appellant claims as a deduction of profit distributions from the adjusted net profit results in the adjusted profit not being subject to zakat collection, which contradicts what is stated in the zakat collection regulation that subjected the entire adjusted net profit of the year to legitimate zakat as it is considered a yield on capital without considering the passage of a year on it and before distribution from it, and since the passage of these profits is the passage of their origin, it becomes clear that the authority's action of not reducing the adjusted profits by the distributed profit from the profit of the year is correct. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (10) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 21/03/2023 by the Zakat, Tax and Customs Authority against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (IFR-2022-6748) issued in Case No. (Z-2021-82195) regarding the Zakat assessment for the years 2016 to 2018, was considered in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



First: Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the defendant/Zakat, Tax and Customs Authority procedurally, II: on the merits, the defendant's decision is reversed.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies with regard to the clause (dividends for the years 2016, 2017 and 2018), the Authority explains that during the examination phase and on 06/11/1442 AH, it asked the Taxpayer to explain the reasons for adjusting the profit by deducting dividends received from a company... For 2016. (11,046,411 SAR) for 2017. (3,045,425 SAR) for the year 2018 (3,302,235 SAR). The Authority gave him seven days to respond, and accordingly, the Authority did not accept the deduction of the profits received from... During the stage of studying the objection, and after studying and reviewing the financial statements, the Authority found the following (attached), and therefore it is clear that the Authority's action to subject the clause to zakat is correct and valid as it is considered distributions of previous years received that were reduced from the balance of retained profits in the investee company and were not subjected to zakat, and the Circuit canceled the Authority's decision because the investee company ... Based on the above, you can see that the profits were distributed from the balance of the first period (i.e. Profits of previous years) and were not distributed from the profit of the year and that the investee company excluded them from its zakat base and therefore were not subjected to zakat, and this indicates that the distributed profits were not subject to zakat in the investee company and therefore there is no double counting of zakat in the investee company and therefore there is no double counting of zakat therefore, the Authority confirms the validity and integrity of its procedure because the dividends received and added to the net profit of the Taxpayer (the invested company) were distributed from the retained profits of the investee company and what was subject to zakat at the investee company is the balance of the profits in the first period after deducting the distributions, which confirms that the distributed profits (received by the Taxpayer) were not subject to zakat at the investee company in the years under appeal and requests that its appeal be accepted and the decision of the Dissolution Circuit be reversed.

On Wednesday, 05/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

In the merits, and with regard to the Authority's appeal on the clause (Dividends for the years 2016, 2017 and 2018), and where the Authority's appeal lies in subjecting the clause to Zakat as it is considered previous years' distributions received that were reduced from the balance of retained earnings in the investee company, and based on paragraph (10) of Article (4) of the Executive Regulation of Zakat Collection issued in 1438 AH, which stipulates: "First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 10- The adjusted net profit for zakat purposes, which is reached according to the provisions of this regulation." Moreover, upon reviewing clause (Second/9/b) of Article (4) of the Zakat Collection Regulation issued in the year 1438 AH, it is clear that it states that the zakat base must not be less than the adjusted profit as a minimum when calculating zakat. Since what is demanded by the Taxpayer to deduct profit distributions from the adjusted net profit results in the adjusted profit not being subject to zakat collection, this contradicts what is stated in the Zakat Collection Regulation, which subjected the entire adjusted net profit of the year to legal zakat as it is considered the yield of the capital without considering the passage of a year on it and before its distribution, as the year of these profits is the year of their origin. This shows the validity of the authority's action not to reduce the adjusted profits by the distributed profit from the profit of the year, which leads the circuit to accept the authority's appeal and cancel the decision of the division regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the appellant, the Zakat, Tax and Customs Authority, against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6748) issued in case number (Z-2021-82195) related to the zakat assessment for the years 2016 to 2018.

Second: On the merits:

Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (profit distributions for the years 2016, 2017, and 2018).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178373

Case No. Z-2023-178373

Keywords:

Zakat – Deductions from the Zakat Base – zakat base for foreign investments – acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first division regarding violations and disputes of income tax in Riyadh number (IFR-2022-2485), where his appeal lies in clause (the zakat base for foreign investments for the year 2018) as he objects that zakat on long-term foreign investments is on the profit and not the principal investment, and clause (lands and properties registered in the name of the partner for the years 2017 and 2018) as he claims to have submitted supporting documents for the transfer of ownership. And where the appellate committee established the permissibility of deducting the assets in the name of the partners from the zakat base, provided that these assets are used in the activity with proof submitted, and since the dispute over this clause is a documentary dispute, and after reviewing the case file and the documents it contains, it appears that the Taxpayer has submitted the lease contract for the villa, a property inventory, and a copy of the ownership deeds, and where the transfer of ownership to the company has been proven ... (the Taxpayer). Regarding the clause (Zakat base for foreign investments for the year 2018), the Taxpayer submitted the company's financial statements for the year 2018 and the invested company, as well as the calculation issued by a chartered accountant for the Zakat calculated for foreign investments, resulting in accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 15/02/2023, from / ..., National ID No. (...) Was considered as the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 16/02/2023 against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2022-2485) issued in Case No. (Z-2021-80471) related to the Zakat assessment for the years 2017 and 2018, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: the decision of the defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Relating to the clause of the plot of land registered in the name of the partners for the year 2018, which is the subject of the lawsuit.

Secondly: the decision of the defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Related to the real estate investment clause at issue in the lawsuit.

Third: rejecting the other objections of the plaintiff/company ... (unique number...) On the decisions of the defendant/Zakat, Tax and Customs Authority related to the assessment at issue in the lawsuit.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, he claims that the Circuit's decision indicated that the company did not provide the movement of the disputed loans and accounts receivable to prove that they did not turn over, and never referred to the documents and explanations provided by the company, which are as follows: The Taxpayer's appeal relates to the clause (Zakat base for foreign investments for the year 2018): the Circuit's decision did not address the Sharia principles on which the company relied in the mechanism of calculating Zakat on foreign investments, since Zakat is a devotional obligation and a pillar of Islam, and its law issued by royal decree requires it to be collected in accordance with the provisions of Islamic Sharia, and whether it is obligatory or not is proven by Sharia evidence from the Holy Qur'an, the Sunnah of the Prophet and the consensus before accounting standards and tax laws, and since Zakat is not obligatory in investments and assets intended for qania, but is obligatory in the profits of these investments and not their origin, Zakat is not obligatory on investments and assets intended for acquisition; rather, it is obligatory on the profits of these investments and not their assets. This is supported by the fatwas issued by the Permanent Committee for Scientific Research and Iftaa No. 18680, question two, and Fatwa No. 19643, question five, which collectively indicated that when a company owns a group of shares in other companies outside the Kingdom for the purpose of investing them for acquisition, Zakat will be in their profit and will be deducted from the base, and Zakat will not be due on the original investment intended for acquisition. In line with this, the explanatory guide to the Zakat



Collection Law issued by the General Secretariat of Tax Committees in Resolution No. (IR-2020-61) supported that zakat on long-term foreign investments is on the profit and not the principal of the investment. The Circuit only requested the submission of the movement of loans and credit balances to confirm that a year has not passed on these balances at the request of the Defendant (the Authority), and did not take into account that the investee company is a company based in a foreign country and listed on the stock market in the Republic of Singapore and its accounts are not prepared to prepare such statements for zakat collection purposes, which is not considered a legal requirement in that country. The disclosures and financial statements are prepared based on the requirements of the stock market and government agencies in Singapore only. These companies do not cooperate with investor requests for different disclosures and statements that are not compliant with the requirements of the government agencies in Singapore. The Circuit's decision also fails to mention that the audited financial statements of this investment were attached as well as the Zakat calculation certified by the certified public accountant, and this is reinforced from the legal aspect by the fatwas issued by the Permanent Committee for Research and Development (PCRD). Regarding the Taxpayer's appeal regarding the clause (lands and real estate registered in the name of the partner for the years 2017 and 2018), the Taxpayer explained that the Circuit's decision referred to the failure to provide proof of the partner's payment of rents, and that the partner's current account corresponding to these assets has been added accordingly and not because he financed these assets, and the Circuit did not take into account the points mentioned below: the decision did not address that these properties are credited against the partner's current account prior to 2017, and this is proven by the financial statements, as there are no additions to the properties registered in the name of the partner during 2017 and 2018, and therefore these properties must be deducted as they are within the limits of the partner's current account added to the base based on the decision of the Director General of the Authority No. (1413/1) and the decision of the Appellate Committees based on Circular 35/1 dated 02/03/1413 AH paragraph (18), the ownership of these properties was transferred in the name of the company in 2020 AD, and the Authority and the Circuit were provided with the title deed proving the transfer of ownership, as well as the lease contract for the year 2020 AD, and it is clear from this that the Circuit was incorrect in refusing to deduct this property from the Zakat base based on the above-mentioned reasons, and therefore the Taxpayer requests that the decision of the Circuit of Determination of the clauses under appeal be overturned for the above reasons. This decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit and included the following statement: The Authority requests that its appeal be accepted and that the decision of the Appeals Circuit be overturned.

On Thursday, on: 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH, after reviewing the appeal request, the pleadings submitted, and the papers and



documents contained in the case file, and at this session, the Circuit reviewed the request for postponement attached to the case file by the Authority. Accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

On Saturday, on: 07/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

On Tuesday, on: 25/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal relates to the clause (Zakat base for foreign investments for 2018), where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that zakat on long-term foreign investments is on the profit and not the principal of the investment. Based on paragraph (4/b) of clause (second) of Article (4) of the executive regulations for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments



according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. Based on the above, and where the Taxpayer has the right to deduct foreign investment from their zakat base, provided that they comply with what is stated, which is to submit to the authority audit accounts from a certified accountant in the country of investment, in order to calculate the zakat due on these investments and submit it to the authority, and then deduct those investments from the invested company's base to avoid zakat evasion, and since the dispute over this clause is a documentary dispute, and it has become clear that the Taxpayer has submitted the financial statements of the company for the disputed year 2018 and the invested company, as well as the calculation issued by a certified accountant for the zakat due on foreign investments, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the adjudication circuit regarding this clause.

Regarding the Taxpayer's appeal regarding the clause (lands and real estate registered in the name of the partner for the years 2017 and 2018), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims to have submitted documents supporting the transfer of ownership. Based on paragraph (Second/1) of Article (4) of the executive regulation for zakat collection issued by ministerial decision number (2082) dated 1/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: Net value of fixed assets (capital assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity." And where the appellate committee established the permissibility of deducting the assets in the name of the partners from the zakat base, provided that these assets are used in the activity with proof submitted, and since the dispute over this clause is a documentary dispute, and after reviewing the case file and the documents it contains, it appears that the Taxpayer has submitted the lease contract for the villa, a property inventory, and a copy of the ownership deeds, and where the transfer of ownership to the company has been proven ... (the Taxpayer), resulting in the Circuit's decision to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

Regarding the Authority's appeal regarding the clause (the plot of land registered in the name of the partners for the year 2018), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored



before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Circuit the Authority's request to leave the appeal as stated in the letter it issued in the appended note, which includes the following: "The Authority informs the Honorable Circuit that it has left its appeal regarding the above-mentioned clause set out in the decision referred to, as well as the procedures resulting from the appeal of the Authority..." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Taxpayer's and the Authority's appeal on the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them, it is clear that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the adjudication Circuit with respect to the rest of the clauses in the case, in accordance with its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-2485) issued in case number (Z-80471-2021) related to the zakat assessment for the years 2017 and 2018.

Second: On the Merits:

- 1- Accepting the withdrawal of the lawsuit regarding the authority's appeal on the clause (the piece of land registered in the name of the partners for the year 2018).
- 2- Rejecting the authority's appeal and upholding the decision of the adjudication circuit regarding the clause (real estate investments for the year 2018).



- 3- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the clause (the zakat base for foreign investments for the year 2018).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (short-term loans for the year 2017).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (investments registered in the name of the partner (Prince Mohammed University) for the years 2017 and 2018).
- 6- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the clause (lands and properties registered in the name of the partner for the years 2017 and 2018).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-169854

Case No. Z-2023-169854

Keywords:

Zakat – Deductions from the Zakat Base – Method of deducting fixed assets, work in progress, and real estate investments from the zakat base – Accepting the authority's appeal.

Summary:

The Taxpayer's objection and the General Authority of Zakat and Tax and Customs to the decision of the Third Circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6643), where the Authority's appeal lies on the clause (Method of deducting fixed assets and investments real estate) for its reliance on deducting fixed assets and real estate investments after excluding the unused ones at book value, including projects under construction, and the Taxpayer's appeal lies in some clauses related to the zakat assessment for the year 2015. The appellate committee found that the Taxpayer did not provide the necessary documents or the required details, therefore it relied on the attached financial statements that clarified the value of fixed assets in another way. The implication is that the appeal of the authority is accepted.

Document:

- Paragraph (1) of Article (70) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 15/01/2023, from/... Id No. (...), as agent under agency No. (...) For the appellant company, the appeal filed on 2023/01/19 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes (IFR-2022-6643) issued in Case No. (Z-2021-72455) related to the 2015 Zakat assessment, in the lawsuit filed by ... And his children



against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the plaintiff's objection/ Company ... And Sons (Commercial Registration No. ...) On the decision of the Defendant/Zakat, Tax and Customs Authority from a procedural point of view

Secondly: On the merits:

- 1- Rejecting the plaintiff's objection with regard to the clause (credit for unreimbursed insurance expenses).
- 2- Annulment of the defendant's decision regarding the clause (method of deducting fixed assets, works in progress, and real estate investments from the Zakat base).
- 3- Rejecting the claimant's objection regarding the clause "Adding the balance of the reserve for unrealized profits from investments to the Zakat base".
- 4- Annulment of the Defendant's decision regarding the clause (not deducting the full value of investments from the Zakat base for available-for-sale investments in listed securities).
- 5- Rejecting the claimant's objection regarding the clause (not deducting the full value of investments from the Zakat base for available-for-sale foreign investments).

As this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit and included, in essence, that the Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit. This decision was not accepted by the appellant (the Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (method of deducting fixed assets, works in progress and real estate investments from the zakat base for 2015), the Authority explains that during the examination phase, it requested an analytical statement of the real estate investments indicating their movement, purpose and the amount of returns earned from them during the year during the examination phase, the Authority requested an analytical statement of the real estate investments indicating their movement, purpose, and the amount of returns achieved during the year, indicating what is utilized in the activity and the company's intention to use them, and the Taxpayer provided a statement indicating what is utilized and what is not accordingly, the Authority amended the fixed asset deduction to exclude the deduction of real estate investments that are not utilized in the activity, based on Article (4) paragraph (1) of the executive regulations governing the collection of Zakat issued by Ministerial Decision No. (2082). The Authority contends that the Taxpayer's memorandum states that projects under implementation were not deducted as a result of an error in the assessment, the Authority emphasizes that this is not true as the Authority adopted in its assessment the fixed asset and real estate investments (after excluding unused ones) at book value, including projects under implementation, which are not utilized in the company's activity. As for the plaintiff's objection to not fully deducting real estate investments, the Authority clarifies that the objection to not deducting the unutilized part of them was rejected based on Article (4) of the second paragraphs (1)



and (2) of the executive regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 H. As for the plaintiff's request to adopt the deduction of fixed assets and real estate investments by the group method mentioned in Article (17) of the Income Tax Law in view of the Authority's insistence on not deducting the full value of real estate investments as explained above, and in view of the fact that the plaintiff has included the fixed assets and real estate investments in the depreciation schedules submitted with the returns, which makes it impossible to separate the unutilized real estate investments from the depreciation schedules, the plaintiff has included the entire fixed assets and real estate investments in the depreciation schedules

Also, this amendment entails reprocessing the depreciation schedules from the first year of use of the depreciation schedule due to the cumulative effect of the treatment of assets, and the Authority maintains the correctness of its action regarding the elimination of adjusting net profit with depreciation and capital gains differences, as net profit is adjusted with these differences if the group method is used only if the group method is used. Accordingly, and based on the above-mentioned article, the objection was rejected, and the Authority maintains the validity of its procedure and requests that its appeal be accepted and the decision of the Adjudication Circuit on the clause that is the subject of its appeal be overturned.

On Tuesday, March 19, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal on the clause (Method of deducting fixed assets, works under implementation and real estate investments from the Zakat base for the year 2015), and where the Authority's appeal lies in its reliance in assessment the deduction of fixed assets and real estate investments after excluding the unutilized ones at book value, including projects under implementation, and based on paragraph (1) of clause (II) of Article 4 of the Executive Regulations for Zakat Collection issued by Ministerial



Resolution No. (2082) dated 1/6/1438 AH: "The following shall be deducted from the zakat base: 1- Fixed assets, including the following: The net value of fixed assets (capital assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity." Based on the above, it became clear to the circuit that the dispute is about the deduction of fixed assets, projects under construction, and investment properties, and it is evident that the Authority's action was to reject the deduction of fixed assets and investment properties and projects which amounted to (169,415,370) riyals while what was deducted by the Authority was (41,569,572) riyals, and the Authority argues that its action was to deduct the utilized assets and regarding the book assets, it was according to the book value. Upon reviewing the decision of the circuit, it became clear to it that the decision did not address fixed assets and the grounds for accepting them, and the Taxpayer argued that he deducted fixed assets according to the depreciation schedule stated in the income tax law, but the decision was limited to investment properties only and that the intention is to develop them. Upon reviewing the attached documents and what the Authority argues, it is evident that the Taxpayer did not provide any documents regarding the investment properties and also did not provide a schedule for calculating fixed assets that he used to calculate fixed assets according to the grouping method, in addition to not providing the financial statements through which the value of investment properties, fixed assets, and projects under construction can be verified, and the Authority pointed out that the Taxpayer did not separate fixed assets and real estate investments within the depreciation schedule submitted with his declaration, thus making it impossible to separate unused real estate investments from the depreciation schedule. Accordingly, fixed assets were taken according to the financial statements, and upon reviewing the Taxpayer's zakat declaration for the year 2015, it is evident from the balance sheet in the declaration that there were fixed assets amounting to (876,172) riyals at the end of the year and (968,840) riyals at the beginning of the year, not as claimed by the Taxpayer, and he did not provide a detailed schedule (10) in his declaration that proves that the value of those assets is (166,265,820) riyals, and the Taxpayer did not provide any data or analyses regarding the investment properties or the plans and projects that the company intends to develop for use, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

With regard to the Authority's appeal on the clause "Available for sale investments in listed securities for the year 2015", and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit,



provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has been proven the Authority's request to abandon the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes: "The Authority informs your Honorable Circuit that it accepts the Taxpayer's objection and abandons its appeal with regard to the above clause specifically and requests your Honorable Circuit to prove the end of the dispute according to the merits of the decision of the adjudication." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company And his sons commercial registration number (...), distinctive number (...), and the General Authority of Zakat and Tax and Customs, against the decision of the Third Circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6643) issued in case number (Z-2021-72455) related to the zakat assessment for the year 2015.

Second: On the merits:

- 1- The Taxpayer's appeal is rejected, and the decision of the circuit regarding the clause (adding a balance of accrued expenses and non-refundable guarantees for the year 2015) is upheld.
- 2- The Taxpayer's appeal is rejected, and the decision of the circuit regarding the clause (adding a balance of unrealized profits from the investment base) is upheld.
- 3- The Taxpayer's appeal is rejected, and the decision of the circuit regarding the clause (deducting foreign real estate investments) is upheld.



- 4- The Authority's appeal is accepted, and the decision of the circuit regarding the clause (method of deducting fixed assets, works under construction, and real estate investments from the zakat base for the year 2015) is canceled.
- 5- The abandonment of the dispute regarding the Authority's appeal on the clause (investments available for sale in listed securities for the year 2015) is accepted.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-191417

Case No. Z-2023-191417

Keywords:

Zakat – Deductions from the Zakat Base – Deduction of intangible assets – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2023-113484), where the Taxpayer's appeal is based on a number of clauses related to (non-current assets), where he requested to amend the Circuit's estimates for reasons including "investments in subsidiaries", "intangible assets", "advance payments against investment", and "additional financing". The appellate committee found that the Taxpayer submitted a lawsuit regarding the clause "non-current assets - intangible assets" to claim compensation for the amounts that were removed from its liability, clarifying that the funding for the expenses came from it, which achieves budget balance. It was also noted that rejecting the deduction of the clause requires excluding a corresponding amount from equity or liabilities, which the authority did not do. This means accepting the Taxpayer's appeal regarding the clause "investments in subsidiaries" and the clause "intangible assets", and rejecting the Taxpayer's appeal regarding "advance payments for investment" and "additional financing", while upholding the initial decision.

Document:

- Paragraph (4) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Article (18) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal was heard on: 03/04/2023, from/... National ID number (...) As agent for the appellant company under Agency No. (...) Lawyer's License No. (...), on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-113484) issued in Case No. (Z-2022-113484) related to the 2019 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: the plaintiff's objection to the non-current assets - investments in subsidiaries was rejected.

Secondly: the claimant's objection to the non-current assets - advance payments against investment was rejected.

Third: the plaintiff's objection to the non-current assets - intangible assets clause was rejected.

Fourth: the plaintiff's objection to the additional funding clause was rejected.

As this decision was not accepted by the Taxpayer (Tatweer ... Ltd.), it filed an appeal list, which was reviewed by the Circuit, and included the following: regarding the clause (Investments in subsidiaries), the Taxpayer clarified by emphasizing that paragraph (4) of Article (5) of the Executive Regulations of the Zakat Law stipulates the following: "Investments in an establishment within the Kingdom for non-trading purposes, if that establishment is registered with the authority, and is subject to Zakat collection under the regulation. As explained in the article, all investments in establishments within Saudi Arabia for non-trading purposes are deductible from Zakat as long as they are registered with the Authority. Therefore, the mentioned article applies to the case of the company, as the investee company (...) Is a Saudi company registered with the Zakat, Tax and Customs Authority with a unique number (...), and the fact that the investee company is registered with the Authority and subject to the collection of Zakat, based on the above mentioned article, and its delay in filing its Zakat declarations does not mean that it is not subject to Zakat. The Circuit stated that it rejected the company's objection due to the company's failure to submit the amended memorandum of association of the investee company and that the adverse declaration submitted by the company is not an official and legal document as it is an internal document not certified by the Ministry of Justice, while the Circuit did not require the company to submit any supporting documents during the study of the company's claim. How will the company submit documents that it has no knowledge of. This is confirmed by the decision issued by the First Appellate Circuit for Income Tax Violations and Disputes (IR-2022-200) in Case No. (ZW-72364-2021). The company would also like to point out that the disputed investment was reviewed and audited by an auditor's office accredited by the Saudi Organization for Chartered and Professional Accountants (SOCPA). Thus, questioning the audited financial statements certified by the auditors without documentary evidence or a clear basis undermines confidence in the auditors' professionalism. Thus, it is more reasonable for the Authority to provide proof of its view that the



disputed investment is not Zakat deductible. Otherwise, the process of placing the burden of proof only on zakat Taxpayers will not end and the burden of proof will be unfairly used by the Authority, as the jurisprudential rule states that the proof is on the one who claims it. This is confirmed by the recent decision issued by the First Appellate Circuit for Income Tax Violations and Disputes No. IR-2022-200 in Case No. ZW-2021-72364, and also confirmed by the recent decision issued by the First Appellate Circuit for Income Tax Violations and Disputes No. IR-2023-81597 issued in the appeal No. ZI-81597-in addition to the above-mentioned appellate decision, the Taxpayer also confirms that the adverse declaration is accepted as an official document as proof of the company's interest in the investment. In addition to the above-mentioned appellate decision, the Taxpayer reports attaching several decisions supporting the company's viewpoint regarding the acceptance of the adverse declaration or partners' resolutions as an official document, including the decision of the First Appellate Circuit for Income Tax Violations and Disputes No. (IR- 2021-50) in favor of deducting investments not registered in the company's name, and the decision of the First Appellate Circuit for Income Tax Violations and Disputes No. (IR-2021-6). Regarding the Taxpayer's appeal regarding the clause (non-current assets - intangible assets), the Taxpayer explained that the company would like to emphasize that the clause of intangible assets does not relate to its investment in ... Company for investment). This indicates that the First Circuit did not thoroughly study the case file and its annexes. According to the audited financial statements, the clause in dispute is consulting, legal, technical and other studies for the Jeddah Downtown Development Project. The above-mentioned expenses were capitalized with the intention of contributing them as an in-kind share in the capital of ... Upon signing the partnership agreement with ... Which has not been signed as of the date of issuance of the audited financial statements. Therefore, the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit regarding the clauses under appeal be reversed.

On Sunday, 02/06/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, and the papers and documents in the case file, and after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



The Taxpayer's appeal regarding the clause (Investments in Affiliates), where the Taxpayer's appeal is to appeal the rejection of his objection on the disputed clause, as he claims that all investments in establishments inside the Kingdom are for non-trading purposes, and therefore are deductible from the base. Based on paragraph (4) of Article (5) of the executive regulations for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. (2216) dated 7/7/1440 AH concerning the deductions from the zakat base on: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 4-Investments in an establishment within the Kingdom for non-trading purposes, provided that such establishment is registered with the authority and is subject to zakat collection under the regulations. Financially leased assets on the lessor's commercial books are not considered an investment to be deducted from Zakat regardless of their classification in the financial statements, nor are debit loans, subsidized or additional financing, and the like granted to the entity

Based on Article (18) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance's Decision No. (2216) dated 7/7/1440 AH, which states:" The burden of proving the accuracy of what is stated in the declaration and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may refuse to approve the clause that the Taxpayer cannot prove its accuracy or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the foregoing, it is clear that the dispute between the parties in resolving the investment in the ... Referring to the case file and the financial statements submitted by the Taxpayer, it appears that the Taxpayer filed a lawsuit with the Board of Grievances to demand that the company be compensated for these amounts in the amount of SAR 35 million, from which it is clear that the amount has been discharged from the company's liability. It turns out that the financing of this investment came from the Taxpayer himself, which fulfills the principle of budgetary balance, as any asset appearing in it is financed from equity or liabilities, and the inadmissibility of deducting the investments requires excluding a corresponding amount of these investments from equity or liabilities, which the Authority did not do, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit regarding this clause.

Regarding the Taxpayer's appeal regarding the clause (non-current assets - intangible assets), the Taxpayer's appeal is to appeal the dismissal of his objection on the disputed clause, as he claims that the clause does not relate to the investment in Based on paragraph (4) of Article (5) of the executive regulations for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. (2216) dated 7/7/1440 AH concerning the deductions from the zakat base on: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books: 4-Investments in an establishment within the Kingdom for non-trading purposes, provided that such establishment is registered with the authority and is subject to zakat collection under the regulations. Leased assets in the commercial books of



the lessor are not considered an investment deductible from the zakat base, regardless of their classification in the financial statements, nor are loans or additional or supportive financing or similar granted to the invested establishment considered an investment deductible from the zakat base," and based on Article (18) of the executive regulations for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. (2216) dated 7/7/1440 AH which states: " The burden of proving the accuracy of what is stated in the declaration and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may refuse to approve the clause that the Taxpayer cannot prove its accuracy or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and since it is clear that the dispute between the two parties is regarding the deduction of intangible assets, and referring to the Taxpayer's appeal, it is evident that he argues that the clause does not relate to its investment in the company ... For investment as the decision subject to appeal was issued, but rather consists of consulting, legal, technical fees, and other studies for the development project in downtown Jeddah and that the expenses were capitalized, in addition to the Taxpayer submitting a lawsuit to the Board of Grievances to claim compensation for those mentioned amounts which indicates that the amount has been removed from the company's liability, and since the funding for these expenses came from the Taxpayer himself, which achieves the principle of budget balance since any apparent asset in it is funded from equity or liabilities included in the base, and the rejection of this clause deduction requires excluding a corresponding amount from equity or liabilities, which the authority did not do, leading the circuit to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

With regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company, commercial registration (...), unique number (...) Against the decision of the first division for adjudicating violations and disputes of



income tax in Jeddah province with number (IZJ-2023-113484) issued in case number (Z-2022-113484) related to the zakat assessment for the year 2019.

Second: On the Merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the division regarding the clause (investments in subsidiaries).
- 2- The Taxpayer's appeal is rejected, and the decision of the adjudication committee regarding the clause (non-current assets - advance payments for investment) is upheld.
- 3- The Taxpayer's appeal is accepted, and the decision of the adjudication committee regarding the clause (non-current assets - intangible assets) is canceled.
- 4- The Taxpayer's appeal is rejected, and the decision of the adjudication committee regarding the clause (additional financing) is upheld.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-190852

Case No. Z-2023-190852

Keywords:

Zakat - Deductions from the Zakat Base - Spare parts - Accepting the Authority's appeal

Summary:

The objection of the Zakat, Tax, and Customs Authority to the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (ITR-2022-6066). Where the appeal is based on the clause (expenses at the beginning of the period represented by the end-of-service provision for the year 2018), confirming that the clause was added twice to the zakat base, while the Taxpayer claims that only the account name was changed, and the clause (Deduction of spare parts from the zakat base for the year 2018) as they claim that the spare parts are used for sale purposes. And it has been established to the appellate committee that the Taxpayer did not provide a detailed account statement matching the balance shown in the financial statements, clarifying the nature of the spare parts, and that the spare parts in the customs declaration have a total value different from what was declared in the financial statements. Consequently: Acceptance of the authority's appeal.

Document:

- Paragraphs (1,5,9) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (6) of Article (6) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 23/03/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (ITR-2022-6066) issued in Case No. (Z-2021-47984) related to the Zakat assessment for 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

- 1- Cancellation of the defendant's decision regarding the clause (Foreign Procurement - Import Difference).
- 2- Cancel the defendant's decision regarding the clause (salaries, wages and additional allowance).
- 3- Prove that the dispute is over with respect to the clause (actual sales or revenue).
- (4) Annulment of the Defendant's decision with respect to the Related Parties clause.
- 5- Amending the defendant's decision with respect to the clause "expenses for the beginning of the term or the end of the term, whichever is less".
- 6- Annulment of the defendant's decision regarding the clause (deducting spare parts from the Zakat base).
- 7- Disregard the bad debt deduction clause.

Whereas this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (first term expenses represented by the end of service allowance for the year 2018), where the Authority added the clause of first term expenses in the amount of (22,274,257) riyals to the Zakat base for the year 2018 by comparing the balance of the first period and the last period, whichever is less, and a meeting was held with the Taxpayer and he stated that this clause is a provision for severance pay and its name was changed to apply international standards to it, and they stated that this clause was added twice to the Zakat base, and the truth is that this clause was not added twice to the Zakat base, as the provision clause with which the net book profit was adjusted does not exceed (12.296.857) riyals and the value of this clause is over (22) million, so based on paragraph (9) of clause (I) of Article (4) of the Zakat Regulation, "I: the Zakat base consists of all the Taxpayer's funds subject to Zakat, including:9- For the first of the year allocations (excluding doubtful allocations to banks) after deducting the user from them during the year." Therefore, the Authority confirms the correctness and integrity of its procedure, and the Circuit issuing the decision under appeal modified the Authority's decision since both accounts represent a single account and contain the same amounts and the Authority responds to this that it is clear that the Circuit issuing the decision modified Thus, it is clear that the ruling is contrary to the facts of the case, as this clause does not represent an end-of-service allowance, but rather accrued expenses that have passed the year by adding the first of the year or the last of the year, whichever is less, based on paragraph (I/5) of Article 4 of the Executive



Regulations for Zakat Collection issued by Ministerial Decision No. 2082 dated 01/06/1438 H, which states: "First: The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade offers and has passed the hawl), so it is clear that the Circuit's conclusion is incorrect. With regard to the Authority's appeal regarding the clause (deducting spare parts from the Zakat base for the year 2018), the Circuit issuing the decision under appeal canceled the Authority's decision due to the Defendant's submission of supporting documents consisting of a detailed account statement of spare parts corresponding to the balance shown in the financial statements and explaining the nature of these parts, and accordingly, the Authority reviewed the case papers and it is clear from the financial statements for the year 2018 related to inventory to separate the amount under appeal (16,265,082) riyals as spare parts from within (4,094,485 riyals), spare parts from outside (5,520,801 riyals) and ready-made materials (6,749,796 riyals), thus the amount disputed is as follows: internal spare parts amounting to SAR 4,094,485, the company provided the Circuit with a list of these parts with a breakdown of the balance at the end of the period. Spare parts from abroad in the amount of (5,530,801) riyals, which is included in the year's imports and charged to the income statement within the cost of revenue and thus represents spare parts intended for sale as a commodity, as the company's activity is wholesale and retail trade in cleaning tools and accessories, electrical tools, electronic devices and household appliances. Ready-made materials amounting to SAR 6,749,796, which are not classified as spare parts. In light of the above and the operative part of the Circuit's decision to accept the deduction of the full amount of SAR 16,265,082, and on the basis of the above, the deduction of the full amount is inappropriate. Therefore, the Authority accepts the deduction of spare parts from within the amount of SAR 4,094,485 only, and appeals on spare parts from outside and appeals on finished materials that are not categorized as spare parts, and the Authority maintains the validity and integrity of its procedure and requests the acceptance of its appeal and the reversal of the decision of the Adjudication Circuit regarding the clauses it appeals.

On Sunday, April 28, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, and with regard to the Authority's appeal regarding the clause (First Term Expenses for the End of Service Allowance for 2018), the Authority's appeal lies in the appeal against the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, claiming that the Taxpayer did not submit the account movement for the accrued expenses. Based on paragraph (9) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the determination of the Zakat threshold for those who maintain regular accounts, which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Allocations at the beginning of the year (except for doubtful allocations to banks) after deducting the user from them during the year", in addition to paragraph (6) of Article (6) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH regarding expenses that may not be deducted, which stipulates: "All benefits except: A- Provision for doubtful debts to banks provided that the bank submits a certificate from its board of directors specifying the amount of doubtful debts and that the Saudi Arabian Monetary Authority approves that. B. Unearned premiums reserve and existing risk reserves in insurance (and/or reinsurance) companies (technical reserves), provided that they are returned to the Zakat base in the following Zakat year and their determination is in accordance with the professional standards followed in this activity." Based on the foregoing, it is clear to the Committee that the Adjudication Committee issued its decision to amend the Authority's procedure regarding clause number (5), which is expenses (beginning of period or end of period, whichever is less), on the grounds that the Authority added the account twice, which constitutes duplication in zakat as they are provisions for end-of-service benefits. After the company's transition to international standards, the account name was changed to employee benefit obligations. Upon reviewing the Authority's appeal memorandum, it is clear that it related to accrued expenses and not employee benefit obligations or end-of-service as claimed by the Taxpayer. It took the balance at the beginning of the period or end of the period, whichever is less. Upon reviewing the financial statements, it appears that the Taxpayer did not clarify to the Authority the movement of accounts for accrued expenses, and the Authority related to the clause by adding what completed the lunar year based on the beginning of the year or end of the year, whichever is less, in application of paragraph (First/5) of Article Four of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. In addition to this, it is evident from the (amended) zakat declaration that the Authority added the end-of-service provision within the



provisions clause, which is the correct procedure for adding that clause, as that clause appeared as an independent clause separate from the accrued expenses clause (subject of dispute) that the Authority added within other additions. Therefore, it appears that what the Taxpayer argued - that the provision was added twice - is incorrect, as the Taxpayer did not provide a statement clarifying the accrued expenses and that they represent a provision and that the Authority actually included them in the zakat declaration. Accordingly, the Authority's procedure is sound in adding the accrued expenses clause based on paragraph number (5) of section (First) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH and based on the text of paragraph (3) of Article (20). This is not diminished by what the Taxpayer mentioned that the Authority duplicated the zakat because the account is one and the same, which is incorrect. Upon reviewing the financial statements, (defined benefit obligations for employees (end-of-service provision)) is separated from the accrued expenses clause, and the balance of accrued salaries and wages, other accruals, vacation salaries, and travel tickets are separated from the explanations of end-of-service provisions and explanations of direct and indirect accrued expenses only, which represent the month of December or the employee's non-receipt of end-of-service. Since the Authority did not originally assessment to the employee benefit obligations account (end-of-service gratuity), the Committee concludes by accepting the Authority's appeal and canceling the Adjudication Committee's decision regarding this clause.

Regarding the Authority's appeal regarding the clause (deducting spare parts from the Zakat base for 2018), the Authority's appeal lies in the appeal against the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, as it claims that the spare parts are used for the purpose of sale. Based on paragraph (Second/1) of Article (4) of the executive regulations for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: Net value of fixed assets (capital assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity." Based on the above, spare parts not prepared for sale are among the clauses that are deducted from the zakat base, provided that their nature is proven and that they are used for the maintenance of fixed assets and not for sale purposes, and since the dispute over this clause is a dispute over the committee's acceptance of the full amount, the authority states that it accepted the deduction of spare parts from domestic sources for an amount of (4,094,485) riyals only, and regarding spare parts from foreign sources for an amount of (5,520,801) riyals, the authority clarifies that they are among the imports of the year and are included in the income statement under the cost of revenues, and thus represent spare parts prepared for sale as goods, and that the company's activity consists of wholesale and retail trade in cleaning tools and supplies, electrical tools, electronic devices, household appliances, and finished goods for an amount of (6,749,796) riyals, which are not classified as spare parts. Upon reviewing the objection files before the adjudication committee, it is clear that the authority accepted the document



as it is purchases of clauses and tools included in the activity for an amount of (4,094,485) riyals, and regarding the clauses not classified as spare parts and finished goods prepared for sale, which amounted to a total of (12,280,597) riyals, the authority did not accept their deduction as they are not used in the activity and are prepared for sale. Upon reviewing the financial statements, it is clear that the total amount of the objection represents inventory at the end of the period, and upon reviewing the customs printout for the Taxpayer, it is clear that the purchases made from abroad amounted to (13,750,192) riyals, which is less than what was declared in the zakat declaration submitted and greater than the amount required to be deducted, and the Taxpayer did not provide a detailed account statement matching the balance shown in the financial statements clarifying the nature of the spare parts, and that the spare parts in the customs declaration have a total value different from what was declared in the financial statements, which leads the committee to partially accept the authority's appeal and amend the decision of the adjudication committee regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (ITR-2022-6066) issued in case number (Z-2021-47984) related to the Zakat assessment for the year 2018.

Second: On the Merits:

1- Acceptance of the authority's appeal and cancellation of the decision of the adjudication committee regarding the clause (expenses at the beginning of the period represented by the end-of-service provision for the year 2018).

2- Acceptance of the authority's appeal partially and amending the decision of the adjudication committee regarding the clause (deduction of spare parts from the zakat base for the year 2018).



Committee for adjudicating tax violations and disputes
third Circuit to adjudicate income tax violations and disputes
In Riyadh

Decision No. ITR-2024-178620

Case No. Z-2023-178620

Keywords:

Zakat – Deductions from the Zakat Base – Non-deduction of the solvency margin from the zakat base –
Rejection of the Taxpayer's objection.

Summary:

The Taxpayer's objection to the zakat assessments for the years 2015 to 2018. Where the Taxpayer's objection lies on several clauses including: The clause (addition of surplus distributions due for the years 2015-2016) and where the dispute between the Taxpayer and the authority is in adding the accumulated surplus from the distributable insurance operations to the zakat base for the aforementioned two years, and where the principle in allowing the deduction of the distributable surplus is to provide proof of its exit from the company's liability in a separate account that the company does not have authority over. In the clause (non-deduction of the full value of investments), the authority rejected the deduction of local investments, trading portfolios, and real estate of various values as they are for personal use. In the clause (non deduction of margin of solvency) it lies in the request of the Taxpayer to deduct the solvency margin from the zakat base as it is considered as reserved funds that cannot be disposed of. And since it has been established to the circuit regarding the clause (adding due surplus distributions) that the Taxpayer did not attach what proves his retention of the insurance surplus related to policyholders in a separate account, and regarding the clause (non-deduction of the full value of investments) that the Taxpayer did not provide the movement on the shares to prove the absence of sale movements during the year to prove that it is for personal use and that the investment in the funds invested is considered as commercial offerings and cannot be deducted from the zakat base, and regarding the clause (non-deduction of the solvency margin) that the solvency margin is an operational ratio that cannot in any case be classified as one of the clauses of financial statements but is an analytical ratio used to judge the company's solvency. The implication of that; rejection of the Taxpayer's objection.



Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (1,4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this lawsuit summarize that the plaintiff/company... Commercial Registration No. (...), filed her objection to the Zakat Taxes for the years 2015 to 2018, limiting her objection to the following clauses: first clause: (2015 amortization difference), second clause: (Balance of Retained Earnings for 2017), third clause: (Zakat Allowance): the plaintiff's objection lies in the defendant's decision to add the zakat provision to the zakat base for the years 2015 to 2017 in the amount of (9,7343,588) SAR, (12,312,752) SAR, (15,366,170) SAR, and (17,926,170) SAR, and the plaintiff believes that the component of the Zakat provision is not a deductible expense, in addition to the fact that the user cannot be deducted either, as it is not a deductible expense, and therefore the Zakat profit does not consist of charging the user of the provision, to subject the provision to Zakat within the Zakat profit, and that reintroducing it into the Zakat base will lead to a Zakat bend in the calculation of the base. Fourth clause: (Add the accrued surplus distributions for 2015 and 2016): the plaintiff's objection lies in the defendant's decision to add the accrued surplus distributions for the years 2015 and 2016 to the Zakat base in an amount of (2,984,395) SAR and (4,307,062) SAR respectively. The plaintiff states that these amounts are not subject to Zakat because they belong to policyholders and represent accrued amounts reserved in favor of policyholders that cannot be disposed of, according to the Authority's applications in all insurance companies that this clause is not subject to Zakat. Fifth clause: (Deducting the full value of investments for the years 2015 to 2018): the plaintiff's objection to the defendant's decision lies in not allowing the full value of the investments to be deducted from the zakat base for the years 2015 to 2018 in the following amounts: (25,629,650) SAR, (23,747,119) SAR, (89,585,314) SAR and (108,841,206) SAR respectively, the plaintiff explains that the investments deducted in her declarations are local companies and investments in trading portfolios or real estate, relying on the provisions of paragraph (II/4/a) of Article (4) of the Zakat Collection Regulation of 1438H, as it allowed the deduction of investments subject to Zakat collection in the Kingdom, in addition to not deducting the investment in a company (...). Sixth clause: (Not deducting the solvency margin from the Zakat base for the years 2015-2017): the plaintiff's objection to the defendant's decision lies in not allowing the deduction of the solvency margin for the years 2015-2017 from the zakat base in the amounts of (87,000,000) Saudi



riyals, (75,000,000) Saudi riyals and (75,000,000) Saudi riyals, respectively, the plaintiff believes that the Sharia aspects of zakat regarding this clause must be addressed due to the absence of a decisive text in the amended Zakat Regulations that deals with the solvency margin independently. She clarified that regarding the permissibility of deducting the solvency margin in cooperative insurance companies from the zakat base in these companies, if the Sharia rulings are the foundation in the zakat treatment of the solvency margin, then the regulatory provisions established by the Saudi Arabian Monetary Agency in the Executive Regulations of the Cooperative Insurance Companies Control Law issued by the Honorable Royal Decree No. (M/32) dated 2/6/1424 AH shall be the basis for determining the nature of the margin, its characteristics, and its requirements upon which the ruling in treating the margin is based. From a Sharia perspective, it is considered as specific-purpose funds that take the ruling of trade tools or technical assets, and thus what is stated in Fatwa No. (12756) applies to the solvency margin about funds that cannot be disposed of, and from the regulatory point of view, the solvency margin is considered in the judgment of the reserved amount that may not be disposed of the solvency margin is the guarantee for policyholders in case claims exceed the subscribed premiums and cover the reinsurers as well as in case one or more of the reinsurers go bankrupt. Therefore, the correct Shari'ah treatment of the solvency margin is that it must be deducted from the Zakat base because it is one of the tools of the craft (Acquisition) in the cooperative insurance activity, and it is a type of reserved money that is limited in width and in respect of which the above-mentioned applies. It also pointed to restrictions on the recycling and investment of funds in insurance companies, because the Central Bank sets a minimum limit of 40% of investments in long-term deposits with local banks and government bonds, which are considered acquisition (Durable goods) because they are held for the life of the company and cannot be disposed of except in excess of the minimum required to be retained.

Seventh clause: (Not deducting the user from the allowance for the year 2015): the plaintiff's objection lies in the defendant's decision to add the first period allocations to the Zakat base for the year 2015 (SAR 120,231), and states that not deducting the user from the profit despite the addition of the component violates the calculation of the Zakat base, and if the component is added, the user must be deducted under the same clause from the profit, and deducting the user from the profit is to determine what remains of the allocation and consider it as financing. It requests the annulment of the defendant's decision that is the subject of the lawsuit.

The case was presented to the defendant: she replied; First: (2015 amortization difference), II: (Balance of retained earnings for 2017): defendant has indicated its acceptance of Plaintiff's requests in these clauses. Third: (Zakat Allowance): she explains that she added the Zakat provision to the beginning balance of the period after deducting its utilization for the years 2015 to 2018 as follows: (A table showing the calculation is attached.) With regard to what the plaintiff indicated in her claim that there is a bend in the submission, she answers that the component is not added to the net profit, because the net profit was adjusted before



the zakat expense and the addition of the allowance to the balance of the first period after deducting the user, due to the turn of the year, and her procedure is based on paragraph (9/I) of Article (IV) of the Executive Regulations of the Zakat Law issued by Ministerial Resolution No. 2082 for 1438 AH. Fourth: (Add the accrued surplus distributions for 2015 and 2016): the defendant states that it added the policyholders' share of the insurance surplus to the Zakat base due to the turn of the year on the added balance, in accordance with paragraph (2.e) of Article (70) of the Executive Regulations of the Cooperative Insurance Companies Control Law issued by Royal Decree No. (M/32) dated 2/6/1424H, which stipulates: "The distribution of the net surplus, either by distributing 10% to the insured directly or by reducing their premiums for the following year (the percentage of the surplus that the Taxpayer is required not to add to the Zakat base) and then transferring 90% to the shareholders' income statement." because insurance companies are obligated to distribute 10% of the net insurance surplus to customers, while it became clear that the plaintiff did not distribute this surplus and the insured's premiums were not reduced in the following year, as evidenced by the presence of the amount in the financial statements for more than one year and the turning of the year. During the hearing held with the plaintiff, the defendant explained that these profits are in a special account that the company cannot dispose of. In light of this, she asked the plaintiff to provide her with a certificate from the bank stating that they are in a special account and the documents that support this, so the plaintiff attached a statement from It shows a balance of SAR 638,924.14, and the type of account is current, and she did not provide documents and a certificate from the bank to support her objection. In response to what the plaintiff raised in her claim that the money is seized and there is no full ownership, this is not true, because the plaintiff has full access to the bank accounts where these sums are held and can access and utilize them (funds that are utilized and available for use). Fifth: (Not deducting the full value of investments for the years 2015 to 2018): the Authority responds that it did not accept the deduction of investments for the fiscal years 2015 to 2018, based on paragraph (4c) of clause (II) of Article (4) of the Executive Regulations of the Zakat Collection Law issued by Ministerial Resolution No. (2082) for the year 1438H, as follows (Table attached) At the objection stage, the Authority requested the plaintiff to submit the supporting documents as follows:

-Analysis of the investments clause showing the company name - beginning balance - additions - deductions - distributions - profits and losses - and the ending balance.

-Reconcile the investments with the financial statements, indicating the type of shares, bonds and sukuk, investment funds and real estate.

The plaintiff provided an Excel file showing only the balance of the last period and the name of the company invested in, and through the analysis document and financial statements, it turned out that the investments are (local stock portfolios - units of investment funds - real estate - investment in ... Company) therefore, the Defendant partially accepted the deduction of investments worth SAR 1,923,078 for the disputed years, because they are investments in ... Company as for investments in stock portfolios or real estate funds the



investor intends to invest in these funds or portfolios that are managed by an intermediary and is aware of the nature of the business and activities of these funds or portfolios, and that it is based on flipping and trading money (buying and selling) and not acquiring, and therefore investing in the portfolios of these funds is considered to be in the category of offers of trade, which may not be deducted from the Zakat base, and this does not change the duration of the investment in the fund or its classification in the financial statements this does not change the duration of the investment in the fund or its classification in the financial statements, but rather the nature of the investment, and based on the fact that the purpose of these funds or portfolios is trading, the investment in them is considered a current asset that is classified as an offer of trade, therefore, it affirms that the plaintiff is not entitled to deduct it from the Zakat base for the years in question. Vi: (Not deducting the solvency margin from the Zakat base for the years 2015-2017): stating that it did not deduct the solvency margin because it is not a deductible element according to Article (IV) Clause (II) of the Zakat Collection Regulation issued by Ministerial Decision (2082) dated 01/06/1438H. The solvency margin is an operational ratio that measures the company's financial solvency and is not an element of the financial statements, as stipulated in Article 66 of the Executive Regulations of the Law on the Control of Companies ... Issued by Ministerial Decision No. (596/1) dated 1/3/1425 H, stipulates that a company practicing general and health insurance must maintain a solvency margin by adopting the highest of the following three methods: the solvency margin is essentially an operational ratio that cannot in any way be categorized as a financial statement clause and does not appear in the company's financial statements, nor is it a restricted part of the capital. As for the plaintiff's statement that the company's hand is tied to the development of the solvency margin, it is not true. The matter does not exceed the fact that the Central Bank has determined for insurance companies more secure investment channels and instruments in order to preserve the rights of shareholders and insurers, and the solvency margin is one of the controls of the work in the field of cooperative insurance in the Kingdom and known to the company before it applied for a license to practice the activity in the Kingdom, and there is no provision in the executive regulations for collecting zakat to deduct the solvency margin from the zakat base, and since no addition or deduction except by text, it rejected the plaintiff's objection. Seventh: (Not deducting the user from the allowance for the year 2015): it clarifies that the user is deducted from the first period allowance and the difference is added to the Zakat base, because this is the correct treatment, which is mentioned in paragraph (9/1) of Article (IV) of the Executive Regulations of the Zakat Law issued by Ministerial Decision No. (2082) of 1438 H, which states: "The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." whereas the component of the allocations during the year is added to the net profit as a non-deductible expense, as this is the correct treatment, which is in accordance with Article (6) paragraph (6) of the aforementioned Executive Regulations, which stipulates "non-deductible expenses, including (6) all allocations with the exception of: A- Provision for doubtful debts to banks provided that the bank submits a certificate from its board of directors specifying the amount of doubtful



debts and that the Saudi Arabian Monetary Authority approves that. (b) Unearned premiums reserve and existing risk reserves in insurance (and/or reinsurance) companies (technical reserves) provided that they are returned to the Zakat base in the following Zakat year and that their determination is in accordance with the professional standards followed in this activity." it asks for a judgment of dismissal.

On Wednesday, June 14, 2023, the Circuit held its session remotely to hear the case, and by calling on the litigants, Mr. (...), National ID No. (...), appeared as the plaintiff's agent under agency No. (...), as the representative of the defendant/Zakat, Tax and Customs Authority, ... National ID number (...) Under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1443) dated 15/10/1443 A.H. At the hearing, the plaintiff's representative requested that the proceedings be suspended due to the existence of a settlement request with the Authority, and by presenting it to the defendant's representative, he responded: my client has no objection to suspending the proceedings, so the Circuit decided to suspend the proceedings for (one hundred and eighty) days in accordance with Article 31 of the Rules of Procedure of the Tax Disputes and Violations Adjudication Committees

On 17/12/2023 AD, the case was initiated, and on Wednesday, 03/01/2024 AD, the Circuit held its session remotely to hear the case, and by calling on the litigants, ... Identity number (...) As agent for the plaintiff under agency number (...) He attended/... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs, no: under authorization No. (.../.../.../1445), dated 19/03/1445 AH. When the plaintiff's agent was asked about the lawsuit, he answered in accordance with the regulations previously filed with the General Secretariat of the Tax Committees. When the defendant's representative was confronted with this, he replied that he was sticking to the response previously filed with the General Secretariat of the Tax Committees. Asked what they would like to add, both parties said no. Therefore, the Circuit decided to close the argument.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Decree No. (.../.../...) Dated 14/03/1376 AH, and its executive regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its amendments, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its amendments and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425H and its amendments, and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 8/4/1445H. And relevant laws and regulations.



In terms of form: since the plaintiff aims to cancel the defendant's decision regarding the Zakat assessments for the years 2015 to 2018, and since the plaintiff filed Case No. (Z-2021-41128) on 10/03/2021, which was closed for incomplete documents on 01/04/2021, and since the date of filing the case is considered as the date of filing the grievance before the Secretariat, while she was informed of the partial rejection notice on 24/02/2021, the grievance was filed within the statutory period stipulated in Article (2) of the working rules of the Tax Disputes and Violations Resolution Committees: "The Authority shall decide on the objection within sixty days from the date of its submission. If the decision to reject the objection is issued or the ninety-day period elapses without a decision, the Taxpayer may, within ninety days from the date on which he is informed of the rejection of his objection before the Authority or the expiration of the ninety-day period without a decision, do any of the following: Within thirty days from the date on which he is informed of the rejection of his objection before the Authority or the expiration of the ninety-day period without a decision:

(1) if the Taxpayer rejects the internal committee's decision on settlement or if the period specified in the settlement rules expires without reaching a settlement, the Taxpayer may file a grievance case against the Authority's decision before the adjudication committee within thirty days from the date on which he was informed of the internal committee's decision or the period specified in the settlement rules expired without reaching a settlement, and his case shall not include what may have been settled with the internal committee.

(2) File a grievance directly with the dismissal committee." therefore, the Circuit must accept the case procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests and defenses raised by the parties, and found that the dispute lies in the following:

First: (2015 amortization difference) and (2017 retained earnings balance):

Article (33) of the working rules of the Tax Disputes and Violations Adjudication Committees stipulates that: "The decisions of the adjudication Circuits shall acquire final status in the following cases:

3- The parties to the case agree to reconciliation or acknowledge reconciliation before the adjudication Circuits."

The Circuit has established that the dispute ended with the defendant's acceptance of the plaintiff's requests as stated in the letter issued by the defendant in the reply memorandum attached to the case file, which leads the Circuit to conclude that the dispute has ended with regard to this clause.

Secondly: (Zakat Allowance):

Paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the determination of the Zakat threshold for



those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year."

Whereas, allocations by their accounting nature mean that the company has a future obligation that it did not pay during the fiscal year in which the obligation is due, so they are added to the base as an offset against the Taxpayer's funds, as the Taxpayer's obligation means that the money is still in his hand, and there is no difference in this matter between what has been allocated to pay Zakat or otherwise, and whereas, those allocated amounts have passed the hawl and are in the plaintiff's possession, and therefore the fact that these amounts remain with the company for another year should result in the duty of Zakat on them for that year, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

Third: clause (Adding accrued surplus distributions for 2015 and 2016):

Whereas paragraph (2.e) of Article (70) of the Executive Regulations of the Cooperative Insurance Companies Control Law issued by Royal Decree No. (M/32) dated 2/6/1424 AH stipulates that "Distribution of the net surplus, either by distributing 10% directly to the insured or by reducing their premiums for the following year and then transferring 90% to the shareholders' income statement." paragraph (9) of the policy on distribution of surplus insurance operations issued by the Central Bank of Saudi Arabia stipulates that: "9- The insurance company must deposit the amounts of surplus insurance operations in a bank account separate from the rest of the company's bank accounts." based on Article 35 of the Surplus Distribution Policy, which states: "The amount of unclaimed surplus for more than 5 years is returned to the insurance operations income statement. If the customer claims the amount after 5 years, the amount is paid and deducted from the insurance income statement. The insurance company must keep records of the accrued surplus for 10 years and after 10 years, the company must seek approval from the Saudi Central Bank to dispose of any amounts accrued in the insurance operations income statement." whereas the dispute between the parties is in adding the accumulated surplus of the insurance operations distributable to policyholders to the Zakat base for the years 2015 and 2016, and where the basis for the permissibility of deducting the distributable surplus is to provide proof of its exit from the company's liability in an independent account over which the company has no authority, just like the profits under distribution, and referring to the case file and the defenses and documents it contains shows that the plaintiff did not submit the Central Bank policy regarding the accumulated surplus, and an account statement was submitted This was confirmed by the defendant in its reply memorandum, and with reference to the financial statements available on the Tadawul website (the lists for 2018 and 2019 were examined because the years in dispute were not available on the basis of verification), it appears that the net insurance surplus appears in the statement of income from insurance operations separately, but the notes to the financial statements did not clarify whether the company keeps the surplus of policyholders in



a separate bank account, and although the policy of the Saudi Central Bank in the surplus of insurance operations makes it clear that the company cannot dispose of the surplus in any way despite the fact that the Saudi Central Bank's policy on surplus insurance operations makes it categorically clear that the company cannot dispose of the surplus in any form whatsoever, the dispute over this clause is a documentary dispute and the fact that the plaintiff did not attach proof that it keeps the insurance surplus related to policyholders in a separate account, which leads the Circuit to reject the plaintiff's objection and support the defendant's action with regard to this clause.

Fourth: the clause (not deducting the full value of investments for the years 2015 to 2018):

Based on paragraph (4/A) of Article (4) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 1/6/1438 AH on: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base."

Article 20, paragraph 3, of the Act states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."

A: investments in Tadawul shares (local companies):

Two basic conditions must be met for investments to be considered as Acquisition offerings and may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on those investments. A review of the documents attached to the case file reveals that the plaintiff did not submit the movement on the shares to prove that there were no sales transactions during the year, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

B: investments in funds:

Whereas, two basic conditions must be met for investments to be considered as offers of trade and may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on those investments, and whereas investment funds are characterized by the collection of different amounts issued for investment in various fields, and the fund has a financial liability independent of the issuing investment entity consequently, the investment in these funds is considered a trade offer and may not be deducted from the zakat base. This does not change the duration of the investment in the fund, but rather the nature of the



investment, as they are funds for trading and not for reading, which leads the Circuit to reject the plaintiff's objection and uphold the defendant's action with regard to this clause.

C: investing in a company... :

Article (33) of the working rules of the Tax Disputes and Violations Adjudication Committees stipulates that: "The decisions of the adjudication Circuits shall acquire final status in the following cases:

3- The parties to the case agree to reconciliation or acknowledge reconciliation before the adjudication Circuits."

The Circuit has established that the dispute ended with the defendant's acceptance of the plaintiff's requests as stated in the letter issued by the defendant in the reply memorandum attached to the case file, which leads the Circuit to conclude that the dispute has ended with regard to this clause.

Fifth: clause (not deducting the solvency margin from the Zakat base for the years 2015-2017):

Whereas, the dispute lies in the plaintiff's claim to deduct the solvency margin from the Zakat base, as it is a reserved money that may not be disposed of, in accordance with the Monetary Authority's regulations and in accordance with Fatwa No. (12756) regarding funds that cannot be disposed of and that reserved funds are not subject to Zakat, and whereas the basis for the obligation of Zakat is the general rules of collection and the Sharia fatwas issued in this regard, as well as Zakat collection regulations, trade offers and explanatory circulars. Regarding the claim that the company's hand is tied regarding the solvency margin, this claim is incorrect, as it does not exceed the fact that the Saudi Central Bank has specified certain investment channels and tools for these companies for the purpose of preserving the rights of shareholders, and building reserves to support the company's financial position and achieve the required solvency margin according to the Cooperative Insurance Companies Control Law and its executive regulations, and it is known that the solvency margin is an operational ratio that cannot in any case be classified as one of the clauses of financial statements but is an analytical ratio used to judge the company's solvency, which leads the circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

Vi: clause (Non-deductibility of the user from the allocations for 2015):

Whereas paragraph (I) of Article (4) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year."

The Zakat treatment of provisions consists of deducting the user from the balance of the provisions at the beginning of the year and adding the result to the Zakat base with the addition of the component to the net profits. A review of the Zakat assessment shows that the defendant has deducted the user from the



provisions during the year from the balance of the first period and added the remainder to the turnover, thus the Zakat treatment of the disputed clause is correct, and the plaintiff's reference to subjecting the balance of the provision twice is incorrect, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

For these reasons and after deliberation, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the plaintiff's objection/ Company ..., Commercial Registration No. (...), against the decision of the defendant/ Zakat, Tax and Customs Authority from a procedural perspective.

Second: On the Merits:

- 1- Proving the end of the dispute regarding the clause (consumption difference for the year 2015).
- 2- Proving the end of the dispute regarding the clause (retained earnings balance for the year 2017).
- 3- Rejection of the plaintiff's objection regarding the clause (adding the zakat provision for the years from 2015 to 2017).
- 4- Rejection of the plaintiff's objection regarding the clause (adding due surplus distributions for the years 2015-2016).
- 5- Regarding the clause (non-deduction of the full value of investments for the years from 2015 to 2018):
 - A - Rejection of the plaintiff's objection regarding the clause (investments in trading shares (local companies)).
 - B - Rejection of the plaintiff's objection regarding the clause (investments in funds).
 - C - Proving the end of the dispute regarding the clause investment in (Company ... For insurance services - valued at 1,923,078 Riyals).
- 6 - Rejection of the plaintiff's objection regarding the clause (non-deduction of the solvency margin from the zakat base for the years 2015-2017).
- 7 - The plaintiff's objection regarding the clause (the user not being deducted from the allocations for the year 2015) is rejected.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-153019

Case No. Z-2022-153019

Keywords:

Zakat - Deductions from the Zakat Base - Foreign investments - Acceptance of the authority's appeal - Acceptance of the Taxpayer's appeal.

Summary:

The Taxpayer's objection and the Zakat, Tax and Customs Authority's objection to the decision of the first circuit regarding violations and disputes of income tax in Dammam City number (IZD-2022-1632), where the Taxpayer's appeal is based on the authority's decision regarding the clause (Murabaha and Tawara financing) where the Taxpayer confirmed that the authority relied on incorrect assumptions in calculating revolving loans, clarifying that Murabaha and Tawara financing are long-term financing and not revolving, and that they were paid during the first half of the year. The authority's appeal regarding the clause (<3>foreign investments) in the Taxpayer's submission of the zakat account does not agree with the authority. And since the appellate committee has established that the Taxpayer attached the financial statements of the company (...) (...) Company In English, and since the authority accepted the deduction of foreign investments (...) (...) Company (...) Company (...) For submitting financial statements, the above financial statements are accepted. This means; partially accepting the authority's appeal and amending the decision of the circuit regarding the deduction of investments in the following companies (...) in exchange for adding the Taxpayer's share of the zakat base for these investments in the amount of (213,927,240) riyals, and accepting the Taxpayer's appeal regarding the clause (Murabaha and Tawarruq financing).

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed was considered on 05/10/2022, from ... Commercial Register (...), and the appeal filed on 09/10/2022 AD by the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-1632) issued in Case No. (Z-2021-40494) related to the 2014 Zakat assessment, in the lawsuit filed by ... Company against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

1. dismissed the plaintiff's objection regarding an estimated profit clause for import differences.
2. amending the defendant's decision with respect to Murabaha and Tawarruq financing.
3. the defendant's decision regarding the short-term loans clause is overturned.
4. demonstrate that the disagreement regarding the spare parts non-discounting clause is over.
5. on the clause of foreign investments:
 - A- procedural denial of the claimant's request to provide the plaintiff with details of the defendant's accounting for foreign investments.
 - B- modify the Defendant's decision on foreign investments.
6. rejected the plaintiff's objection regarding an clause owed to related parties.
7. dismissed the plaintiff's objection with respect to the customer payments clause.

Since this decision was not accepted by the Taxpayer (... Company the Taxpayer's appeal relates to the clause "Murabaha and Tawarruq financing". The Taxpayer explains that the Authority acknowledged through clause "II" in its appeal memorandum on the decision of the first Adjudication Circuit that the company submitted the documents supporting the Murabaha and Tawarruq financing, namely (documents proving the repayment of loans during the year, a copy of the general ledger, and a copy of the bank statements) and provided excerpts of the Authority's opinion in this regard he presented excerpts from the opinion of the Authority in this regard, as the subjection of Murabaha and Tawarruq financings to the lesser of the first and last balance of the term for each loan is a wrong approach, as the movement of Murabaha and Tawarruq financings provided by the company must be considered, and the Chartered Accountant confirmed in his report (Annex 3) that the balances of Murabaha and Tawarruq financings have not matured and are not revolving, he indicated in his report that "the closing balance consists of the amounts of loans obtained during the year that were not carried forward from the previous year, and represents the balances of loans less than 354 days." If there were any part of these loans that had lapsed, the chartered accountant would have mentioned this as notes in his report, given that the company provided in the initial examination stages a detailed movement of these funds and supporting documents for this movement, the definition of revolving loans must be loans that have come due through several lenders or repaying a loan



and obtaining a loan from the same lender so that there is no time difference between the repayment process and obtaining a new loan, and this condition does not apply to the company's case, and looking at the movement of loans, it is noted that most Murabaha and Tawarruq loans were repaid during the first half of the year and new loans were obtained during the last quarter of the year, so how are the loans revolving with a difference between payment and obtaining new loans of more than three months, if we assume that Murabaha and Tawarruq financing are revolving loans (which they are not), the company emphasizes that the provisions of paragraph (3/b) of Article 4 of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, which states that the Zakat year for debts is not interrupted by renewing or rescheduling them with the same creditor or by replacing these debts with other debts or sources of financing that finance what was financed by these debts, Its application is limited to financial years beginning on or after 1/1/1440 AH. Accordingly, it does not apply to the year under assessment. is not interrupted, the Taxpayer also asserts that the amounts obtained by the company represent Murabaha and Tawarruq loans in order to finance working capital, and this has been proven through official documents and contracts with the banks, and it is clear that the Authority did not review them properly, but was satisfied with unjustified assumptions and expectations, and therefore he requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

This decision was also not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority can be appealed with regard to the clause (short-term loans). The Authority clarifies with regard to the certificate of the chartered accountant that it is clear from the certificate submitted that it concerns the Murabaha and Tawarruq clause only without the short-term loans clause, and the analysis according to the certificate (attached in the Authority's appeal list (attached in the Authority's appeal list)), with regard to the payment documents, the Taxpayer submitted payment documents (110 documents) related to the Murabaha and Tawarruq clauses above and did not submit any payment documents for the short-term loans clause (80,893,000 riyals), and with regard to the ledger, the Taxpayer did not submit the ledger, but submitted a manually prepared movement of the clause as detailed below (attached in the regulation) in his objection note, as for the bank statements, as mentioned above, the Taxpayer submitted payment documents and bank statements for the Murabaha and Tawarruq clauses only and did not submit short-term loans, based on the above, the Authority maintains its decision to add the balance of the first or last period of short-term loans, as the Taxpayer did not provide any documents to support that these amounts have not been converted. With regard to the clause (foreign investments), the Authority explains that in its supplementary memorandum, it accepted the deduction of the following investments in exchange for adding the Taxpayer's share of the Zakat base for these investments as follows (attached in the appeal list), therefore, it requests the Honorable Committee to amend the operative part of the decision to deduct the above investments in exchange for adding the Taxpayer's share of the Zakat base for these investments amounting to SR (56,259,305). In terms of investing in (...) Upon reviewing the Taxpayer's financial statements and the Zakat calculation submitted,



the Authority reports that they do not agree with the Zakat calculation submitted by the Taxpayer (attached), and upon reviewing the Taxpayer's calculation (Zakat due of SAR 2,118,972) and the Authority's calculation (Zakat due of SAR 3,953,266) above, the Authority reports that the disagreement lies in the following clauses: 1- The Taxpayer has deducted the user from the allocations from the net profit, and the Authority does not agree with the Taxpayer's procedure, as the correct treatment is to deduct the user from the allocation from the balance of the first period within the Zakat base, based on paragraph (9) Clause 1 of Article 4 of the Executive Regulations issued by Ministerial Resolution No. 2082 dated 1/6/1438H corresponding to 28/2/2017, which states: "The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." 2- The Taxpayer did not add the balance of the allowance for guarantees transferred from the accrued expenses that have lapsed (attached), and the Taxpayer did not add the liabilities that have lapsed, 3- The Taxpayer did not submit the movement of clauses, and the balance of the first or last year, whichever is less, was added based on paragraph (5) Clause I, Article IV of the Executive Regulations issued by Ministerial Resolution No. 2082 dated 1/6/1438 H corresponding to 28/2/2017, 4- Taxpayer deducted deferred tax assets (445,410) SAR, the Authority does not agree with the Taxpayer's action as they are not among the clauses deducted from the base mentioned in the second clause of the fourth article of the Executive Regulations issued by Ministerial Decision No. 2082 dated 1/6/1438H corresponding to 28/2/2017. 5- The Taxpayer deducted the clause of long-term tools, supplies and spare parts amounting to SAR 1,505,093, and the Authority was unable to reconcile the clause with the submitted financial statements. Based on what was explained above, the Authority requests the acceptance of the deduction of the following investments in exchange for adding the Taxpayer's share of the Zakat base for these investments in the amount of SAR 213,927,240, and therefore requests the acceptance of its appeal and reversal of the decision of the Adjudication Circuit.

On Tuesday, February 13, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 A.H.; and by calling on the parties, the plaintiff's legal representative attended, ... National ID number (...) According to the statute of limitations attached to the case file, I attended ... National ID number: as the representative of the defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) dated 19/03/1445 H. When asked what she would like to add, the defendant's representative stated that she maintains what has already been submitted in this case. When the plaintiff's representative was presented with this, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, so the Circuit



decided to postpone the hearing of the case until Tuesday, February 27, 2024. The next session will be a decision-making session.

On Tuesday, February 27, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; and by calling on the litigants, the plaintiff's legal representative attended, ... National ID number (...) According to the statute of limitations attached to the case file, I attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) dated 19/03/1445 H. Accordingly, the Circuit decided to close the pleadings and deliberations.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal on the clause "Short-term Loans" and where the Authority's appeal lies in the fact that it added the balance of the first or last period of short-term loans where the Taxpayer did not provide any documents to support that these amounts did not turn around, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438H, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on paragraph (First/3) of article (20) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, loans are one of the components of the Zakat base, regardless of their type, source or



classification, provided that they are turned over or used to finance assets that are deducted from the Zakat base without requiring them to be turned over, and by reviewing the documents attached to the case file, it is clear that the Taxpayer attached the movement of loans that are not detailed and prepared in a manual manner that cannot be considered and did not provide proof that these loans did not turn over and did not provide any payment documents for the short-term loans clause (80,893,000 riyals), since there is no detailed movement of these loans that shows that the balances of the first period were repaid during the year, the procedure to be taken is to add the balance of this clause as a source of financing because it is one of the components of the Zakat base by taking the balance of the beginning of the year or the end of the year, whichever is less, for the purpose of adding the balances that have come due, with regard to the documents mentioned in the Circuit's initial decision, it appears that the Taxpayer attached a letter sent to the adjudication committee on 18/9/2022 (Annex No. 8) confirming that these documents are related to the Murabaha and Tawarruq financing clause above and not the short-term loans clause and asking him to clarify this, which concludes the Circuit to accept the appeal of the Authority and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Authority's appeal on the clause (Foreign Investments) and where the Authority's appeal lies in the Taxpayer's submission of the Zakat account with which the Authority does not agree, and based on Ministerial Decision No. (1005) dated 28/4/1428 AH: Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof that zakat has been paid in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies. If the Taxpayer does not provide the above, these investments shall not be deducted from his tax base." Based on what is stated in the ministerial decision number (1005) mentioned above, the Taxpayer is entitled to deduct foreign investment from its zakat base provided that it adheres to what is stated therein, which is to submit audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and remit it to the authority, or provide proof of paying zakat on it in the country of investment, and then deduct those investments from the base of the investing company to avoid zakat, and if the mentioned documents are not submitted, those investments will not be deducted from its zakat base, and since the dispute ended with amending the authority's procedure regarding the deduction of foreign investments for the companies mentioned above and not accepting the deduction of investment for the two companies (... And (...)) for not submitting the financial statements and calculating the zakat, and upon reviewing the case file and what it contained of defenses and documents, it appears that the Taxpayer attached the financial statements of the company (...) (...) Company In English, and since the authority accepted the deduction of foreign investments (...) (...) Company (...) Company (...) To submit the financial statements, it must accept the financial statements mentioned above, and regarding the calculation of zakat



for the company (...). It appears that the Taxpayer calculated the deduction of the user from the allocations from the net profit while the correct treatment is to deduct the user from the allocation from the beginning balance, and the Taxpayer did not add the balance of the guarantee provision transferred from the accrued expenses which has completed a year, the Taxpayer did not add the liabilities that have completed a year and where the accounts payable and receivables and other credit balances are considered components of the zakat base, and the Taxpayer submitted an Excel statement of the movement prepared manually which cannot be accepted, thus the beginning or end balance is added, whichever is lower, in addition, the Taxpayer deducted the deferred tax assets amounting to (445,410) riyals as they are not among the clauses deducted from the base, and the Taxpayer deducted the clause of tools, supplies, and long-term spare parts amounting to (1,505,093) riyals and the circuit could not match the clause with the submitted financial statements, thus it appears that the calculation of zakat submitted by the Taxpayer amounting to (2,118,972) Saudi riyals is incorrect, while the calculation of zakat submitted by the authority amounting to (3,953,266) Saudi riyals is correct, which leads the circuit to partially accept the authority's appeal and amend the decision of the circuit regarding this clause by deducting investments in the following companies (...) in exchange for adding the Taxpayer's share of the zakat base for these investments in the amount of (213,927,240) riyals.

With regard to the Taxpayer's appeal on the clause (Murabaha and Tawarruq financing) and where the Taxpayer's appeal lies in the company's submission of documents supporting Murabaha and Tawarruq financing, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438H, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." based on the above, loans are one of the components of the Zakat base, regardless of their type, source, or classification, provided that they turn over or are used to finance assets that are excluded from the Zakat base without requiring them to turn over, and a review of the case file shows that the Authority's view in adding the balances of these loans is due to a review of the documents attached to the case file, namely the detailed movement of Tawarruq loans and the contracts concluded with the banks, shows that the disputed loans are taken at intervals and the amounts are not close to each other, by examining the detailed movement, it was found that the loans from the following banks have not been converted....) in addition, the Taxpayer submitted a certificate from a chartered accountant who explained that the balances of Murabaha and Tawarruq financing are not revolving, as he indicated in his report that "the closing balance consists of the amounts of loans obtained during the year that were not carried forward from the previous year, and represents loan balances of less than 354 days." With regard to what the Taxpayer referred to in his appeal list regarding the letter sent to the adjudication committee dated 18/09/2022 (Attachment No.



8), in which he requests clarification of Adjudication Decision committee in the third clause (short-term loans), in which it referred to the following documents a certificate from a chartered accountant - ledger - bank statements." The Taxpayer asserts that these documents are related to the Murabaha and Tawarruq financing clause and not the long-term loans clause, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's and the Zakat, Tax and Customs Authority's appeal regarding the remaining clauses at issue in the case, wherein the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what was included in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the appeal of the Taxpayer and the Authority, and to uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial register (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Dammam with number (IZD-2022-1632) issued in case number (Z-2021-40494) related to the Zakat assessment for the year 2014.

Second: On the merits:

- 1- The authority's appeal is rejected and the Taxpayer's appeal is accepted partially, and the decision of the circuit is amended regarding clause (Murabaha and Tawarruq financing).
- 2- The authority's appeal is accepted, the decision of the circuit is canceled, and the Taxpayer's appeal is rejected regarding clause (short-term loans).
- 3- The Taxpayer's appeal is rejected and the authority's appeal is accepted partially, and the decision of the circuit is amended regarding clause (foreign investments).
- 4- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (estimated profit on import differences).



5- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (amounts due to related parties).

6- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (advances from customers).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-191197

Case No. ZI-2023-191197

Keywords:

Zakat - Deductions from the Zakat Base - investment at fair value - acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IFR-2023-600), where his appeal lies on clause (investments at fair value through profit or loss for the years 2018 and 2019) is that two essential conditions must be met for considering investments as liquid assets that can be deducted from the Zakat base, which are the documented intention from the authorized person clarifying the intention of the investment, and the absence of any sales transactions during the year on those investments. And it has been established to the appellate committee that the fund ... (not registered in Zakat), and the fund has a financial independence from the issuing investment entity, and the Taxpayer has submitted the financial statements of the fund and its Zakat calculation. Consequently; the Taxpayer's appeal is accepted partially and the decision of the circuit is amended to accept the deduction of the investment after the authority calculates the Zakat for the fund and the Taxpayer pays the Zakat.

Document:

- Paragraph (4/a) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (4) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal was heard on: 29/03/2023, from/... National ID number (...) In This capacity as the statutory representative (Chairman of the Board of Directors) under the Articles of Association of the Appellant Company, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2023-600) issued in Case No. (ZI-2021-67494) regarding the Zakat assessment for the years 2018 and 2019, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of procedurality.

li: substantively:

- 1- Annulment of the defendant's decision regarding the life insurance clause for 2019.
2. Modification of the Defendant's decision with respect to the non-discounting clause of
- 3- Annulment of the Defendant's decision regarding the real estate investment clause "undeveloped land"
- 4- Reject all other objections.

Since this decision was not accepted by the Taxpayer (... Company), submitted a list of appeals that included the following:

The Taxpayer challenges the decision of the Appellate Division, claiming that with regard to the clause (Investments at fair value through profit or loss for the years 2018 and 2019), the appellant (the Taxpayer) is requesting the annulment of the Circuit's decision on this clause, as it indicated that the company discounted the investments as cash outflows and that the company's intention is for long-term investment purpose, as it indicated that it is ... It is an established fund in the Kingdom and has indicated that there is no sale on it. In the event that the deduction of the disputed clause is not accepted, the company calculated Zakat on the fund invested in it according to the approved financial statements, while the response of the Defendant (the Authority) stated that two basic conditions must be met for the investments to be considered as Acquisition offers that are eligible for deduction from the Zakat base, namely the documented intention of the authority holder that clarifies the intention of the investment and the absence of sales made during the year on those investments, and it became clear to the Circuit after reviewing the documents related to the fund of the ... He also demands that the Circuit's decision regarding foreign investments be overturned, as it indicated that the investments represent technical offerings and the company's intention to hold them for long periods of time. It also indicated that it calculated zakat on companies invested abroad within the limits of what was available to it from internal data and accounts and accounts approved by a certified public accountant. As for some companies invested abroad, it is practically difficult in many cases



to calculate Zakat based on the accounts certified by a chartered accountant for several reasons, while the response of the appellant (Authority) stated that we inform Your Excellency that after reviewing the list of the plaintiff's appeal regarding foreign investments, it was found that he accepted the Authority's procedure. Clause (Share in net loss of subsidiary), Clause (Provision for losses of subsidiary), Clause (Social insurance difference), and Clause (Gift expense).

On Wednesday, 29/05/2024, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/4/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (Investments at fair value through profit or loss for the years 2018 and 2019) and where the Taxpayer's appeal is:

A- Investments within the Kingdom, and based on paragraph (4/a) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "Investments in establishments within the Kingdom - participation with others - if those investments are subject to Zakat collection under this regulation, if the investment in those establishments is not subject to collection, it cannot be deducted from the base", and based on paragraph (4) of Article (5) of the executive regulation for Zakat collection issued by the Minister of Finance number (2216) dated 7/7/1440 AH which stated: "Investments in an establishment within the Kingdom for non-trading purposes, if that establishment is registered with the authority, and is subject to Zakat collection under the regulation. And leased assets are not considered financial investments in the commercial books of the lessor that can be deducted from the Zakat base regardless of their classification in the financial statements, nor are loans or additional financing or similar granted to the invested establishment considered investments that can be deducted from the Zakat base", based on the above, and since two essential conditions must be met for considering investments as liquid assets that can be deducted from the Zakat base, which are the documented intention from the authorized person clarifying the intention of the investment, and the absence of any sales



transactions during the year on those investments, and since the fund ... (Not registered for Zakat), and the fund has a financial independence from the issuing investment entity, and since the Taxpayer submitted the financial statements of the fund and calculated the Zakat (attached 2), it is necessary for the circuit to accept the Taxpayer's appeal partially and amend the decision of the Appellate Circuit to accept the investment deduction after the authority calculated the Zakat for the fund and the Taxpayer paid the Zakat.

B. Foreign investments, and based on paragraph (4) (b) of clause (II) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: "The following shall be deducted from the zakat base:" investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer calculates in his Zakat declaration the Zakat due on these investments in accordance with the rules stipulated in this regulation and submits it to the Authority, attaching audited accounts from a certified public accountant in the country of investment and approved by the official authorities, if he does not commit to calculating and submitting Zakat accordingly, it will not be deducted from the Zakat base," according to paragraph (5) of Article (5) of the executive regulation for the collection of Zakat issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH on: "investments in an establishment outside the Kingdom for non-trading purposes, provided that the Taxpayer pays Zakat on these investments to the Authority under a certificate prepared in accordance with the provisions of the regulation and certified by a chartered accountant licensed in the Kingdom, provided that the minimum Zakat threshold for these investments is the Taxpayer's share of the net accounting profit included in the financial statements of these investments, whether or not the profit is distributed, if the Taxpayer does not commit to calculate and pay Zakat accordingly, these investments shall not be deducted from the Zakat base." Based on the above, and based on the above-mentioned articles and where the Taxpayer is entitled to deduct the foreign investment from his Zakat base, provided that he complies with the provisions thereof, which is to pay Zakat under a certificate prepared in accordance with the provisions of the regulation and certified by a licensed chartered accountant in the Kingdom in order to calculate the Zakat due on these investments if the Taxpayer does not provide the aforementioned, these investments will not be deducted from his Zakat base, and since the Taxpayer submitted his Zakat calculation and financial statements without paying Zakat, the Circuit must partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit with regard to the clause (Foreign Investments), which is necessary for the Circuit to accept the Taxpayer's appeal.

Whereas, with regard to the Taxpayer's appeal regarding the remaining clauses, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was



based, which are sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the remaining clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2023-600) issued in case number (ZI-2021-67494) related to the Zakat assessment for the year 2018.and 2019.

Secondly: On the merits:

1- Regarding the Taxpayer's appeal on the clause (investments at fair value through profit or loss for the years 2018 and 2019):

A- Accepting the Taxpayer's appeal partially and amending the decision of the Appellate Circuit regarding the clause (investments within the Kingdom).

B- Accepting the Taxpayer's appeal and canceling the decision of the Appellate Circuit regarding the clause (foreign investments).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding the clause (share in the net losses of the subsidiary company).

3- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding the clause (provision for losses of a subsidiary company).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding the clause (difference in social insurance).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding the clause (gift expenses).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170532

Case No. Z-2023-170532

Keywords:

Zakat – Deductions from the Zakat Base – foreign investments in financial assets at fair value – Accepting the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit for adjudicating violations and disputes of income tax in Jeddah number (2022-2477-IZJ) for the year 2019, where his appeal lies in several clauses including (rejection of the deduction for foreign investments in financial assets at fair value) in considering investments in financial assets at fair value made outside the Kingdom as a deduction from the Zakat base amounting to (318,629,915) Saudi Riyals. And it has been established to the appellate committee that the Taxpayer attached the financial statements of the invested company and provided proof of payment for the due Zakat, and submitted a limited assurance report from a certified accountant regarding the calculation of Zakat for companies invested in outside the Kingdom, but upon reviewing the attachments, it became clear that the Zakat paid according to the attached calculation relates to the investment in the company ... – Bahrain for an amount of (105,439,323) Riyals only. This means, accepting the Taxpayer's appeal partially and amending the decision of the Appellate Circuit by accepting the investment deduction in the company ... For an amount of (105,439,323) Riyals only, with the authority's right to verify the accuracy of the attached Zakat calculation.

Document:

- Article (5/5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal filed on 17/01/2023 from/... National ID number (...) In his capacity as a director under the decision to appoint directors, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2477) issued in Case No.(Z-2021-68787) related to the 2019 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1 - Rejecting the plaintiff's objection to the unrealized profits clause.
2. Reject the plaintiff's objection to the listed companies' profits clause for 2019.
- 3 - Rejecting the plaintiff's objection to the VAT clause.
4. Reject the plaintiff's objection to the employee benefits clause.
- 5 - Rejecting the plaintiff's objection to the short-term loans clause.
- 6 - Rejecting the plaintiff's objection to the rounded zakat allowance clause.
- 7 - Rejecting the plaintiff's objection to the clause Investments in financial assets at fair value - external.
- 8 - Accepting the plaintiff's objection to the clause of investments in financial assets at fair value - local.
9. Rejecting the plaintiff's objection to the clause of investments in subsidiaries and affiliates.
- 10 - Rejecting the plaintiff's objection to the investment properties clause.

This decision was not acceptable to the Taxpayer (... Company).the Taxpayer submitted a list of appeals, which was reviewed by the Circuit, where his appeal lies in the clause (Investments in Financial Assets at Fair Value - Foreign), where the Taxpayer explains that the Circuit did not approve the deduction of investments made outside the Kingdom the Taxpayer explains that the Circuit did not approve the deduction of investments made outside the Kingdom on the grounds that it did not provide a certificate issued by a chartered accountant and did not pay zakat for them, and therefore it is in the process of obtaining a certificate from a chartered accountant as soon as possible regarding the investments and declared within the fair value through profit or loss, the Taxpayer also attached the documents related to the investments, and relies on Appeal Decisions No. IR-2022-208 and IR-2021-332. The Taxpayer explains that the Circuit upheld the Authority's treatment of the investments in ...Investment on the basis that it is an offshore company and the company did not provide a... He is in the process of obtaining a certificate from a chartered accountant regarding the investment in a company...to be submitted to the Appellate Committee...He also submitted the financial statements of the company...for investment, the zakat calculation based on the statements, and the bank document proving the payment of the zakat due on the company.... The Taxpayer explains that a company that invests in a... The Circuit stated that the company did not provide a certificate of a chartered accountant and did not pay zakat in accordance with Article (5)



of the Zakat Executive Regulations, and since the company ... Based in Saudi Arabia and listed on the Tadawul stock market, the company ... They are not required to provide a certified public accountant's certificate to deduct these investments from the Zakat base. The Taxpayer explains that the company purchased the land for the purpose of developing the manufacturing facilities of ... And did not hold it for trading purposes. The company provided a copy of the deeds evidencing the purchase of the land and a copy of the financial statements. The Taxpayer states that due to certain operational and regulatory restrictions, ... The land was purchased in the name of the subsidiary company (a company that... In the Kingdom) a distinctive number (...), and that the company ... It did not disclose the investments in its financial statements, nor did it claim them as a deduction from the base. Therefore, he requests that his appeal be accepted and that the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Thursday, 08/02/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal relates to the clause "Investments in financial assets at fair value-foreign", where the Taxpayer's appeal lies in the adoption of investments in financial assets at fair value made outside the Kingdom as a deduction from the zakat base in the amount of (318,629,915) SAR, and based on paragraph (5) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 7/7/1440 H, which stipulates: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 5- Investments in an establishment outside the Kingdom for non-trading purposes, provided that the Taxpayer pays zakat on these investments to the authority based on a certificate prepared in accordance with the provisions of the regulation and approved by a licensed accountant in the Kingdom, with the minimum zakat base for these investments being the



Taxpayer's share of the net accounting profit stated in the financial statements of these investments, whether the profit is distributed or not. If the Taxpayer fails to calculate and pay zakat accordingly, these investments shall not be deducted from the zakat base." Therefore, since the Taxpayer is requesting the recognition of investments in financial assets at fair value made outside the Kingdom as a deduction from the zakat base amounting to (318,629,915) Saudi Riyals, while the Taxpayer attached the financial statements of the invested company and provided proof of payment for the due zakat, and submitted a limited assurance report from a licensed accountant regarding the calculation of zakat for the companies invested in outside the Kingdom, it was found upon reviewing the attachments that the zakat paid based on the attached calculation relates to the investment in the company ... – Bahrain for an amount of (105,439,323) Riyals only, which leads the circuit to partially accept the Taxpayer's appeal and amend the decision of the Appellate Circuit by accepting the deduction of the investment in the company ... For an amount of (105,439,323) Riyals only, with the authority's right to verify the accuracy of the attached Zakat calculation.

Whereas, with regard to the Taxpayer's appeal on the clause "Investment in ... Company for investment", and where the Taxpayer's appeal lies in the fact that the company has calculated the zakat amount in detail and added it to the zakat base in the corrected Zakat assessment on his share in foreign companies, and based on paragraph (5) of Article (5) of the Executive Regulation for Zakat Collection issued by Ministerial Resolution No. (2216) dated 7/7/1440 A.H: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" "5- Investments in an establishment outside the Kingdom for non-trading purposes, provided that the Taxpayer pays zakat on these investments to the authority based on a certificate prepared in accordance with the provisions of the regulation and approved by a licensed accountant in the Kingdom, with the minimum zakat base for these investments being the Taxpayer's share of the net accounting profit stated in the financial statements of these investments whether the profit is distributed or not, and if the Taxpayer does not comply with calculating and paying zakat accordingly, these investments shall not be deducted from the zakat base." based on the above, the Taxpayer is entitled to deduct the foreign investment from his Zakat base provided that he complies with the provisions of the regulation, namely that he pays the Zakat on these investments by means of a certificate prepared in accordance with the provisions of the regulation and certified by a certified public accountant licensed in the Kingdom, and then deducts these investments from the invested company's base to avoid the deduction of Zakat, if he does not provide the aforementioned, these investments shall not be deducted from his Zakat base with reference to the documents attached to the case file, it is clear that the Taxpayer attached the financial statements of the invested company, as well as proof of payment of the Zakat due, and submitted a limited confirmation report by a chartered accountant based on the above article, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit.



Whereas, with regard to the Taxpayer's appeal on the clause "Investment in ... Company", and where the Taxpayer's appeal lies in the Authority's action to exclude the investment difference in the above company as representing goodwill value, and based on paragraph (3) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 7/7/1440 AH, which stipulates that: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 3- Intangible assets recorded in the Taxpayer's commercial books that are internally generated or purchased without the intention to trade them." A review of the documents attached to the case file shows that Note 11(c) of the financial statements of the appellant company for 2014 (Annex 37) shows that the book value of the investment in the above company includes implicit goodwill worth SAR 62 million, and the Taxpayer also attached the calculation of goodwill and the mutual partnership agreement with the partners in ... The memorandum of understanding between Company .. Concerning the merger between the two companies on 13/1/2005 (Annex 36), the Authority did not explain in its reply memorandum the reasons for not accepting the deduction of the goodwill included in the investment in the above company as well as the treasury shares, and since goodwill generated internally or purchased with the intention of Acquisition is one of the clauses that can be deducted from the Zakat base, the Circuit concludes to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit.

Whereas, regarding the Taxpayer's appeal on the unapproved clause (Real Estate Investments (Investments in Land)), and where the Taxpayer's appeal lies in the deduction of land that was purchased in the name of ... Company. (Related Party), and based on paragraph (1) of Article (5) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2216) dated 7/7/1440 AH, which stipulates the following: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 1- Net fixed assets and their equivalents, including, but not limited to, the following: a. Fixed assets acquired for the purpose of using them in the Taxpayer's activity, at the book value shown in the financial statements." A review of the documents attached to the case file shows that the Taxpayer attached the deeds proving the purchase of the land on 15/9/1431 H. He also attached the financial statements of the related party with its Zakat return for the year 2019 (Annex 30 and 31), from which it is clear that the related party did not capitalize these lands in its books within the assets, nor did it claim their deduction in the Zakat return (Annex 30 and 31) since the disputed lands are classified as non-current assets in the Taxpayer's financial statements, and because the Authority did not provide evidence to prove its view that these lands are for trading purposes, these lands are considered a permissible clause to be deducted from the Zakat base, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit.

With regard to the Taxpayer's appeal on the remaining clauses in the case, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding the decision with what these



reasons contain, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was included in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial register (...) , unique number (...) , against the decision of the first circuit for adjudicating tax violations and disputes in Jeddah Province with number (IZJ-2022-2477) issued in case number (Z-2021-68787) related to the zakat assessment for the year 2019.

Second: On the Merits:

1- Partially accepting the Taxpayer's appeal and amending the decision of the Appellate Circuit regarding clause (investments in financial assets at fair value - foreign).

2- Regarding the Taxpayer's appeal on the clause (non-recognition of investment in some subsidiary and associated companies):

A- Accepting the Taxpayer's appeal and canceling the decision of the Appellate Circuit regarding (Company... For investment).

B- Accepting the Taxpayer's appeal and canceling the decision of the Appellate Circuit regarding (Company...).

C- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding (Company... Limited).

D- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding (... For investment and Company ... For investment).

3- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding clause (short-term loans).



- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding clause (non-recognition of the claim for deduction of unrealized profit from financial assets at fair value through profit or loss from adjusted profit).
- 5- Accepting the Taxpayer's appeal and canceling the decision of the Appellate Circuit regarding (real estate investments (investments in land) not recognized).
- 6- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding clause (zakat provision).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding clause (adding profits from re-measuring the end-of-service benefits provision).
- 8- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding clause (non-recognition of value-added tax expense).
- 9- Rejecting the Taxpayer's appeal and upholding the decision of the Appellate Circuit regarding clause (revenue from dividends from listed companies).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-192728

Case No. Z-2023-192728

Keywords:

Zakat - Deductions from the Zakat Base - Investments in available-for-sale securities - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appeals the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6685), where its appeal is based on the clause (Accrued Expenses), as it claims that for the year 2015 the balances do not match the financial statements, the clause (Realized Profits from Available-for-Sale Securities for the years 2015, 2016 and 2017), as it claims that they are funds that have left the investee company and excluded them from its accounts and its zakat base, and the clause (Available-for-Sale Securities) to claim that the investments were sold in all years in question, indicating that the investments are considered as trade offers and not for the purpose of Acquisition. The Appellate Committee examined the Taxpayer's financial statements and found that there was no sale movement on the investments in all the years in dispute, which indicates that the investments are considered as trade offers and not for the purpose of channeling, and since one of the conditions for discounting investments is the absence of a sale movement. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (4/a) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (5) of Clause (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



the appeal filed on 25/04/2023, from /..., National ID No. (...) Was considered as the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 26/04/2023 against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh with number (IFR-2022-6685) issued in Case No. (Z-2021-82799) related to the Zakat assessment for the years 2015 to 2018, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: Acceptance of the plaintiff's objection/ Company ..., Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of proceduralist.

Secondly: On the merits:

- 1- Cancel the defendant's decision regarding the clause "Available for Sale Securities".
- 2- Cancel the defendant's decision regarding the clause (unrealized profits from available-for-sale securities).
- 3- Cancel the defendant's decision regarding the clause "Realized profits from available-for-sale securities".
- 4- Annulment of the defendant's decision regarding the "creditors" clause.
- 5- Annul the defendant's decision regarding the clause "Accrued Expenses".
- 6- Reject all other objections.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal is in relation to the clause (Available for Sale Securities). It claims that the Authority disallowed the value of available for sale financial investments amounting to (29,749,430) riyals, (24,879,431) riyals, (18,404,913) SAR and (16,279,297) SAR for the years 2015 to 2018, respectively, due to the presence of a sale movement in all years, which indicates that their purpose is to trade, and upon objection, the Taxpayer submitted the Board of Directors' decision dated 10/12/2008, which recommends investing in the following companies: (... - ... - ... - it is clear that one of the objectives of the investment is to evade paying zakat on the cash amount at the end of the year by deducting these investments from the zakat base, and by reviewing the financial statements for the years under study, it is clear that part of the shares were sold in all the years under study, and the existence of sales operations confirms that these investments are for the purpose of trading in addition to the presence of a cash balance within the investments, which indicates that it is an investment



fund, and two basic conditions must be met to consider the investment as a long-term investment, namely: as one of these two conditions does not apply to the company's investments, the Taxpayer's objection was rejected, and the Authority's action was upheld in Appeal Decision No. (1670) for the year 1438 AH and Appeals Circuit Decision No. (IR-2021-23), while the Circuit's reasoning is incorrect and contrary to the statutory requirement, the Authority responded that it is incorrect and contrary to the statutory requirement. With regard to the Authority's appeal regarding the clause (Realized profits from available-for-sale securities for the years 2015, 2016 and 2017), where the Authority disallowed the adjustment of the net profit by the value of dividends received from investing in available-for-sale securities, as they are funds that came out of the invested company and excluded them from its accounts and from its Zakat base under the clause of dividends and are considered revenues realized from the investment in the invested company, although these revenues were subject to Zakat in the invested company, but this was done in a previous year for the year in which they were distributed, and therefore they are subject to Zakat in the invested company although these revenues were subject to zakat in the investee companies, this was done in a year prior to the year in which they were distributed, and therefore they are subject to zakat in the investee company as income added to the investee company's revenues in a year subsequent to the year in which they were subject to zakat in the investee companies, and this is evident from the statement of changes in equity of investee companies, an example of which is the distributions of ... Company. For 2017 and 2018 accordingly, the Taxpayer's objection was rejected and the Authority's action in not adjusting the net profit by dividends was upheld in Appeal Decision No. (1479) of 1436 H. As for the Circuit's reasoning, the Authority responded that it is incorrect and contrary to the statutory requirement. With regard to the Authority's appeal regarding (Accrued Expenses (2015 and 2018)) and (Accrued Expenses (2016)), the Authority clarified with regard to 2015: upon reviewing the data submitted for accrued expenses for the year 2015 upon examination and with objection, it turned out that the balances do not match the financial statements, so the examiner's action was supported by adding the first or last period, whichever is less, based on paragraph (second) (5) of Article (4) of the executive regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 H corresponding to 28/2/2017 AD, which states that the following shall be added to the Zakat base: "5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in trade offers and has passed the hawl" and paragraph (3) of Article (20) of the Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438H corresponding to 28/2/2017, which states that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."



the Taxpayer did not submit a detailed statement with the objection, so reliance was placed on the statement submitted at the time of the examination, and by reviewing the statement submitted at the time of the examination, it became clear that the accrued expenses balance amounting to (420,435) riyals, and therefore the Authority's action to add what has turned into the Zakat base is correct based on paragraph (II) (5) of Article (4) of the executive regulations issued by Ministerial Resolution No. 2082 dated 1/6/1438H corresponding to 28/2/2017, as for the year 2018: upon examination, the Taxpayer provided a detailed statement corresponding to the ending balance in the financial statements, which shows that the accrued expenses balance for the year 2018 amounted to (2,202,420) SAR, on objection, the Taxpayer submitted a detailed statement corresponding to the financial statements, but upon examination of the statement, it was found that the Taxpayer zeroed out the beginning balance of the period, which made it not match the ending balance of the account in 2017, and the movement during the year did not match the financial statements, so when examining the objection, reliance was placed on the statement submitted during the examination, which confirms the validity of the Authority's action by adding the amount of (2,202,420) SAR based on the aforementioned article, therefore, the Authority requests the reversal of the decision of the Dispute Resolution Circuit on the clauses under appeal for the reasons set forth above. This decision was not accepted by the Taxpayer (Company ...), so he filed a list of appeals, which was reviewed by the Circuit and included the following statement: "The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

On Thursday, on: 27/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, through video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Authority's appeal is regarding the clause "Securities available for sale", and the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that there was a sale



movement on the investments in all the years in dispute, which indicates that the investments are considered as offers for trade and not for the purpose of Qania. Based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that "Investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, and if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on Article 20 (3) of the regulation, which stipulates that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and since two basic conditions must be met for investments to be considered as Zakat offerings and may be deducted from the Zakat base, namely the documented intention of the authority holder stating the intention of the investment, and the absence of sales made during the year on those investments, and by reviewing the case file, it appears that the dispute lies in the Authority's refusal to accept the deduction of financial investments available for sale for the years 2015 to 2018 due to a sale movement in the investments, but the Taxpayer argues that the company's intention is documented by a board of directors' resolution and the sale process made on the investments resulted from the need to deal with liquidity issues and that Ed.

Regarding the Authority's appeal regarding the clause "Realized profits from available-for-sale securities for the years 2015, 2016, and 2017", the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that it is money that has left the investee company and excluded it from its accounts and its Zakat base. Based on Article 20(3), paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and a review of the case file, it is clear that the dispute between the parties lies in the Taxpayer's argument that the profits have been zakatized in the invested companies and their addition is considered a bending of the zakat, however, the Authority argues that the funds came out of the investee company's assets and excluded them from its accounts and its zakat base under the heading of dividends and are considered revenues realized from the investment in the investee company, and that these revenues were subject to zakat in the investee companies in a year prior to the year in which they were distributed and therefore subject to zakat in the investee company as income added to the revenues of the investee company in a year subsequent to the year in which they were subject to zakat in the investee companies, and since the Taxpayer did not provide



evidence that the Authority's argument is incorrect, the Circuit concludes to accept the Authority's appeal and the Zakat.

Regarding the Authority's appeal regarding the clause (Accrued expenses for (2015 and 2018)) and the clause (Accrued expenses for (2016)), where the Authority's appeal is to challenge the decision of the Adjudication Circuit regarding this clause; it claims that for 2015, the balances do not match the financial statements, and for 2016, it claims that the Taxpayer did not submit a detailed statement with the objection, so the statement submitted at the time of the examination was relied upon for 2016, it claims that the Taxpayer did not submit a detailed statement with the objection, so the statement submitted at the time of the examination was relied upon, and for 2018, it claims that the Taxpayer zeroed out the beginning balance of the period, which did not match the ending balance of the account. Based on paragraph number (5) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH which states: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. (c) What has been used in trade offers and has passed the hawl", and based on the text of Article 20(3) of the Tax Law, which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, trade payables and accrued expenses are considered a component of the Zakat base, provided they are turned over or used to finance the assets deducted from the Zakat base, and a review of the case file and the defenses and documents it contains reveals the following: with regard to the years of disagreement 2015 and 2018, it appears that the Taxpayer submitted the audited financial statements in addition to the analytical statements, and by reviewing the analytical statements, it is clear that the balances match the financial statements and that the amounts that fell due are (2,659,237.08 SAR) for 2015 and (557,784.87 SAR) for 2018, which leads the Circuit to partially accept the Authority's appeal and modify the decision of the Adjudication Circuit regarding this clause. As for the year 2016, it is clear that the Taxpayer submitted the audited financial statements but did not submit the analytical statement of the detailed movement of the disputed clause, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding this clause. With regard to the Taxpayer's and the Authority's appeal on the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them, it is clear that it did not find any objections to the decision that merit a response beyond what is contained in these reasons,



and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the adjudication Circuit with respect to the rest of the clauses in the case, in accordance with its reasons. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...) , Unique Number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6685) issued in case number (Z-2021-82799) related to the tax assessment for the years from 2018 to 2016.

Secondly: On the merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Available for Sale Securities".
- 2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (unrealized profits from available-for-sale securities for the years 2015, 2016, 2017, and 2018).
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Realized profits from available-for-sale securities for the years 2015, 2016, and 2017).
- 4- Rejecting the Authority's appeal and amending the decision of the Adjudication Circuit with respect to the (creditors) clause.
- 5- Regarding the Authority's appeal on the clause (Accrued Expenses):
 - A. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding (2015 and 2018).
 - B- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit (2016).
- 6- Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (related parties).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause "Projects under implementation (2015 and 2016)".



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-176885

Case No. Z-2023-176885

Keywords:

Zakat - Deductions from the Zakat Base - Investment property deduction - Acceptance of Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Second Circuit of Income Tax Violations and Disputes in Riyadh (ISR-2022-1830), where his appeal is based on the clause (deduction of investment property), as he claims that it is a Acquisition asset and is not legally permissible to zakat it. Whereas the Appellate Committee found that the property ... Mortgaged to the bank... The Taxpayer also included the profit of the land in the financial statements in the year of its sale in 2021 and subjected it to Zakat, which shows that it is acceptable to deduct the real estate ... Since there is a barrier to transferring ownership in the year of the dispute. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (1) of Article (70) of [The Sharia Procedure Law promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 09/02/2023, from/... National ID number (...) As the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 12/02/2023 against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1830) issued in Case No. (Z-2021-71193) related to the 2015 Zakat assessment, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and customs authority:



1/A- Dismissal of the case with regard to the clause of deduction of investment property related to (...).

1/B - Cancel the Defendant's action with respect to the clause of deduction of investment property related to (projects under implementation).

Since this decision was not accepted by the Taxpayer (... Company the Taxpayer filed a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (Investment Property Discount), the Taxpayer explained that the company is appealing the decision of the adjudication committee, which included the rejection of the company's objection to investment property related to (...) For the year 2015 accordingly, it is worth mentioning the accounting treatment of these assets, as the registration of these assets in the company's accounting entails proving the credit side that is financed, whether from internal or external funding sources such as loans, additional capital or otherwise, based on the double entry rule, which entails balancing the two sides of the statement of financial position and their equality, and with that, it is necessary to either add the financier of this asset to the Zakat base and deduct the corresponding asset, or not to add the financier of this asset and not to deduct the corresponding asset the General Authority for Zakat and Income Tax (GAZT) did not accept the deduction of these lands with the addition of the financing sources to the Zakat base, which resulted in the company being required to pay Zakat on these lands, as the financing sources of these assets and real estate investments are added to the Zakat base, as if the Authority by not accepting the deduction of these assets requires the company to pay Zakat on them due to their non-transfer of ownership or their special uses, and the company has added the partners' current credit balance of (271,908,615) riyals for the year 2015 to the Zakat base, which requires the deduction of any corresponding fixed asset in the company's books, and where the idea and philosophy of the indirect method of calculating the base, which depends on the recommendation of assets by adding their funding sources, i.e. When adding the funding source and not accepting the deduction of the asset, this will result in the recommendation of these assets, and one of the axioms of the Zakat application - as is known - is that the Acquisition assets are not obligatory we ask the Authority whether it is legally permissible to take zakat on fixed assets (Acquisition assets) because they are not registered in the name of the company or because he uses them personally. If the answer is no, then they must be deducted, and if yes, what is the legal evidence that permits taking zakat on Acquisition assets? This is confirmed in fatwa no: (22644) issued by the Permanent Committee for Scientific Research and Fatwa, which states: "What the company buys of real estate, cars and the like for the purpose of using them and not for the purpose of trading in them is not subject to zakat, and this is equal to what is transferred or not, as this has no effect on the establishment of ownership" (attached), as this fatwa confirmed the right of the company to deduct these assets, investment properties and real estate investments mentioned even if they are not registered in the company's name, as long as they are assets, investment properties and real estate investments that belong to the company and have been paid for from the company's funding sources and are reflected in equity and long-term liabilities in the financial statements. It should be noted that the Authority has taken this action considering that these



properties are not registered in the name of the company but are registered in the name of the partners, and the company objects to the action taken by the Authority, as these properties are actually owned by the company and recorded in its books and it has the full right to dispose and use them and no partner has the right to do so, and the company exercises its activity proven by the memorandum of association through these properties and other properties of the company. The Authority's failure to accept the deduction of the said real estate investments actually results in these assets being subject to Zakat and added to the Zakat base indirectly, which is a legally impermissible measure, as these assets are assets of Acquisition and use, for which the company may not be required to pay Zakat. The committee also stated that "a lease contract was submitted in 2017 for the Jeddah warehouse, which is not the year in question and is not related to the subject of the dispute." We disagree with the committee's statement, as the document confirms the company's control over the warehouse completely, as the lease contract included that the company is the leasing party, and the leasing revenues are included in the company's revenues, which confirms the use of the property in the company's activity, which entails that it must be deducted from the Zakat base. The Honorable Committee also stated "After reviewing the Zakat return for the year in question, it appears that the balance of the partner's neighbor (zero)," and we do not know where the Committee deduced that the partner's balance (zero), while it appears in the return that the funding from the partners' neighbor is added to the full value of the base, as the other additions in the return submitted by the company in the amount of (258,196,365) riyals and the return amended by the Authority in the amount of (259,614,502.27) riyals, which shows the addition of the partner's neighbor to the base for further clarification, the balance of the partner's neighbor in the audited financial statements shows an amount of (271,908,615) riyals, and the total liabilities and equity in the financial statements amounted to (289,878,729) riyals, which clearly confirms that the amount related to the partner's neighbor has been added to the Zakat base. The committee stated that with regard to the Al-Thumama rest house property, the plaintiff stated that this land was mortgaged to the National Bank and the mortgage was released in 2017, which prevented the land from being transferred in the name of the company, while what it was necessary to mention was that the Zakat assessment was issued in 2021 AD, and the company still did not transfer this land in its name, but it was sold and its profit was entered in the financial statements, and this matter confirms that the mortgage is the reason for not transferring ownership of the property in the year in dispute, and the committee stated that the property was sold based on the company's decision according to its financial situation the committee stated that the property was sold based on what the company decided according to its financial situation, which necessitated the abandonment of this property, and the committee recognized that the company sold the property and entered its profit in the financial statements, which confirms the company's ownership and acquisition of these assets. The principle is that all assets recognized in the company's audited financial statements belong to the company, are at its disposal, and are used in its activity immediately or in the future, and whoever claims otherwise has the burden of proof, and since the Authority has not provided any proof or evidence of this, the principle is that these assets are included in the



company's activity, and this is confirmed with the sources of financing these assets entering the zakat base and affecting the zakat base, and if these assets were not included in an activity, the correct procedure would be not to add the sources of financing for them as well, but what the Authority is claiming is clearly flawed and unfair to the company's right what the Authority is demanding is clearly flawed and unfair to the company, as the Authority demands the addition of the sources of financing for these assets while not accepting their deduction from the deductions, under the pretext that the assets are not used in the company's activity. This shows the incorrectness of the procedure from the Sharia perspective, as it is not permissible to pay Zakat on this asset, as well as from the accounting perspective, as the accounting proof is a single unit that cannot take one part of it without the other, and from the regulatory perspective, as the incorrect recognition of these assets requires that all the effects resulting from them are incorrect, not that one part is taken without what corresponds to it. By way of further clarification, those investment properties that the Authority did not accept the deduction are the property of the company and appeared in the financial statements issued by the company as property of the company and certified by a certified public accountant, and they were recorded in the accounting system with entry No. (674) dated December 31, 2014 (the entry of adding assets to the company at their cost) by increasing the partners' current credit against them, and the accounting proof was (increase fixed assets and increase partners' current credit), and the company added the partners' current credit to the Zakat base (increase of the base) this means that not deducting the fixed assets corresponding to the account of the partners' current account added to the base means that these assets are subject to Zakat, and this is the idea and philosophy of the indirect method that depends on the Zakatization of assets by adding their funding sources, and this applies to the assets of the entire company, as all assets are definitely funded by funding sources, and therefore we request the Zakat, Tax and Customs Authority to accept this deduction. On the other hand, with reference to Article 4 of the Executive Regulations of the Zakat Collection Law issued by Ministerial Decision No. (2082) dated 01/06/1438H (), the following are deducted from the Zakat base: "Fixed Assets: "The net value of fixed assets (canal assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is a barrier that prevents the transfer of ownership - and that they are used in the activity based on the above, the land and investment properties that are not deducted from the Zakat base are owned by the company and have been classified as long-term assets as shown in the company's financial statements and supplementary notes, and as it is known that investment properties are properties that are held for more than one year, and therefore they are Acquisition assets that must be deducted from the Zakat base, and we would like to point out that Fatwa no: (22644), which states: "What the company buys of real estate, cars and the like for the purpose of using them and not for the purpose of trading in them is not subject to zakat, and this applies equally to what is transferred and what is not, as this does not affect the proof of ownership." This fatwa confirmed the right of the company to deduct the investment property mentioned - above -this fatwa is supported by the executive regulation issued by Ministerial Decision No. (2216) dated 07/07/1440, which took into account



that the non-acceptance of the deduction of a Zakat asset financed from funding sources added to the base requires it to be zakatable in accordance with what was explained above, as the regulation allowed the deduction of fixed assets acquired for the purpose of use in the activity without requiring ownership as long as they are added in the financial statements, as Article 5 of the executive regulation stated "The following clauses are deducted from the Zakat base for the Taxpayer who maintains commercial books: 1- Net fixed assets and the like, including, but not limited to, the following: (a) Fixed assets acquired for the purpose of use in the Taxpayer's activity, at the book value shown in the financial statements." We also confirm that we have all the relevant proofs that can be provided to the Authority, which means that the statutory conditions for accepting the deduction of investment property have been met, and therefore the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit on the clauses subject to his appeal be reversed.

On Monday, on: 22/04/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal is regarding the Taxpayer's appeal regarding the clause (deduction of investment properties), where the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that it is a Acquisition asset and is not legally permissible to zakatit. Based on paragraph (1) of clause (II) of Article (IV) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2082 dated 01/06/1438H, which stipulates that "The following shall be deducted from the Zakat base: 1- Fixed assets include the following: The net value of fixed assets (capital assets) and any payments for purchasing fixed assets and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer (unless there is an obstacle preventing the transfer of ownership) and that they are used in the activity." based on the above, it was



found that at the time of assessment , the Authority disallowed the deduction of investment properties represented by ... And the land behind ... Accordingly, it was found that in order for the assets to be deductible, they must be used in the activity, and when referring to the documents, it was found that the Taxpayer did not attach proof of the obstacle that prevents him from transferring the ownership of real estate registered in the names of the partners, and that his statement that these lands are financed from the partner's current account is not sufficient, and it was also found from the decision of the Dispute Resolution Circuit that the partner's current account added to the Zakat base according to the Taxpayer's declaration is zero. Mortgaged to the bank... The Taxpayer also included the profit of the land in the financial statements in the year of its sale in 2021 and subjected it to Zakat, which shows that it is acceptable to deduct the real estate ... The Circuit concludes that the Taxpayer's appeal should be upheld and the decision of the Adjudication Circuit should be annulled accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit (Property of ...).

Regarding the ... The Taxpayer did not present anything that prevents the transfer of the ownership of the warehouse to the company, but stated in his list that the warehouse was leased in 2017 for 150,000 riyals for one year, and the leasing revenues were recognized in the company's financial statements, thus claiming the validity of ownership, while he did not present proof of this for 2015, the year of the dispute, as 2017 is a year subsequent to the dispute, which leads the Circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit regarding (Jeddah Warehouse).

With regard to the land behind the ... The Taxpayer did not provide proof of the company's ownership of the land, as it turns out that the land was in the name of ... It is not in the name of the company and the Taxpayer has not presented anything to prevent the transfer of the ownership of the land to the company for the year in question. This leads the Circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit regarding (the land behind the ... Hotel).

With regard to the Authority's appeal regarding the clause "Discount of investment properties (projects under implementation)", and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435H stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it is proven to this Circuit that the Authority requested to withdraw the appeal as stated in the letter issued by the Authority in the supplementary memorandum containing the following: "The Authority



wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically and the consequent procedures for this clause as per the decision reached by the Dispute Resolution Circuit in its reasoning.." therefore, the Circuit must accept the abandonment of the litigation.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... , commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ISR-2022-1830) issued in case number (Z-71193-2021) related to the zakat assessment for the year 2015.

Secondly: On the merits:

1- Accepting the abandonment of litigation with regard to the Authority's appeal on the clause (Discounting of investment properties (projects under implementation)).

2-Regarding the Taxpayer's appeal regarding the clause (discount on investment properties):

A. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (real estate ...) According to the reasons and rationale provided in this decision.

B. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (Warehouse ...) According to the reasons and rationale provided in this decision.

C. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (the land behind the ... Hotel) according to the reasons and rationale provided in this decision.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-136107

Case No. Z-2022-136107

Keywords:

Zakat - Deductions from the Zakat Base - Deduction for investments in local companies at fair value -
Acceptance of Taxpayer's appeal - Acceptance of the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (IZD-2022-922), where the ZTCA's appeal lies on the clause (dividends received from the current year's profits of local investee companies that are not excluded from the company's zakat able profit) the Taxpayer's appeal lies in the fact that it added these profits to the adjusted net profit because the Taxpayer did not provide proof that the excluded profits are related to the current year's profits, and the Taxpayer's appeal on the clause (not deducting investments in foreign companies declared as available-for-sale investments) lies in attaching the financial statements of the invested company outside the Kingdom from a certified public accountant, and the clause (deducting investments in local companies at fair value recognized in the income statement for 2017 and 2018) to claim deduction of investments with the end-of-term balance. The Appellate Committee found that the Taxpayer proved that the revaluation gains/losses were included in equity for the same year, as they were added to other additions in the return and found to be subject to Zakat, which shows that the Authority's procedure is incorrect, as the investments should be deducted with the balance at the end of the period (i.e. After the revaluation). This means accepting the Taxpayer's appeal, canceling the decision of the Adjudication Circuit, and accepting the Authority's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (4.b) of Clause (II) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (4/a) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal filed on 04/07/2022, from ..., ID No. (...) As an agent under Agency No. (...) For the appellant company, the appeal filed on 05/07/2022 from the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No.(IZD-2022-922) issued in Case No. (2021-41784-Z) related to the zakat levies for the years 2015 to 2018, in the case filed by the Taxpayer against the ZTA, in which the decision of the Adjudication Circuit ruled as follows:

- 1.annulment of the defendant's decision regarding the clause of profits received for the years 2015 to 2017.
- 2.modification of the Defendant's decision with respect to the additional matching contribution deduction for investments in domestic subsidiaries for the years 2015 to 2018
- 3.rejected the claimant's objection regarding the non-deductibility of investments in foreign companies authorized as available-for-sale investments for the years 2015 to 2018.
- 4.rejecting the plaintiff's objection regarding the deduction of investments in local companies at fair value recognized in the income statement for 2017 and 2018.
- 5.dismissed plaintiff's objection regarding the non-deductibility of the long-term homeownership program offered to employees for 2017 and 2018.
- 6.dismissed the plaintiff's objection regarding the use of loans to finance impaired assets for 2016 and 2017.
- 7.rescind the Defendant's decision regarding the incorrect addition of the opening balance of the 2017 End of Service Allowance.
8. Annulment of the defendant's decision regarding the clause of not deducting the Zakat paid for 2016.

This decision was not accepted by the Taxpayer (Company ...).the Taxpayer's appeal lies on the clause "Non-deduction of investments in foreign companies declared as available-for-sale investments for the years 2015 to 2018." The Taxpayer explains that he submitted, upon the request of the Honorable Committee, a copy of the financial statements of the invested foreign companies approved by an auditor in the invested country, which was translated into Arabic, in addition to that the company paid the zakat due on the foreign investments in accordance with the report of the independent chartered accountant through which zakat was calculated for the investments in foreign companies. Regarding the clause (deduction of investments in local companies at fair value recognized in the income statement for 2017 and 2018), the Taxpayer



explains that the securities were recorded at fair value within other comprehensive income in 2017 and 2018 and were classified as available-for-sale investments in accordance with the requirements of IFRS 9 "Financial Instruments" and therefore the related gains and losses classified in other comprehensive income became part of retained earnings on a regular basis and will be subject to Zakat according to the Zakat collection regulations, and these investments are long-term and not for commercial purposes. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

This decision was not accepted by the appellant (the Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (dividends received from the current year's profits of local invested companies that are not excluded from the company's profit subject to zakat for the years 2015, 2016 and 2017), where the Authority explains that it added these profits to the adjusted net profit due to the Taxpayer's failure to provide proof that the profits that were excluded are for the year (current year) by referring to the financial statements of the invested companies, it was found that the balance of retained earnings is higher than the profits announced to be distributed, and therefore the profits announced to be distributed are definitely from the retained earnings and not from the profits of the year, as for the distributions from the company.... For the year 2015 the Taxpayer's objection to the distributions of this company was accepted, in addition to the fact that the announcement of dividends after the financial results is not an indication that the distributions were actually made from the net profit, as the date of the announcement of the distributions after the company's financial results cannot be related to the fact that the distributions were made from the net profit instead of the retained earnings, and that the customary basis for dividend distributions is the first balance of the period from the retained earnings. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Thursday, March 07, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 1 of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 A.H.; and by calling on the opponents, he/she attended/... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) I attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the Circuit reviewed the supplementary memorandum submitted by the Taxpayer. Accordingly, the Circuit decided to accept her request and informed the representative of the Authority that she must respond to the Taxpayer's memorandum no later than Thursday, March 14, 2024, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or



memorandums submitted after the aforementioned date. The next session will be on 04/23/2024 to pronounce the decision.

On Tuesday, April 23, 2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 A.H.; Calling on the opponents, Mr. ... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) He attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On March 19, 1445 A.H., the Circuit decided to close the pleadings and deliberations.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal on the clause "Dividends received from the current year's profits of local investee companies that are not excluded from the company's profit subject to Zakat for the years 2015, 2016 and 2017", and where the Authority's appeal lies in the fact that it added these profits to the adjusted net profit because the Taxpayer did not provide proof that the profits that were excluded are for the profits of the year (current year), and based on the above, the profits received are deducted from the Zakat base if they are tzedakkah by the company distributing the profits to avoid bending in Zakat, and whereas the dispute lies in the fact that the distribution was made through the balance of the first period of the retained profits and not from the profits of the year, and the Circuit's review of the case file and reference to the Authority's appeal regulations and the Taxpayer's response shows that the retained profits in the invested companies at the beginning of the period are greater than the declared distributions, so it appears that the distributions were made from the retained profits for the distributions of (Company .. (...)) For the years 2015 to 2017, and (Company...) For the year 2016, and (Company ... For the year 2016). From the above, it is clear that the balance of the retained earnings is greater than the dividends distributed, and there is no clear and explicit confirmation that the dividends distributed were made from the profits of the year, and since it is the nature of business to distribute from the retained earnings and then distribute through the profits of the year, in addition to the above, it is clear by referring to the attached documents represented in the dividend distribution decision that the announcements were all before the fourth quarter



(i.e. Before the end of the lunar calendar) of the year, which results in the distributions being deducted from the Zakat base for the invested companies. From the above, it is clear that dividends have been distributed from the retained earnings, which leads the Circuit to accept the Authority's appeal and overturn the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal on the clause (not deducting investments in foreign companies declared as available-for-sale investments for the years 2015 to 2018) and where the Taxpayer's appeal lies in attaching the financial statements of the company invested in outside the Kingdom from a certified public accountant, and based on paragraph (4.b) of clause (II) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438H which stipulates that "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. Based on Ministerial Decision No. (1005) dated 4/28/1428 AH, which stipulates Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof that zakat has been paid in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies. If the Taxpayer does not provide the above, these investments shall not be deducted from his tax base." based on the above, the company is entitled to deduct the foreign investment from its Zakat base, provided that it complies with the provision, which is to provide the Authority with audited accounts from a certified public accountant in the country of investment, in order to calculate the Zakat due on these investments and provide it to the Authority, and then deduct these investments from the company's Zakat base whereas, the dispute over this clause is a based dispute, and the Circuit's reference to the attached case documents shows that the Taxpayer attached the financial statements of the company invested in outside the Kingdom from a certified public accountant, in addition to that the certified public accountant is the office of (...) At the end of his report, he stated, "The data and information in the financial statements provided to us by your company "Company ..." about those companies and the financial statements that we verified and obtained from the financial statements disclosed by the Swiss Capital Market Authority and the Australian Capital Market Authority, so it is necessary to reissue our reports on the calculation of Sharia zakat for investments in international securities of the companies "Company ... - Swiss nationality and Company ... - Australian nationality for the years 2014/2016/2016/2017.", which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.



Regarding the Taxpayer's appeal on (Deduction of investments in local companies at the fair value recognized in the income statement for the years 2017 and 2018) and where the Taxpayer's appeal lies in his claim to deduct investments with the balance of the end of the period based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438H: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on Article 20, paragraph (3)(20), which stipulates that "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and the Circuit's review of the case file and the defenses and documents it contains, it is clear that the Taxpayer claims to deduct the investments with the balance of the last period (i.e. After revaluation), as he argues that the revaluation gains/losses have affected the statement of comprehensive income and have become part of the retained earnings, which will be subjected by adding them to the Zakat base for the same period, while the impact on the balance of investments has not been calculated and deducted from the base. On 7/11/2022, the attachments to the 2017 and 2018 declarations (attached tables) were requested, as well as proof that other reserves including (revaluation gains/losses) are subject to Zakat. Accordingly, the Taxpayer has attached the full declarations with the annexes and with reference to Table No. (12) (for other additions to the Zakat side), it is clear that the other reserves with the balance at the end of the period are subject to Zakat, i.e. After the impact of revaluation gains/losses on them. Whereas the Taxpayer proved that the revaluation gains/losses were included in equity for the same year, as they were added to other additions in the return and found to be subject to Zakat, which shows that the Authority's procedure is incorrect, as investments should be deducted with the end-of-period balance (i.e. After the revaluation) therefore, the Circuit concludes accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clause was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication



Circuit in its conclusion on the remaining clauses, in accordance with its reasons. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the first adjudication committee regarding violations and disputes of income tax in Jeddah province with number (IZD-2022-922) issued in case number (Z-2021-41764) related to the zakat assessment for the years from 2015 to 2018.

Secondly: On the merits:

1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (dividends received from the current year's profits of local invested companies that are not excluded from the company's profit subject to Zakat for the years 2015, 2016, and 2017).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Deducting additional contributions similar to investments in local subsidiaries at less than their value for the years 2015 to 2018).

3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting investments in foreign companies declared as available-for-sale investments for the years 2015 to 2018).

4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (deducting investments in local companies at the fair value recognized in the income statement for the years 2017 and 2018).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting the long-term home ownership program provided to employees).

6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the incorrect addition of loans to the Zakat base without taking into account the use of the loan to finance the Zakat deductible assets for the years 2016 and 2017.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178706

Case No. Z-2023-178706

Keywords:

Zakat - Deductions from the Zakat Bases - Failure to properly deduct investments or under-deducting investments from the Zakat base - Accepting the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6725), where his appeal is based on the clause (not deducting investments correctly or under-deducting them from the Zakat base for 2018) that the examiner in processing the objection request ignored the audited financial statements prepared by the company based on the standards governing such statements. The Appellate Committee found that the Taxpayer submitted the financial statements of the investee companies prepared by a Certified Public Accountant (CPA) for the year 2018 - and the Taxpayer's lists approved by Office (B) for the year 2018 - the share ownership certificate. Consequently: accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit.

Document:

- Paragraph (3) of Article (20) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on 16/02/2023, from ... National ID number:)in This capacity as a director of the appellant company under the Memorandum of Association, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6725) issued in Case No. (Z-2021-87660) related to the Zakat assessment for the years 2016 and 2017, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



Acceptance of the plaintiff's objection/ Company ... Investment (Commercial Registration No. ...) The decision of the defendant/Zakat, Tax and Customs Authority is upheld procedurally and rejected in substance.

Since this decision was not accepted by the Taxpayer (... Company the Taxpayer's appeal is based on the clause (not deducting investments correctly or under-deducting investments from the Zakat base for 2018). The Taxpayer explains that the examiner in addressing the objection request ignored the audited financial statements prepared by the company based on the standards governing these lists, which were applied in the Kingdom of Saudi Arabia starting from 2018 retroactively, as the standards allowed that when switching to them, the closest financial period must be referred to the nearest comparative year whereas the standards allowed that when switching to them, it is necessary to refer to the nearest financial period representing a comparative year, taking into account the opening balance for that year, and therefore the company modified and switched to the version of the International Standards for Small and Medium Enterprises starting from 2018, which was explained in the objection note, and added that he adjusted the balances of investments according to the cost incurred when acquiring and acquiring those investments, which was allowed by the accounting standards all investments are for the purpose of obtaining future returns when dividends are distributed by the investee companies, so the investments were recognized in accordance with International Accounting Standard(IFRS9). He adds that the Authority has excluded investments that are discounted as stipulated in Article 3 of the General Authority for Zakat, Income Tax and Customs Law that one of its tasks is to collect the collection of Zakat, taxes and customs duties in accordance with the regulations and regulations hence, the Authority's obligation to reconsider the assessment and re-examination achieves this goal, and adds that he corrected the clauses on which the initial assessment was based from the Authority, which in turn refused to look at it and not enter into the merits aspect despite the appearance of these amendments in the audited lists from a certified public accountant's office licensed to practice the activity "Office of - License no..." These lists were deposited through the electronic portal of the Ministry of Commerce - under the pretext that they are draft lists and relate to the year 2018, despite the fact that these lists are audited for all the years presented and fully present the clauses subject to objection, and the attached explanations show the impact of the amendments and their reasons and everything that helps the Authority in recalculating Zakat if it wishes to study the matter in a real way, he adds that, as is customary, the process of amending the lists restores the presentation of the comparative years in the real form for all the years presented, including the years under objection in 2016 AD - 201 AD - 2018 AD, and that the accountant's report issued by it is not only for the fiscal year " 2018, but for all the years presented, and from here, the search for the calculation of the legal zakat in accordance with the regulations contained in the regulation can be based on these lists, and therefore the Authority's reliance on the unmodified audited lists issued by the office of ... All he asks is to re-examine the examination process and study the documents submitted and then recalculate the Zakat base and the Zakat due to the Taxpayer



in accordance with the laws and regulations, and requests that his appeal be accepted and that the decision of the Adjudication Circuit be overturned.

On Thursday, 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation based on the provisions of Clause 1 of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the submitted memoranda, and the Authority's supplementary memorandum, it appears that it requests that if the Taxpayer agrees in writing to the Authority's reconnection for the year 2018, and after discussion and deliberation, the Circuit sees the need for the case to be attended by its parties, and decides to postpone the hearing of the case to an attendance session on 28/05/2024, provided that the Taxpayer is informed to respond to the Authority's request no later than the date of the session where the door of pleading will be closed at that session.

On Tuesday, 05/28/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08/04/1445 A.H.; and by calling on the opponents, he/she attended/... National ID No. (...), as the appellant's representative under the Memorandum of Association attached to the case file. (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) and dated 19/03/1445 A.H. Asked what she would like to add, the representative of the Defendant stated that she maintains what was previously submitted in this case. When this was brought to the attention of the appellant's agent, he replied that he was adhering to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, with regard to the Taxpayer's appeal on the clause (Non-deduction of investments correctly or under-deduction of investments from the Zakat base for the year 2018AD), the Taxpayer's appeal is



based on the fact that the examiner in processing the objection request ignored the audited financial statements prepared by the company based on the standards governing such statements, and based on paragraph (3) of Article (20) of the Zakat Collection Executive Regulations issued by Ministerial Resolution No. (2082) dated 1/6/1438H, which stipulates that the Taxpayer should not deduct investments correctly or under-deduct them from the Zakat base for 2018: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that he is unable to prove the validity of what is contained in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, the Circuit reviewed the case file, including the defenses and documents, it became clear that the Taxpayer submitted each of the following:

"The financial statements of the investee companies prepared by a certified public accountant for the year 2018 - and the Taxpayer lists approved by the office of ... For the year 2018 - Share Ownership Certificate", accordingly, and where the Taxpayer indicated that the financial statements prepared by the Chartered Accountant are incorrect, he issued amended financial statements prepared by an office for the year 2018, which shows the years 2016 and 2017 as comparative years, and the Taxpayer submitted the amended financial statements supporting his objection, while the Authority's response to the Taxpayer's appeal is limited to the fact that he did not submit the approved lists of the company and the invested companies, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal regarding the clause "Failure to deduct investments correctly or under-deducted from the Zakat base for the years 2016 and 2017", the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, since in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and this being the case, it is proven that the decision under appeal regarding the dispute in the matter of the challenged clauses was in accordance with the valid reasons that it was based on and sufficient to carry its judgment the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, which leads this circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal with respect to the result it reached in this clause, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company The holding company Commercial Registration No. (...), Unique No. (...), against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6725) issued in case No. (Z-2021-87660) related to the zakat assessment for the years 2016 and 2017.

Secondly: On the merits:

1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting investments correctly or under-deducting them from the Zakat base for the years 2016 and 2017).

2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting investments correctly or under-deducting them from the Zakat base for 2018).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-136156

Case No. Z-2022-136156

Keywords:

Zakat – Deductions from the Zakat Base – Investments available for sale – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-910), where his appeal on the clause (additional capital for the year 2014AD) is based on the fact that the condition of the passing of a year was not met as the partners in the company during 2014AD withdrew part of the beginning of the year balance in cash from the additional capital, and the clause (investments available for sale for the year 2014) is that the investments are the value of shares of Bank (...). It is a bank registered with the authority and has previously been subject to zakat within its zakat declarations. And since it has been established to the appellate committee that the intention of the authorized person is to consider the disputed investment as a capital asset, as for what the authority referred to before the committee that issued the decision regarding the existence of a sale process, the burden of proof falls on the authority to provide the documents it reviewed, and since it did not provide its response. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 05/07/2022AD, from/..., National ID No. (...), as a statutory representative (director) according to the Articles of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah governorate no. (IZJ-2022-910) issued in Case No. (Z-2021-34984)



related to the 2014 AD Zakat assessment, in the suit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: dismissed the plaintiff's objection to the additional capital clause for 2014AD.

Second: rejected the plaintiff's objection to the discounting of available-for-sale investments for 2014AD.

Third: the plaintiff's objection to the real estate investment clause (tower...) Was rejected for the year 2014AD).

Fourth: the plaintiff's objection to the clause on investments in investment funds (fund of...) For the year 2014AD).

Fifth: the plaintiff's objection to the real estate investments under construction and development (tower...) Was rejected for the year 2014AD).

This decision was not accepted by the Taxpayer (Zakat Company).the Taxpayer's appeal relates to the clause (Additional capital for 2014AD). The Taxpayer explains that one of the conditions for any money to be subject to zakat is that it must fulfill a number of conditions, namely full ownership, growth, reaching the nisab, and turning the year around based on what the company's accounting records show, the condition of turning the year has not been met since the partners in the company during 2014AD withdrew part of the first year's balance in cash from the additional capital, and therefore, based on the movement of the additional capital account, what has turned the year is (89,964,054) riyals and not (152,061,855) SAR. Regarding the clause (Real Estate Investments - Tower ... The Taxpayer explains that the Circuit has reviewed the partnership contract for the investment, which is registered in the name of a related party (a company...).according to the commercial regulations followed in the Kingdom, partnership agreements concluded between companies in any field prove the company's right to what was agreed upon in the contractual clauses, and therefore the fact that the property is not registered in the name of the company does not mean that it is not entitled to it according to the agreement. He also points out that the company achieves rental income from this investment, and therefore its use for productive purposes confirms the company's intention to acquire it for channeling purposes, as the threshold for deducting assets from the base is their use for productive purposes and not trading them. Regarding the clause (Available for sale investments for 2014AD), the Taxpayer explains that the investments are the value of the shares of Bank ...he states that these investments were transferred to the company by the partners by gift, which confirms that all rights and obligations belong to the company. He also indicates that the source of funds for these investments that were transferred without paying their value to the partners is matched by the amount that has already passed in the additional capital, and he requests that his appeal be accepted and the decision of the Adjudication Circuit on the clauses subject to his appeal be overturned.



On Wednesday, 6/3/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures of

Videoconferencing; based on the provisions of Article 15, Clause No. (2) of the Rules of Procedure of the Tax Disputes and Violations Resolution Committees issued by Royal Decree No. (26040) and dated 21/4/1441AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal on the clause (Additional Capital for 2014AD), where the Taxpayer's appeal is that the condition of the passage of the year was not fulfilled since the partners in the company during 2014 AD withdrew part of the balance of the first year in cash from the additional capital. Based on clause (I/1) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/06/1438H: which states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 1- The capital that has completed the lunar year, as well as the increase in it even if it has not completed the lunar year if the source of this increase is one of the elements of equity or was financing for an asset from the assets deducted from the zakat base," and based on the above, it is clear from the above regulatory texts that the increase in capital is added to the zakat base when the lunar year has completed on it or if its source is from equity clauses or used in financing one of the assets deducted from the zakat base. Upon reviewing the documents attached to the case file, the circuit found that the dispute lies in the amount added by the authority for the completion of the lunar year, as the Taxpayer claims that part of the amount has not completed the lunar year. Upon reviewing the submitted documents, it was found that the zakat declaration included Table No. (Z) related to the movement of additional capital, and it became clear to the circuit that the amount that has completed the lunar year is (89,964,053) riyals, which is the same amount that the Taxpayer pays, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

Regarding the Taxpayer's appeal on the clause (Real Estate Investments - ... Tower for the year 2014AD) in the fact that the company generates rental income from this investment, and therefore its use for production purposes confirms the company's intention to acquire it for channeling purposes, and based on paragraph



(1) of clause (II) of Article 4 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438AH, which stipulates that: "The following shall be deducted from the zakat base: 1- Fixed assets, including the following: the net value of fixed assets (qania assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an impediment to the transfer of ownership - and are used in the activity." Based on the above, and since two basic conditions must be met for the investment to be considered among the long-term investments that may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on those investments, and by referring to the case file and what it contained, it became clear to the Circuit that the Taxpayer submitted the partnership agreement for the Tashkeel Tower, which stipulated that the owner of the tower (... Company) he sold half of the property to the appellant company for SAR (27,577,067), and the agreement indicated that the purpose of the building is to rent it out, as the tenth clause of the agreement stipulated that the company ... It manages the building and "rents" it out, thus proving that the purpose of the investment is for cannabis and not trading. In confirmation of this, the Taxpayer submitted restrictions from the system, which included the appellant company's share of the rental income of the tower ..., which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the clause (available-for-sale investments for 2014AD), where the Taxpayer's appeal lies in the fact that the investments are the value of the shares of Bank ... Which is a bank registered with the Authority and has previously been subject to Zakat in its Zakat declarations, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438AH, which stipulates that: "Investments in establishments within the Kingdom – in partnership with others – if those investments are subject to zakat collection under this regulation, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Therefore, based on the above, and since it is necessary to meet two essential conditions to consider investments as capital assets that can be deducted from the zakat base, which are the documented intention of the authorized person clarifying the intention of the investment, and the absence of sales transactions during the year on those investments, and upon reviewing the case file, it became clear to the circuit that the Taxpayer submitted a stock donation agreement from the partner (...) And the partner (...) For the appellant company and the agreement included in one of its clauses that the first and second parties (the relinquishing partners) advise the third party (the appellant company) not to trade the relinquished shares, and the Taxpayer submitted the board of directors' decision held in 2014AD that the purpose of owning shares of Bank (...) Is to retain them and not to use them for speculation as they are considered long-term investments, and it became clear to the circuit the intention of the authorized person to consider the disputed investment as a capital asset, as for what the authority referred to before the committee that issued the decision regarding the existence of a sale process, the burden of proof falls on the authority to provide



the documents it reviewed, and since it did not provide its response, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

With regard to the Taxpayer's appeal on the remaining clauses, whereas there is no fault for the Circuit to adopt the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was included in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial Registration No. (...), Unique No. (...), against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ -2022-910) issued in case No. (Z -2021-34984) related to the zakat assessment for the year 2014AD.

Second: On the merits:

- 1- Accept the Taxpayer's appeal and cancel the decision of the division regarding clause (additional capital for the year 2014AD).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the circuit regarding the clause (real estate investments – Tower ... For the year 2014AD).
- 3- Reject the Taxpayer's appeal and uphold the decision of the division regarding clause (real estate investments under construction and development (Tower ...) For the year 2014AD).
- 4- The Taxpayer's appeal is rejected, and the decision of the adjudication committee regarding the clause (investments in investment funds (fund...)) Is upheld. For the year 2014AD).
- 5- The Taxpayer's appeal is accepted, and the decision of the adjudication committee regarding the clause (available-for-sale investments for the year 2014AD) is canceled.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-177917

Case No. Z-2023-177917

Keywords:

Zakat – Deductions from the Zakat Base – Long-term investments – Acceptance of the Taxpayer's appeal.

Summary:

The Taxpayer's objection to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6887), where his appeal lies on clause (Long-term investments) to contest the authority's action of excluding the deduction of the clause, and that the mentioned investments include lands registered in the company's name, intended for ownership and use in the activity. The appellate committee found that the Taxpayer classified these investments in his financial statements and attached the ownership deeds, and that his activity consists of transporting and distributing water, thus these lands are used as parking lots for water transport and distribution vehicles. It is clear that the existence of these lands is for the purpose of monitoring the Taxpayer's activity, and the basis for the authority's rejection was due to the lack of documentary evidence of land ownership and the nature of those investments. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (2) of Article (4) of [The executive regulation for collecting zakat issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 13/02/2023AD, from/... Identity (...) In his capacity as the legal representative under the Memorandum of Association of the Appellant / Company ..., on the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh City No. (IFR-2022-6887) issued in Case No. (Z-2021-60945) regarding the 2015AD Zakat assessment, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

Accepting the objection on form and rejecting it on substance.



Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The appellant (the Taxpayer) is challenging the decision of the appellate Adjudication Circuit on the grounds that the plaintiff's objection is On the merits inadmissible with regard to the clause "Long Term Investments", as the plaintiff objects to the defendant's action of excluding the deduction of long-term investments for 2015AD in the amount of SAR 16,175,290, where it was indicated in the above-mentioned memorandum of claim Annex 1 that the said investments are lands registered in the name of ... Company and that the partners own another company in the name of ... Its activity is purification and desalination of water, transportation and distribution of water according to the commercial register and the memorandum of association attached as Annex No. (2) and where these lands were purchased for use in the company's activities and the licenses for these activities are attached as Annex No. (3). The plaintiff would also like to clarify the following: the objection was submitted by the plaintiff regarding the Zakat declaration for the year 2015AD on 23/05/2021AD within the period specified by law, and the second clause related to the deduction of long-term investments was objected to, and it was explained that the clause is represented by a number of five contributions in lands registered in the name of ... Company and are not registered for trading purposes, attached No (4) as the balance on 31/12/2015AD amounted to 16,175,290 riyals compared to the year ending 31/12/2014AD with a balance of 12,973,727 riyals; indicating that the land balance has increased, and this increase confirms that these lands are used for the company's purposes and activities and not for trading. A number of licenses are attached as Attachment No. (3) (Ministry of Environment, Water and Agriculture - Ministry of Electricity - Ministry of Transport) covering the activities of establishing and operating water plants - as well as transportation activities and of course the activity carried out by the company and the licenses granted to the company These lands are used in the company's activities, but not limited to: - Some of these lands are used as parking lots for water transportation and distribution vehicles, as the vehicles used are large in size and are used to transport and distribute water to Riyadh and beyond. Accordingly, the plaintiff demanded an amendment to the Zakat assessment as the lands are for the purpose of Acquisition and not for trading, while the Defendant (the Authority) stated in its response that without prejudice to what the Authority provided in its reply memorandum submitted to the Adjudication Circuit, in which the Authority emphasizes the validity and soundness of the Authority's action in accordance with the legal requirement, the Authority would like to clarify to your esteemed Circuit the following: the appellant did not present anything new in his list, but rather a repetition of what was previously submitted before the Adjudication Circuit. His appeal has no legal basis on which to rely, and the Circuit issuing the decision decided, according to its examination of all aspects, to support the Authority's action in accordance with the statutory requirement in the clause appealed by the appellant in accordance with the reasons contained therein, which is not a valid basis for his appeal in light of this, Authority confirms the merits of the Circuit's decision in favor of the Authority's action, as the Authority's decision is consistent with the relevant statutory texts, instructions and applicable decisions; accordingly, Authority



would like to summarize its response as follows: The decision is consistent with the relevant statutory texts, instructions and applicable decisions: we inform you that the Authority excluded the deduction of long-term investments amounting to SAR 16,175,290 from the Zakat base because they are for the purpose of trading and not for the purpose of Acquisition (according to the Taxpayer's statement), and at the objection stage it was found that these investments are land contributions, and the Taxpayer provided an explanatory statement for them and the purpose of the purchase as follows: accordingly, the Authority contacted the Taxpayer on 18/07/1442 AH and requested documentary proof of land ownership and title deeds, indicating the nature and purpose of long-term investments, but the Taxpayer did not comply with the submission of all the required documents, as the Taxpayer responded by submitting disbursement documents and daily entries that prove the registration of payments made for the purchase of contributions in lands, but he did not submit title deeds for these lands in the email responding to the Authority's inquiry to clarify the nature and purpose of the long-term investments, the Taxpayer stated that they are real estate contributions purchased for the purpose of (profit), which confirms the nature of these investments as being for the purpose of trading and not for the purpose of Acquisition. Accordingly, the Taxpayer's objection was rejected since long-term investments are investments in land for the purpose of trading and are not a Qanuniya asset.

On Monday, 27/05/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated 21/04/1441AH: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the subject of the Taxpayer's appeal regarding the clause (long-term investments), and based on paragraph (II/1) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/06/1438AH: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: The net value of fixed assets (ownership assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are



owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity", and based on paragraph number (1) of clause (Second) of Article four of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 1/6/1438AH on: "The following shall be deducted from the zakat base:" 2- The Taxpayer's capital projects under construction which are being established for the purpose of using them in the activity and not for the purpose of selling them", and since the Taxpayer submitted a supplementary memorandum dated 05/12/2024AD and also provided additional documents for the disputed clause, and since the Taxpayer argues that the lands indicated in the financial statements are intended for ownership and use in the company's activity, as the company's activity is transporting and distributing water, and these lands are used to store equipment for desalination and maintenance, and maintenance of vehicles used in the activity is done on these lands, and the Taxpayer attached a copy of the deeds, while the authority rejected the Taxpayer's objection for not providing documentary evidence of land ownership and ownership deeds with a statement of the nature of long-term investments and their purpose, and since the Taxpayer classified these investments in his financial statements, and attached ownership deeds, and since the Taxpayer's activity consists of transporting and distributing water, thus these lands are used as parking lots for water transport and distribution vehicles, and it is clear that the existence of these lands is for the purpose of monitoring the Taxpayer's activity, and the basis for the authority's rejection was due to the lack of documentary evidence of land ownership and the nature of those investments, which necessitates the circuit to accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (Long-term investments).

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6887) issued in case number (Z-2021-60945) related to the Zakat assessment for the year 2015AD.

Secondly: On the merits:

Accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (Long-term investments).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170804

Case No. Z-2023-170804

Keywords:

Zakat – Deductions from the Zakat Base – Investments in subsidiary and associated companies – Accept the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6628), where he can appeal on the clause (Available for sale investments for the year 2019AD - Company... -), where his appeal is that there is no sale movement on the investment since 2011AD until 2019AD, which means that the purpose of the investment is for acquisition, and the clause (Investments in affiliated and associate companies) and stated that there is no zakat due as he has a negative zakat base, and emphasizes the correctness of his calculation of the investments that must be deducted from the zakat base. The appellate committee found that the Taxpayer submitted the financial statements for the year ending 31 December 2019 for the invested company and also submitted the zakat calculation; therefore, the Taxpayer is entitled to deduct the investment of the company (...) From his zakat base when calculating zakat on the Taxpayer's share in this investment according to his financial statements. Consequently, the Taxpayer's appeal is accepted, and the decision of the adjudication committee regarding this clause is canceled.

Document:

- Paragraph (5, 4) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on 19/1/2023AD from/... National ID number (...) In his capacity as an agent for the appellant company under agency No. (...), on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6628) issued in Case No. (Z-2021-84200) related to the



2019AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: accepting the objection of the plaintiff/company ... (Commercial Registration No. ...) On the decision of the Defendant/Zakat, Tax and Customs Authority from a procedural point of view.

Second: On the merits:

(1) Demonstrate the end of the dispute with respect to the clause (the company's share of investment losses).

2- Reject all other objections.

Since this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which included the following:

The Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause "Investments in subsidiaries and associates for the year 2019AD - Company ...", the Taxpayer complied with all the requirements of paragraph (II) (b) of Article 4 of the Zakat Regulation.-the Taxpayer submitted the financial statements for the year 2019AD and the Zakat calculation, stating that there is no Zakat due since he has a negative Zakat base, and confirming the correctness of his calculation of the investments to be deducted from the Zakat base for the disputed year through the investment summary presented in Exhibit No. (16). Regarding the clause (available-for-sale investments for 2019 AD - Company); the Taxpayer claims that Adjudication Decision committee mentioned the existence of sales operations on the investment, which makes it a trade offer, ignoring what was stated in the company's claim sheet that there was no sale movement on the investment from 2011AD to 2019AD, which means that the purpose of the investment is for reading, and the company subscribed to 200 thousand shares in ... Company (The number of shares has remained the same since 2011AD, except for the clearing of shares by a Saudi company. The number of shares was reduced to 100,000, but this did not affect the ownership ratio, i.e. The company's ownership percentage in the company did not change. This transaction did not take place with an external party as the absorption of losses through capital does not make this investment a "commercial" investment as no such commercial transactions took place as presumed by the Authority. The Taxpayer also objects to the clauses (Investments in subsidiaries and associates for 2019AD ...-), (Investments available for sale for 2019AD - Qatar Bank-), (Investments available for sale for 2019AD ...-), (Fair value reserve for 2019AD) and (Accounts payable for 2019AD), therefore, the Taxpayer requests the reversal of the decision of the Appellate Division for the above reasons.

On Wednesday, 14/4/ 2024AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated 21/4/1441AH : after reviewing the appeal, after examining



the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal regarding the clause (Investments in subsidiaries and associates for the year 2019AD - Company... -), and where his appeal lies that he complied with all the requirements stipulated in paragraph (II) (b) of Article 4 of the Zakat Regulation, and the Taxpayer submitted the financial statements for 2019 and the Zakat calculation, and stated that there is no Zakat due since he has a negative Zakat base, and emphasizes the correctness of his calculation of the investments that must be deducted from the Zakat base. Whereas paragraph (5) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH states that it shall be deducted: "5- Investments in an establishment outside the Kingdom for non-trading purposes, provided that the Taxpayer pays zakat on these investments to the authority based on a certificate prepared in accordance with the provisions of the regulation and approved by a licensed accountant in the Kingdom, with the minimum zakat base for these investments being the Taxpayer's share of the net accounting profit stated in the financial statements of these investments whether the profit is distributed or not, and if the Taxpayer does not comply with calculating and paying zakat accordingly, these investments shall not be deducted from the zakat base." Based on the above, and upon reviewing the documents submitted in the case file, and since the Taxpayer submitted the financial statements for the year ending 31/12/ 2019AD, for the invested company and also submitted the zakat calculation; therefore, the Taxpayer is entitled to deduct the investment of the company ... From his zakat base when calculating zakat on the Taxpayer's share in this investment according to its financial statements, which leads the committee to accept the Taxpayer's appeal and cancel the decision of the committee regarding this clause.

Whereas, regarding the Taxpayer's appeal regarding the clause (Available for sale investments for 2019AD - Company...), and where his appeal lies that there is no sale movement on the investment from 2011AD to 2019AD, which means that the purpose of the investment is for reading, and the company has subscribed to 200 thousand shares in ... Company (The number of shares has remained the same since 2011AD, with the exception of offsetting the shares by the company against its accumulated losses, where the number of shares was reduced to 100 thousand shares, but this did not affect the ownership ratio. Whereas paragraph



(5) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2216) dated 07/07/1440AH states that it shall be deducted: "Investments in an establishment within the Kingdom for non-trading purposes, if that establishment is registered with the authority, and is subject to Zakat collection under the regulation. Assets that are financially leased in the commercial books of the lessor are not considered an investment to be deducted from the Zakat base, regardless of their classification in the financial statements, nor are debit loans, supportive or additional financing and the like granted to the investee organization considered an investment to be deducted from the Zakat base." based on the above, and after reviewing the documents submitted in the case file and the financial statements for the year in dispute, it is clear from Exhibit 5 that during 2011AD, the company subscribed to 400,000 shares, and during 2016AD, the company's ownership was reduced to 200,000 shares in order to reduce the capital of the investee company (...) Therefore, since the movement that occurred on the investment did not occur as a result of trading, it must be considered that this investment is for the purpose of cannabis, which concludes that the Circuit accepts the Taxpayer's appeal and annuls the decision of the Adjudication Circuit on this clause.

Whereas, with regard to the remaining clauses at issue in the lawsuit, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that it did not find any objections to the decision that merit a response beyond what was contained in these reasons since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the adjudication Circuit with respect to the remaining clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / .. Company Limited, commercial registration (...), unique number (...) Against the decision of the third circuit for adjudicating income tax violations and disputes in Riyadh with number (IFR-2022-6628) issued in case number (Z-2021-84200) related to the zakat assessment for the year 2019AD.

Second: On the Merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Investments in subsidiaries and associates for the year 2019AD - Company ... -).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the committee regarding clause (Investments in subsidiaries and associates for the year 2019AD - Company ... -).



- 3- Accepting the Taxpayer's appeal and canceling the decision of the committee regarding clause (Investments available for sale for the year 2019AD - Company ... -).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Investments available for sale for the year 2019AD - Bank ... -).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Investments available for sale for the year 2019AD - ... -).
- 6- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Fair value reserve for the year 2019AD).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Accounts payable for the year 2019AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171573

Case No. Z-2023-171573

Keywords:

Zakat-Deductions from the Zakat base - Investments in local companies-Acceptance of Taxpayer's appeal-
Acceptance of the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTA) objected to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2529), where the Authority's appeal lies on the clause (Related Party Receivables for 2017AD) to claim that the receivable due to related parties should not be deducted because the receivable from related parties is for parties that do not have ownership shares in the Taxpayer company, and the Taxpayer's appeal lies on the **clause** (Investments in Local Companies for 2017AD) that the Authority ignored the historical cost of the investments resulting in differences that are mostly amounts paid by the company to acquire investments in excess of the value. Whereas, the Appellate Committee proved by referring to the attached documents represented by the financial statements of the investee company through the cash flow statement that it distributed profits during the year, as the proper Zakat treatment of these distributions is to prove their recommendation to the investee company in order to accept that they are not reduced to the investment deducted from the Zakat base of the investee company, as the case is not as stated, as it did not appear that the Taxpayer provided evidence of recommendation for these distributions to the investee company, and therefore it was decided not to accept their addition to the investment deducted from the Zakat base. The implication accepting the Taxpayer's appeal partially, and accepting the Authority's appeal.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 26/01/2023AD, from / Company ... And the Zakat, Tax and Customs Authority (ZTCA), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2529) issued in Case No. (Z-2021-80697) related to the 2017 Zakat assessment, in the case filed by the Taxpayer against the ZTCA, in which the Adjudication Circuit's decision ruled as follows: The Taxpayer's claim was filed against the Zakat, Tax and Customs Authority:

- 1.modification of the Defendant's decision with respect to the 2017AD Investments Clause.
- 2.annulment of the Defendant's decision with respect to an clause due from related parties for the year 2017AD.
- 3.annulment of the Defendant's decision with respect to the clause Investments in foreign companies for the year 2017AD.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal is in relation to the clause "Investments in local companies for the year 2017AD", as the appellant (the Taxpayer) requests the annulment of the Circuit's decision on this clause on the basis that the Authority ignored the historical cost of the investments, which resulted in the above differences, most of which consist of amounts paid by the company to acquire investments in excess of the book value of the investments upon acquisition to include goodwill, thus the investment value recorded in the books is higher than amounts disclosed as equity in the financial statements of the investee company according to accounting principles. That the company purchased the investments mentioned in his list of claims at fair market value, which is higher than the actual cost of the purchased stake. Accordingly, the company disclosed this additional value of goodwill as part of the value of the investment in the audited financial statements. The Committee will also note that Article 5(3) of the Zakat Regulation issued by Ministerial Decision no: 2216 clearly states that intangible assets acquired through purchase such as goodwill are deductible from the zakat base during the calculation of the zakat base. The Authority's treatment above is to reject the claim to deduct goodwill from the zakat base without providing any basis or explanation for this treatment. The Authority also assigned this transaction to the fourth paragraph of Article 5 of the Executive Regulations for Zakat Collection. In this regard, the company would like to clarify that the article referred to by the Authority stipulates that the investment may be discounted and not the percentage of ownership in the investment. The Honorable Committee will note that the decision of the adjudication committee to support the Authority's treatment is a failure to recognize the audited financial statements and ignoring the value proven in the audited financial statements approved by a chartered accountant licensed to practice the accounting and auditing profession in accordance with the regulations operating in the Kingdom of Saudi Arabia, not to mention that the idea



of relying in determining the value of the investment by multiplying the ownership percentage by the ownership right of the investee company is not sustainable in most matters in achieving the real value of the investment, which confirms the invalidity of the decision of the adjudication committee to support the Authority's treatment. The Company would also like to draw the attention of the Honorable Committee to the fact that the above-mentioned investments were invested from equity and funded by the partners and it was the management's intention to hold these investments on a long-term basis and not for trading purposes. In other words, the money was out of the company's ownership when it financed the said investments, which negates the most important condition under which money is subject to Zakat, which is the ownership of the money.

The appellant (Authority) stated that it disagreed with the decision of the Circuit under appeal because Authority deducted the investment in local enterprises in the amount of SAR 202,860,543 from the base based on the company's share in the equity of investee companies from the financial statements of investee companies after reducing it by the amount of the company's share in the profits of investee companies, and the calculation of investments was verified and the amounts matched with balances from the lists of investee companies. Moreover, the Taxpayer referred in his reply list submitted before the Adjudication Circuit to misplaced circulars, as what applies to this case are the provisions of the Zakat Regulation issued by Ministerial Decision No. (2082), and it is clear that there is no statutory basis for the procedure of the Circuit issuing the decision.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies in relation to the clause (Due from related parties for 2017AD), as the appellant (Authority) is requesting the annulment of the Circuit's decision on this clause on the basis that the Circuit issued the decision under appeal... The Authority responds that it disagrees with the conclusion of the decision of the Circuit under appeal because the Authority excluded the deduction of the clause from the Zakat base in the amount of SAR 14,000,000, as the due from related parties is for parties that do not have ownership stakes in the company, which are as follows from Note (8) of the financial statements. The Zakat Regulation has authorized the deduction of debit balances of related parties within the limits of their share of the carried-over profits, and since the related party whose debit balance the Taxpayer claims to deduct is not an owner in the company and therefore has no share in the carried-over profits, his balance cannot be deducted, and accordingly the Taxpayer's objection was rejected on the basis of Article (4) II paragraph (5) of the Zakat Regulation, while the Defendant's response stated that the company does not approve the Authority's appeal against the decision of the adjudication committee to allow the claim of related parties from the Zakat base... To bring to the attention of the Honorable Committee that the above loan was granted to the related party, i.e. And registered with the Authority with the unique number ...) In addition, ... A copy of the



company's Zakat declaration is attached in Annex 6. The regulator also noted in its views that it had excluded the deduction for the loan to a company that... Because it does not have any shares in the company In this regard, the company would like to inform the Honorable Committee that ... Is 99% owned by Company ... Holding and 1% for ... As disclosed in Note 1 of the audited financial statements of ... Attached in Appendix 7. Clause (Investments in foreign companies for 2017AD).

On Wednesday, 22/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the subject of the Taxpayer's appeal regarding the clause "Investments in local companies for the year 2017AD", with regard to ... With the distinctive number (...), and based on paragraph (4/a) of Article (4) of the Executive Regulation on Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: "Investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, and if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on Article 20 (3) of the regulation, which stipulates that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."

Based on the above, and upon reviewing the documents attached to the case file, it appears that the Authority accepted to deduct 34,589,823 riyals from the Zakat base according to the Taxpayer company's share in the equity according to the financial statements of the investee company, while the Taxpayer claims to deduct the investment according to its financial statements in the amount of 92,143,770 riyals ,



accordingly, and after reviewing the attached documents, specifically Annex (App 7 - Donia - Supporting Documents 2017_Optimized), it appears that costs were incurred to acquire the investment in the amount of 80,090,116 riyals, and the Taxpayer provided documentary evidence for this, represented by the share purchase agreement and proof of payment for the purchase price, and also provided documentary evidence of the costs related to professional fees, and by reviewing the financial statements of the company.... Specifically, Note (1) shows that the net assets of ... At the time of the acquisition date (19 January, 2015), the value of the investment was SAR 59,800,000 and the Taxpayer's share of it was SAR 23,920,000, thus proving that the Taxpayer paid a value for the investment greater than the net assets of the ... This results in goodwill charged to the investment balance, SAR 56,170,116. As for the remaining difference from the amount of the dispute, it turns out that it is represented by dividends to the costly company in the amount of 1,383,831 riyals, where, with reference to the attached documents represented in the financial statements of the investee company for the year 2018, it appears from the statement of cash flows that it distributed profits during the year, as the proper zakat treatment of these distributions is to prove their recommendation to the investee company in order to accept that they do not reduce the investment deducted from the zakat base of the investee company, as the case is not as stated, as it did not appear that the Taxpayer submitted evidence of recommendation for these distributions to the investee company, which determines that it is not accepted to add them to the investment deducted from the zakat base, which means that the Circuit must accept

Whereas, regarding the Authority's appeal on the clause (Due from related parties for 2017AD), and based on paragraph (fifth) of Article (IV), clause (II) of the Zakat Executive Regulations of Royal Decree No. (M/40) dated 02/07/1405AH issued on 01/06/1438AH, "The current account owed to the owner or partner subject to Zakat shall be deducted from the Zakat base to the extent of their share in the rounded profits the current account owed to the owner or partner subject to Zakat shall be deducted from the Zakat base to the extent that it does not exceed their share of the rounded profits", and based on paragraph (II/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decree No. (2082) dated 01/06/1438H: "In the case of including the Taxpayer's declaration a credit current account and another debit account, the difference between them is taken, and if a credit current account appears for one of the partners and a debit current account for another partner, no settlement will be made between them....".

Whereas, the dispute over this clause is the deduction of the receivable from related parties, as the Authority appeals the adjudication decision and claims that the receivable from related parties should not be deducted because the receivable from related parties is for parties that do not have ownership interests in the Taxpayer company, while the Taxpayer argues that the related party is 99% owned by ... Company holding and 1% for ... The two aforementioned companies are considered owners of the mandated company.

Based on the above, and since the proper treatment of the related party deduction is that the companies' relationship is a direct relationship, while if the relationship is indirect, this is considered as commercial



transactions with other parties (third party), which should not be deducted from the Zakat base, and upon reviewing the case file, it was found that the relationship between the Taxpayer and ... Company an indirect relationship as the company's ... Owned by a company... Company .. The company's ... Company .. They also own the Taxpayer company, so this does not undermine the resolution of related parties, and the Taxpayer's argument that the

Balances at ... Therefore, since Zakat is due on both the creditor and the debtor without there being a second, as the creditor zakatizes the money that he owns and is in the debtor's possession, while the debtor zakatizes another money that he owns and is in his hands and can dispose of, which means that the Circuit must accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause "Due from related parties for 2017AD."

Regarding the Taxpayer's appeal concerning the remaining companies (Company ... - Company... According to its financial statements - Company ... - Schools ...) In the clause (Investments in local companies for the year 2017) and the Authority's appeal on the clause (Investments in foreign companies for the year 2017), and whereas there is no fault with the Committee in adopting the reasons of the decision under appeal without adding to them when it determines that those reasons are sufficient without introducing anything new, because in its endorsement of them with what those reasons contained, it is confirmed that it did not find in what was directed against the decision from challenges what deserves a response with more than what those reasons contained. Since this was the case and it was established that the decision under appeal regarding the dispute concerning the clauses under challenge came in accordance with the reasonable grounds upon which it was built and which were sufficient to support its ruling, as the Committee that issued it undertook to examine the core of the dispute in it and concluded regarding it to the result that it reached in its operative part, and whereas this Committee did not observe what would require follow-up or comment regarding it in light of what was presented of defenses raised before it, the matter with which this Committee concludes by rejecting the Taxpayer's appeal and rejecting the Authority's appeal and upholding the Adjudication Committee's decision under appeal in what it concluded as a result based on its grounds.

Based on the foregoing and in consideration of the aforementioned grounds, the Committee unanimously decided the following:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in the city of Dammam with number (IZD-2022-2529) issued in case number (Z-2021-80697) related to the zakat assessment for the year 2017AD.



Secondly: On the merits:

1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (due from related parties for 2017AD).

3- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Investments in foreign companies for 2017AD).

4- Regarding the Taxpayer's appeal on the clause (Investments in local companies for the year 2017AD):

A. Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (Company ... Recorded).

B- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Company ...).

C. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Discount for investment in ... Company according to its financial statements).

D. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Company ...).

E. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (Schools ...).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-188983

Case No. Z-2023-188983

Keywords:

Zakat - Deductions from the Zakat Base - Investment in a stock portfolio - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the second circuit for adjudicating income tax violations and disputes in Riyadh with number (ISR-2022-113851), where his appeal lies on clause (Long-term investments): A- Regarding (investments in funds) as they are funds that invest in purchasing real estate for the purpose of renting them and achieving regular income from leasing, B- Regarding (investments in stocks) his appeal lies in proving his intention to invest and that these stocks have been held for more than a year and most of them are ongoing to date. Whereas the appellate committee has established that the Taxpayer submitted a detailed stock movement schedule in Annex No. (11) which shows that there has been no sale movement on the stocks that the Taxpayer claims to deduct, confirming that the investments in stocks are intended for holding and not for sale and trading, and thus they may be deducted from the zakat base. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 6/3/ 2023AD, from (...), National ID No. (...) Was considered in his capacity as an attorney under private legal entity license no. (...) In his capacity as an agent under Agency No.(...), and the appeal filed on 19/03/2023AD from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-113851) issued in Case No. (Z -2022-113851) regarding the Zakat fees for the years 2019AD and 2020AD, in the case filed



by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: accepting the lawsuit filed by the plaintiff / Company ..., Commercial Registration No. (...), against the defendant / Zakat, Tax and Customs Authority, procedurally.

Secondly: On the merits:

1- Cancel the defendant's action with respect to a distributable surplus clause for policyholders for the years 2019AD and 2020AD.

2- Dismissing the claim regarding the long-term investments clause for the years 2019AD and 2020AD.

3- Dismissal of the claim with respect to the 2019AD withholding tax provision.

4- Cancel the defendant's action with respect to the clause of deferred underwriting costs for 2019AD and 2020AD.

Since this decision was not accepted by the Taxpayer (Company ...), he filed an appeal list, which was reviewed by the Circuit, as the Taxpayer's appeal lies on the clause (long-term investments): a. Regarding (investments in funds), the Taxpayer clarifies that (a fund ... - Box... - Box...) With reference to the nature of the funds, it is clear that they are funds that invest in purchasing real estate for the purpose of leasing it and achieving periodic income from leasing and distributing a specified percentage of not less than (90%) of the net annual profits of the fund in cash to the unit holders during the term of the fund, on a semi-annual or quarterly basis each year, these funds invest in purchasing a large number of rental properties that generate rental income a large number of rental properties that generate rental income, and since these funds were established to invest in properties that generate rental income, the number of which are listed in the attached table, and therefore they are considered to be cannabis assets intended for rent and are not investments based on flipping and trading, and there is no sale of these properties, and whereas the company The Taxpayer claims a deduction for the value of the investment in these funds, and the terms and conditions of the disputed funds are attached, which confirms that these funds are for the rental of real estate. The Taxpayer adds that he provided the financial management's decision to invest in the funds and a copy of an account statement showing the balances of the units, and it is clear from the above that the investment intention was documented and that the company still holds its units in these funds, which confirms the company's intention is to purchase units to hold them and invest for the long term. The Taxpayer explains that the investments in the stock market are long-term investments and the Taxpayer has proven the intention to invest and that these shares have extended for a period of more than one year and most of them continue to date and that the dividends distributed from these shares are included in the financial statements and Zakat, in addition to the fact that these invested companies are Saudi companies that are registered with the Authority and pay their Zakat to the Authority. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. This decision was not accepted by the



appellant (Zakat, Tax and Customs Authority), which filed a list of appeals demanding that the decision of the Adjudication Circuit be reversed and annulled.

On Thursday, 25/4/2024AD, the First Appeals Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH

When the parties were called, ..., National ID No. (...), appeared as an agent for the plaintiff under Agency No. (...), and Afnan Khalid Al-Wael (National ID No. ...), appeared as a representative of the defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs under No. (...) On 19/5/1445 A.H., the Circuit reviewed the request for postponement attached to the case file by the Authority. Accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Sunday, 05/05/2024AD, and grant the Taxpayer a subsequent period of five working days ending on Thursday, 14/05/2024AD, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date. The next session will be on 21/05/2024AD to pronounce the decision.

On Tuesday, 21/05/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445AH.; At the call of the parties, ..., National ID No. (...), appeared as an agent for the plaintiff under agency No. (...), and ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445AH., the defendant's representative was asked about what she would like to add, and she stated that she adheres to what was previously submitted in this case. When the plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that



the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the subject, regarding the Taxpayer's appeal on the clause (long-term investments): a- With regard to (investments in funds), and where the Taxpayer's appeal lies in the fact that the funds are funds that invest in purchasing real estate for the purpose of leasing it and achieving periodic income from leasing, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438AH: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on the above, and the Circuit's review of the supplementary response memorandum submitted by the Authority, it appears that it argues that the Taxpayer does not have the authority to manage the investment portfolio and therefore his intention from that investment cannot be determined since the decision to sell or buy is entirely dependent on the management of the second party, and upon reviewing the case file and the Taxpayer's supplementary memorandum, and since the Taxpayer has provided evidence of the intention of the investment, which confirms that the investment is long-term for acquisition purposes and this is supported by the absence of trading operations on these investments, and upon reviewing Annex No. (11) it is clear to the Circuit that control over the investment portfolio in terms of selling and buying the portfolio is in the hands of the investor since the work matched the intention and the Taxpayer purchased the units with the intention of acquiring them, giving the authority to the portfolio manager to manage them does not mean that the intention is to trade, as the consideration is the nature of the fund and the absence of any speculation or sale, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit with regard to this clause.

B- With regard to (investments in shares) and where the Taxpayer's appeal lies in his proof of his intention to invest and that these shares extended for a period of more than a year and most of them continue to date based on paragraph (4/a) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 1/6/1438AH, "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and upon the circuit's review of the attached investment portfolio statement in the Authority's list, it was found that the Authority indicates a sale movement for the year 2019AD on some stocks, which are: Moreover, the investment in the shares of the company ... And the company... And the company ... It was excluded in the year 2020AD, while the attached image from the Authority in its response memorandum does not clarify the buying and selling movement as it shows the balance at the end of the period, the value of the share, and the balance of the value. Upon the circuit's review of the attached documents, it was found that the Taxpayer submitted a detailed stock movement schedule in the portfolio



in Appendix No. (11), which shows that there was no sale movement on the stocks that the Taxpayer claims to deduct, confirming that the investments in the stocks are intended for holding and not for sale and trading, and thus they may be deducted from the zakat base, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

With regard to the Authority's appeal on the clause (Deferred underwriting costs for 2019AD and 2020AD), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Circuit that the Authority requested to leave the appeal as stated in the letter issued by the Authority in its reply memorandum to the Taxpayer's appeal which includes the following: "The Authority informs your Honorable Circuit of its request to leave its appeal on this specific clause and its agreement with the terms of the decision and requests your Excellency to prove the end of the dispute." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Taxpayer's and the Authority's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting them with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the appeal of the Taxpayer and the Authority and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-113851) issued in case number (Z-2022-113851) related to zakat assessments for the years 2019AD and 2020AD.



Second: On the Merits:

- 1- Rejecting the Authority's appeal and upholding the decision of the division regarding clause (distributable surplus for insurance policyholders for the years 2019AD and 2020AD).
- 2- Accepting the withdrawal of the dispute regarding the Authority's appeal on clause (deferred underwriting costs for the years 2019AD and 2020AD).
- 3- Regarding the Taxpayer's appeal on clause (long-term investments):
 - A- Accepting the Taxpayer's appeal and canceling the division's decision regarding (investments in funds).
 - B- Accepting the Taxpayer's appeal and canceling the division's decision regarding (investments in stocks).
- 4- Rejecting the Taxpayer's appeal and upholding the division's decision regarding clause (the carried forward balance of the withholding tax provision).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-136298

Case No. Z-2023-136298

Keywords:

Zakat - Deductions from the Zakat Base - Additional contribution from a partner (related party deductions)
- Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority appeal against the decision of the Third Circuit for adjudicating income tax violations and disputes in Riyadh (IFR-2022-5096), where its appeal is based on the clause (additional contribution from a partner for 2015AD) because it is not an element of the deduction from the Zakat base. The Appellate Committee found that financial fees were charged on this clause at the rate of (6%) per year, as the financing costs charged during 2015AD amounted to SAR 35.1 million, which shows that the disputed clause represents financing and is therefore discounted by the ownership percentage. Consequently; accepting the authority's appeal and canceling the decision of the ruling circuit on this clause.

Document:

- Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 07/07/2022AD by the company ... The appeal filed on 19/07/2022AD by the Zakat, Tax and Customs Authority against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh , No. (IFR-2022-5096) issued in Case No. (Z-2021-75637) related to the 2015AD Zakat assessment, in the lawsuit filed by the company ... Against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: as a matter of form, the plaintiff's objection is accepted by the ... (Commercial Register No. ...), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:



- 1- Annulment of the Defendant's decision regarding the clause (Foreign Investments for 2015AD).
- 2- Rejecting the plaintiff's objection regarding the clause (Accumulated Losses for 2015AD).
- 3- Annulment of the Defendant's decision with respect to the 2015AD Shrek Additional Contribution.
- 4- Amending the Defendant's decision with respect to (2015AD Long-Term Receivables).
- 5- Modification of the Defendant's decision with respect to the clause (Partner Payments for 2015AD).
- 6- Annulment of the defendant's decision with regard to the clause (2015AD Insurance Company Statutory Deposit).

As this decision was not acceptable to the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit and included the following: The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit on the clauses that are the subject of his appeal.

This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where its appeal lies with regard to the clause (additional contribution from a partner for 2015AD), and the Authority explains its basis for its action when assessment the non-determination of the parties to the debtor relationship (company ...) After studying the objection, it was partially accepted that the related parties deducted the amount of (422,094,000) riyals (35%) for the years under objection due to the fact that it is subject to Zakat in order to prevent flexing in the calculation of Zakat. Therefore, the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Circuit of Dispute Resolution on the clauses under appeal for the above reasons.

On Tuesday, 30/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Clause (2) of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated 21/4/1441 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that



the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

Whereas, regarding the Authority's appeal on the clause (Additional contribution from the partner for 2015AD), where the Authority's appeal lies in the fact that when assessment, it did not deduct the debtor's related parties because it is not an element of the deduction from the Zakat base. Article (4), clause (II), paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. 2082 dated 1/6/1438 AH stipulates that "The following shall be deducted from the Zakat base: 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on the above, and upon reviewing the financial statements of the investee company for the year 2015AD, it was revealed through Note No. (19) about the additional contribution from the partner that financial fees were charged on this clause at a rate of (6%) per year, as the financing costs charged during 2015AD amounted to SAR 35.1 million, which shows that the disputed clause represents financing and is therefore discounted by the ownership ratio, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit on this clause.

Whereas, with regard to the Authority's appeal on the clause (Foreign Investments for 2015AD), Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically, and the consequent procedures for this clause as per the terms of the decision reached by the Adjudication Circuit, is left to its discretion." therefore, the Circuit must accept the abandonment of the litigation.

Whereas, with regard to the Taxpayer's and the Authority's appeal on the remaining clauses at issue in the lawsuit, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in supporting them with the content of those reasons, it is certain that it did not find any objections to the decision that merit a response beyond what was included in those reasons it is evident that the decision



under appeal regarding the dispute regarding the contested clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this circuit did not notice anything that warrants criticism or comment on it

In light of the defenses raised before it, this Circuit concludes that it rejects the appeal of the Taxpayer and the Authority and upholds the decision of the Adjudication Circuit in its conclusion on the remaining clauses at issue in the case, based on its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Procedurally:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial Register (...), distinctive number (...), and the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes (IFR-2022-5096) issued in Case No. (Z-2021-75637) related to the 2015AD Zakat assessment.

Secondly: On the merits:

1. Accepting the abandonment of litigation regarding the Authority's appeal on the clause (Foreign Investments for the year 2015AD).
2. Reject the parties' appeal and uphold the decision of the Adjudication Circuit with respect to the 2015AD Debtor Related Parties clause
- 3 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Partner's payment for 2015AD).
- 4 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (additional contribution from Shrek for 2015AD).
- 5 - Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (additional contribution from Shrek for 2015AD).
6. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Accumulated Losses for 2015AD).



Committee for adjudicating tax violations and disputes
The first division for adjudicating income tax violations
And disputes in Jeddah Governorate

Decision No. IR-2024-225495

Case No. Z-2023-225495

Keywords:

Zakat - Deductions from the Zakat Base - Investment difference - Rejection of Taxpayer's objection

Summary:

The Taxpayer's objection to the 2021AD Zakat assessment, where the Taxpayer's objection lies in the clause (Investment Difference) on not deducting the amount of (35,246,713) riyals as an investment difference in ... Company Ltd. Based on the fact that it is wholly owned by the plaintiff company according to the parties' declaration and memorandum of association. The company argues that not accepting the deduction leads to the duplication of zakat, which is contrary to Sharia and the provisions of the Zakat Regulation. The clause (Advance payments for investments) agreed not to deduct SAR 250,000 as advance payments for investments in ... These amounts represent a zakatable investment within the rights of the partners in the investee company, which must be deducted to avoid duplication of zakat. The Authority found that the investments and payments submitted are not registered in the name of the plaintiff company, but rather in the names of related parties, and that the documents submitted are insufficient to prove ownership. The Authority relied on Article 5 of the Zakat Regulation and upheld the refusal to resolve the disputed clauses, emphasizing that the decisions and fatwas relied upon by the plaintiff are not relevant to the case. Consequently: rejecting the Taxpayer's objection and upholding the Authority's actions in not deducting the disputed clauses from the Zakat base based on the Zakat Regulation.

Document:

- Paragraph (4) of Article (5) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2216\) dated 01/06/1438 AH.](#)
- Article (18) of [The Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. \(2216\) dated 07/07/1440 AH.](#)

Facts:

The facts of this case are that ..., National Identity No. (...) In his capacity as the statutory representative of



the plaintiff, Inc. Under Commercial Registration No. (...) And the establishment contract, filed its objection to the 2021AD Zakat assessment issued by the Zakat, Tax and Customs Authority, where the plaintiff's objection is limited to two clauses, with regard to the first clause: the plaintiff objects to the defendant's action of disallowing the deduction of the investment difference for the year in dispute in the amount of SAR 35,246,713, stating that the invested subsidiary is a Saudi entity registered with the Zakat, Tax and Customs Authority with the unique number (...) Thus, this investment is subject to Zakat within the rights of the partners of the company ...; and therefore, it must be deducted from the Zakat base of the investing company - the plaintiff - in order to avoid bending the Zakat, as it is not permissible in Shari'ah to pay Zakat twice in the same money in one year for one reason, according to the hadith of the Prophet (peace and blessings of Allah be upon him): the word "charity" is used here in the sense of zakat. The above supports the ruling on zakat for investments in establishments inside the Kingdom of Saudi Arabia and registered with the Zakat, Tax and Customs Authority based on the Executive Regulations issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, as amended by Minister of Finance Decision No. (58705) dated 21/09/1444 AH, Article 5 paragraph (4), and what is stated in the audit report issued by the Zakat, Tax and Customs Authority that the reason for not deducting the company investment in ... Company. (the investee company) being owned by Mr. ... And ... Company it is considered contrary to the reality of the situation, as the said parties submitted a declaration against the date of 03/04/2012AD corresponding to 11/05/1433 AH, voluntarily, voluntarily, and with full legal capacity, that the company ... Wholly owned by a company... (as the investment itself is fully paid for by the company's own resources) this confirms Tatweer's full ownership of ... For investment and Company ... As a matter of fact, this investment must be deducted from the company's zakat base. In order to avoid the prohibited zakat deduction, as explained above. The plaintiff also asserted that the failure to register the investment in the ... In the name of ... A company's ownership of a... Therefore, as stated in Sharia Fatwa No. (22644) dated 09/03/1424 AH, what the company acquires in terms of technical assets and long-term investments from its free funds, but the transfer of ownership in its name is delayed for any reason, has no effect on the establishment of ownership, meaning that the ownership has become fixed and complete for the company regardless of the transfer of ownership or not, and therefore the plaintiff requests approval to deduct these investments from the Zakat base. Regarding the second clause: the plaintiff objects to the defendant's action of not accepting the deduction of the advance payments for investments for the year in dispute in the amount of SAR 250,000, as it stated that it represents an investment in ... Company a Saudi entity registered with the Zakat, Tax and Customs Authority with the unique number (...) The company pays zakat on this investment as part of the partners' zakatable rights, noting that ... I made a declaration and undertaking on 23/06/2021AD that this advance payment for investment belongs to the plaintiff and therefore subjecting it to zakat is ... The plaintiff also explained that the Zakat provision for payments made in return for investment takes the ruling of payments made to purchase fixed assets (as they are Acquisition assets that are not subject to Zakat) as stated in the Executive Regulation issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, as



amended by Minister of Finance Decision No. (58705) dated 21/09/1444 AH, Article 5 paragraph (1/B), which necessitates deducting them from the Zakat allowance.

When the defendant was presented with the lawsuit, it responded with a memorandum that stated that with regard to the first clause: investment teams, that at the time of assessment they did not discount the investment in a company... (Premium number..) This is due to the fact that these investments are not registered in the name of the company in the investee company, based on Article (5) of the Zakat Regulation issued by Ministerial Resolution No. (2216) dated 07/07/1440AH, and by referring to the financial statements of the plaintiff and the investee company; it turns out that this investment is registered in the names of related parties and was recorded at cost in the financial statements and not registered in the name of the plaintiff, and the plaintiff has attached a statement from ... Based on what was mentioned, the Authority found that the investment is not registered in the name of the company (the plaintiff), as the above clarification stated that the invested company was established in the names of related parties and its ownership has not yet been transferred to the name of the plaintiff. In addition, the plaintiff's percentage of ownership of the invested company was not specified, and because deducting the investment from the plaintiff's Zakat base requires that the investment be registered in the plaintiff's name and a clear share in the ownership of the invested company, in addition to the fact that the documents submitted do not prove the company's ownership of these investments, as the document submitted, which is the acknowledgment of the company's ownership of the investment in ... The Authority maintains the validity of its action by not deducting the objectionable clause from the Zakat base based on paragraph (4) of Article (5) of the Zakat Regulation (2216), noting that the Authority's action was supported by the decision issued by the adjudication committees No. (IZJ-2023-1133484), and as a result of the above, the plaintiff's objection was rejected because the company does not appear among the owners of the invested company and therefore this investment is not subject to Zakat based on paragraph (4) of Article (5) of the Zakat Regulation governing the collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH. As for the decisions and fatwas referred to by the plaintiff in her regulation, this reliance is misplaced, as the provisions of the Zakat Regulation issued by Ministerial Decision No. 2216, as mentioned above, apply to this case. Regarding the second clause: payments made against investments, it argued that at the time of assessment it had not discounted the investment in...(highlighted number...) Based on paragraph (4) of Article (5) of the Zakat Regulation governing the collection of Zakat issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, and referring to the financial statements of the plaintiff and the investee company, it turns out that the plaintiff is not one of the partners in the company, noting that the plaintiff provided documentary proof of payment for the value of a share in the establishment of the investee company, accordingly, it became clear to the Authority that the investment is not registered in the name of the company (the plaintiff), as the explanation stated that the invested company was established in the names of related parties and its ownership has not yet been transferred to the plaintiff's name, in addition to that the plaintiff's percentage of ownership of the invested company has not been determined, and



deducting the investment from the plaintiff's Zakat base requires that the investment be registered in the plaintiff's name and a clear share in the ownership of the invested company, which is not available here, and after verification and review, the Authority found that the documents submitted and mentioned above do not prove ownership of the investment as aforementioned the advance payment based on the bank transfer cannot be considered an investment as it is likely to be a subsidy or a loan granted to related parties, which is considered non-deductible in accordance with Article 5, paragraph 4 of the Zakat Regulation governing the collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 H. Therefore, the Authority maintains the validity of its procedure by not deducting the objectionable clause. Note that the Authority's action was supported by the decision issued by the adjudication committees No. (IZ)-2023-as a result of the above, the plaintiff's objection was rejected because the company does not appear among the owners of the invested company and therefore this investment is not subject to Zakat based on paragraph (4) of Article (5) of the Zakat Regulation governing the collection of Zakat issued by Ministerial Resolution No. (2216) dated 07/07/1440 H. As for what the plaintiff referred to in her list of decisions and fatwas, her reliance is misplaced because what applies to this case are the provisions of the Zakat Regulation issued by Ministerial Resolution No. (2216) as mentioned above.

On Sunday, corresponding to: on 18/2/2024AD, the Circuit held its session remotely to hear the case, and the plaintiff's representative attended ... Mutawakkil with national ID no: (...) By virtue of agency no. (...), and attended by ... With national ID no: (...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No.: (.../.../...) And date: 11/05/1444 AH. Asked what they would like to add, both parties were satisfied with what they had previously submitted. The Circuit decided to adjourn the hearing to deliberate.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Decree no: (17/28/577) and date: 14/03/1376 AH, and its executive regulations issued by the Minister of Finance Decision no: (2082) on: 01/06/1438H and its amendments, and after reviewing the Income Tax Law promulgated by Royal Decree No: (M/1) and date: 15/1/1425 AH and its amendments, and its executive regulations issued by the Minister of Finance's decision no: (1535) and date: after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. 11/6/1425AH and its amendments: (25711) and date: 08/04/1445 AH. And relevant laws and regulations.

In terms of form, since the plaintiff aims to cancel the decision of the Zakat, Tax and Customs Authority regarding the Zakat assessment for the year 2021, and since this dispute is one of the disputes within the jurisdiction of the Zakat, Tax and Customs Adjudication Committee Circuits under the Zakat, Tax and Customs Committees Work Rules, and since the plaintiff was notified of the result of the objection on



27/09/2023AD, and he submitted the case through the electronic portal on 23/10/2023 was informed of the result of the objection on 27/09/2023AD, and submitted the lawsuit through the electronic portal on 23/10/2023AD, so the lawsuit was submitted within the legally prescribed period in accordance with Article (5) of the working rules of the Zakat, Tax and Customs Committees, and since the lawsuit was submitted by a person with standing, the Circuit must accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests and defenses expressed by the parties, and found that the dispute lies in the defendant's issuance of the Zakat assessment for 2021AD, as the plaintiff's objection is limited to two clauses, which are described below:

Regarding the first clause: the plaintiff objects to the defendant's action of not accepting the deduction of the investment difference for the disputed year in the amount of SAR 35,246,713, as it stated that the invested subsidiary is a Saudi entity registered with the Authority and therefore this investment is subject to Zakat within the rights of the partners of the company ...; thus, it must be deducted from the Zakat base of the invested company to avoid the discouragement of Zakat, and the plaintiff also emphasized that not registering the investment in ... Company the plaintiff's name does not invalidate the company's ownership of ... For that investment, as stated in Sharia Fatwa No. (22644) dated 09/03/1424AH. The defendant argued that the investment is not registered in the name of the company (the plaintiff), as the above explanation stated that the investee company was established in the names of related parties and its ownership has not yet been transferred to the plaintiff's name. Accordingly, based on paragraph (4) of Article (5) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that "Investments in an establishment inside the Kingdom for non-trading, if that establishment is registered with the Authority and is subject to Zakat collection under the regulation, and assets that are financially leased in the commercial books of the lessor are not considered an investment to be deducted from the Zakat base, regardless of their classification in the financial statements, as well as debtor loans, supportive or additional financing and the like granted to the investee entity are not considered an investment that is deducted from the zakat base." Based on Article (18) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2216) dated 07/07/1440AH, which stipulates that: The burden of proving the accuracy of what is stated in the declaration and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may refuse to approve the clause that the Taxpayer cannot prove its accuracy or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, it is clear that the dispute between the parties lies in the non-acceptance of the deduction of an investment difference, and where the plaintiff stated that the investment in question is subject to Zakat. the defendant argued that the investment should be deducted from the zakat base of the plaintiff, while the defendant



stated that by referring to the memorandum of association of the invested company, it is clear that the investment is not registered in the name of the plaintiff but in the name of related parties to the plaintiff and that the ownership declaration of the investment in dispute dated 24/08/2010AD submitted by the plaintiff is not considered as an internal document not approved by an official authority upon reviewing the case file and the documents and defenses it contains, it is clear that the plaintiff did not submit the amended memorandum of association to prove her share in the investee company or the reasons for the delay in amending the contract until the date of the year in dispute, nor did she submit proof of her authentication of the ownership declaration at the Ministry of Justice to be considered in proving her ownership of the investment in dispute, which leads the Circuit to reject the plaintiff's objection to the investment difference clause.

Regarding the second clause: the plaintiff objects to the defendant's action of not accepting the deduction of the advance payments for investments for the year in question in the amount of SAR 250,000, as it stated that it represented an investment in a company... It is a Saudi establishment registered with the Zakat, Tax and Customs Authority With the unique number (...) It pays Zakat on this investment within the rights of the partners subject to Zakat, noting that a company has submitted a declaration and undertaking dated 23/06/2021AD that this advance payment for the investment belongs to the plaintiff and therefore subjecting it to Zakat ... It results in a bend in the zakat. The defendant argued that the plaintiff is not one of the partners in the company, noting that the plaintiff provided documentary proof of payment of the value of a share in the establishment of the invested company, and a pledge decision from the invested company for the ownership of the company, so it became clear to the Authority that the investment is not registered in the name of the company (the plaintiff), as the explanation stated that the invested company was established in the names of related parties and its ownership has not yet been transferred to the plaintiff's name, in addition to not specifying the percentage of ownership of the invested company for the plaintiff. Based on paragraph number (4) of article (5) of the executive regulation for Zakat collection issued by ministerial decision (2216) dated 07/07/1440AH which stated that: "Investments in an establishment inside the Kingdom for non-trading, if that establishment is registered with the Authority and is subject to Zakat collection under the regulation, and assets that are financially leased in the commercial books of the lessor are not considered an investment to be deducted from the Zakat base, regardless of their classification in the financial statements, as well as debtor loans, supportive or additional financing and the like granted to the investee entity are not considered an investment that is deducted from the zakat base." Based on Article (18) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2216) dated 07/07/1440AH, which stipulates that: The burden of proving the accuracy of what is stated in the declaration and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may refuse to approve the clause that the Taxpayer cannot prove its accuracy or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." it is clear that the dispute



between the parties lies in the non-acceptance of the deduction of advance payments for investments, and where the plaintiff stated that the investment in question is subject to zakat with... It is a Saudi establishment registered with the defendant and therefore this investment should be deducted from the Zakat base of the plaintiff, while the defendant stated that by referring to the financial statements of the investee company and the capital statement No. (9), it appears that the plaintiff is not among the partners in the investee company, noting that she attached the documentary proof of payment for a share in the investee company and a declaration of ownership of the disputed investment dated 23/06/2021AD, but it cannot be considered due to the fact that it is an internal document that is not approved by an official authority upon reviewing the documents submitted in the case file and the defenses presented, it is clear that the plaintiff did not submit the amended memorandum of association to prove her share in the investee company or the reasons for the delay in amending the contract, nor did she submit proof that she documented the ownership pledge at the Ministry of Justice to be considered in proving her ownership of the disputed investment, which leads the Circuit to reject the plaintiff's objection to the clause of advance payments against investments. For these reasons and after deliberation, the Circuit unanimously decided as follows:

Decision:

First: deny the plaintiff's objection to the investment difference clause.

Secondly: claimant's objection to down payment clause rejected

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-169938

Case No. Z-2023-169938

Keywords:

Zakat – Deductions from the Zakat Base – government debts – Accepting the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority appeal against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (ITR-2022-6038), where its appeal lies on the clause (government debts), as it does not allow the deduction of government debts for the year 2017 from the Zakat base, as this clause represents the company's receivables from government entities and the clause is not one of the clauses that can be deducted from the Zakat base. And it has been established to the appellate committee through the legal fatwa that zakat is not obligatory on the creditor for the amounts due to him from government entities that he cannot collect due to delays from the government entities and not as a result of his negligence or failure to comply with the standards and conditions set by the government entity. Upon reviewing the case file, it became clear to the circuit that the Taxpayer did not provide evidence of his claims to the government entities, and that the inability to collect the amounts due is due to the shortcomings of that entity. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 15/01/2023AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (ITR-2022-6038) issued in Case No. (Z-2021-44289) related to the 2017AD Zakat assessment, in the case filed by the Defendant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:



First: Procedurally:

Acceptance of the plaintiff's objection/ Company ... (Commercial Register No. ...), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

1- Modification of the Defendant's decision with respect to the "Payments from Customers" clause.

2- Annulment of the defendant's decision with respect to the (government debt) clause.

3- Rejecting the plaintiff's objection regarding the clause (overcharged insurance difference).

This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, as the Authority's appeal is based on the clause (government debts). The Authority explains that it did not allow the deduction of government debts for the year 2017AD from the Zakat base because this clause represents receivables of the company from government agencies and the clause is not one of the clauses that are deducted from the base in accordance with the clause

Secondly, Article 4 of the Zakat Collection Regulations stipulates that debt zakat is to be paid as a prospective debt and on a person who is solvent, based on Sharia Fatwa No. 19643 dated 23/05/1418AH, answer to the first question, paragraph (6), which stipulates "The debts that a company owes to its debtors on one or more dates, regardless of their terms, are subject to zakat if they are in the hands of a debtor who is full and not procrastinating and the creditor is able to recover his money." accordingly, the Taxpayer's objection was rejected in accordance with this clause due to the validity of the Authority's procedure, which was upheld by Appeal Decisions No. (1066) of 1432AH and (1463) of 1436AH. The Circuit did not ask the Taxpayer for any detailed explanation to prove the validity of the Taxpayer's argument, and the Authority did not find any documents attached in this regard in any way, which makes the decision worthy of annulment, and the Authority affirms that the Taxpayer's argument before the Circuit has no validity because it is not based on evidence that can be relied upon. It is not clear to the Authority on what basis the Circuit relied on the fact that these documents are related to the clause under appeal and not others, and whether what the Taxpayer submitted to the Circuit is related to the year under appeal or not, as this was not clear from it, and whether the Circuit reviewed the certification of the chartered accountant or not, and the Circuit did not explain how this clause was reached in a detailed accounting and legal manner, which must be taken into consideration, so the Authority affirms the correctness and integrity of its procedure. Since the Defendant's initial objection lacked documentary proof of the clause under appeal, an explanation of how it was initially processed by the Authority, proper accounting proof of this clause, and a detailed certification by the legal accountant, based on the above, the Authority rejected the Defendant's objection based on Article (XX) paragraph (3) of the Zakat Collection Regulation, which states: (The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the validity of the clauses in his declaration,



the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it), so the Authority maintains the validity and regularity of its procedure, and requests that its appeal be accepted and the decision of the Adjudication Circuit on the clause subject to its appeal be reversed.

On Thursday, 14/3/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated 8/4/1445AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits of the Authority's appeal on the clause (government debts), and where the Authority's appeal lies in its decision not to allow the deduction of government debts for the year 2017AD from the Zakat base because this clause represents receivables owed to the company from government agencies and the clause is not one of the clauses to be deducted from the base, and based on Fatwa No. (23408) dated 11/18/1426AH issued by the Permanent Committee for Scientific Research and Fatwa on debts due from government agencies, which stipulates the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." Based on the above, it is clear to the committee from the above legal fatwa that zakat is not obligatory on the creditor for the amounts due to them from government entities that they cannot collect due to delays from the government entities and not due to their own negligence or failure to comply with the standards and conditions set by the government entity. Upon reviewing the case file, it became clear to the committee that the Taxpayer did not provide evidence of their claims to the government entities, and that the inability to collect the due amounts



is a result of the shortcomings of that entity, which leads the committee to accept the appeal of the authority and cancel the decision of the division regarding this clause.

With regard to the Zakat, Tax and Customs Authority's appeal on the clause "Advances from Customers for 2017AD", the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in supporting it with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is established that the decision under appeal regarding the dispute regarding the disputed clauses the issuing circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and this circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, which leads this circuit to reject the Authority's appeal and uphold the decision of the Adjudication Circuit on appeal with respect to the result it reached in this clause, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the appellant, the General Authority of Zakat and Tax, against the decision of the third division regarding violations and disputes of income tax in Riyadh with the number (ITR-2022-6038) issued in case number (Z -2021-44289) related to the zakat assessment for the year 2017.

Second: On the merits:

- 1- The authority's appeal is rejected and the decision of the division regarding the clause (advances from customers for the year 2017AD) is upheld.
- 2- The authority's appeal is accepted and the decision of the division regarding the clause (government debts) is canceled.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171190

Case No. Z-2023-171190

Keywords:

Zakat - Deductions from the Zakat Base -Delinquent government debts -Accepting the Authority's appeal -
Accepting the Taxpayer's appeal

Summary:

The Taxpayer and the General Authority of Zakat and Tax object to the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2569), where the authority's appeal is based on the clause (estimated profits for unreported contracts) as it added the clause of unreported contracts to the net profit during the assessment due to the lack of supporting documents. The Taxpayer's appeal is based on the clause (Deduction of delayed government debts) as the authority did not deduct the clause of government debts amounting to (5,116,986) riyals from the zakat base for the year 2018, and it is indicated that all supporting documents are attached, represented by the analytical statement of those debts and the official letters for the collection of the debt, and it was clarified that the amounts are dues for the company from government entities from years before 2010AD until the year 2017AD. It has been established to the appellate committee that the Taxpayer provided an analytical statement of the delayed debts from before 2010AD until 2017AD and also provided official correspondence to the entities requesting those debts, represented in (Prince Mohammed bin Abdulaziz Hospital – King Fahd Medical City), and it is clear from the Taxpayer's situation and the documents submitted that the clause represents a debt on a solvent person that cannot be collected, and the reason is not due to the Taxpayer but rather due to the delay of the entity and not due to any negligence on their part. The result of that; acceptance of the authority's appeal and acceptance of the Taxpayer's appeal.

Document:

- Paragraph (1) of Article (70) of [The Executive Regulations of the Sharia Procedure Law issued by the Minister of Justice Decision No. \(39933\) dated 19/05/1435 A.H.](#)



Facts:



The appeal filed on 24/01/2023AD from/... National ID number (...) In his capacity as Vice Chairman of the Board of Directors of the Appellant Company in accordance with the Articles of Association, the appointment decision and the commercial register, and the appeal filed on 26/01/2023AD from the Zakat, Tax and Customs Authority (ZTA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2569) issued in Case No. (Z-2021-82235) related to the Zakat assessment for the year 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, where the decision of the Adjudication Circuit ruled as follows:

- 1- Accepting the plaintiff's objection to the difference between revenues and VAT returns.
- 2- Rejecting the plaintiff's objection to the clause of discretionary profits for import teams.
- 3- Accepting the plaintiff's objection to the clause of estimated profits for unauthorized contracts.
- 4- Rejecting the plaintiff's objection to the retained earnings difference clause.
- 5- Rejecting the plaintiff's objection to the clause of other credits.
- 6- Rejecting the plaintiff's objection to the non-discounting clause.
- 7) Rejecting the plaintiff's objection to the clause on the non-deduction of overdue government debts.
- 8(a) - Plaintiff's objection to the non-discounting clause for payments to suppliers was rejected.
- 8(b) - Plaintiff's objection to the prepaid expenses clause is dismissed.
9. Rejecting the plaintiff's objection to the clause on the non-deduction of employee advances.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (deduction of late government debts) that the Authority did not deduct the government debts in the amount of (5,116,986) riyals from the Zakat base for the year 2018AD, from the Zakat base for the year 2018, and he stated that he attached all the supporting documents consisting of the analytical statement of these debts and official letters demanding the collection of the debt. He also explained that the amounts are dues of the company to government agencies from the years before 2010AD until 2017AD, and emphasized that he tried to collect these amounts several times without response from these agencies, so the Taxpayer requests that these debts be deducted from the company's Zakat base for the year 2018AD. The Taxpayer also objects to the clauses (estimated profits on import difference), (retained earnings difference), (other credits), (non-deduction of investments in the capital of foreign companies - the debtor partner's neighbor), (deduction of payments to suppliers), (expenses paid), and (employee advances). Therefore, the Taxpayer



requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

With regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (estimated profits for unauthorized contracts) that it added the clause unauthorized contracts to the net profit due to the failure to provide supporting documents, as the Taxpayer was previously requested to provide a detailed statement of all contracts for 2018AD (name of the contracting party - contract value - implemented from the contract - remaining contract), but the Taxpayer provided a statement of government customers worth (55,003,487) riyals and the contract of the Ministry of Defense worth (603,051) riyals and the rest for private parties, (487,003,003) riyals, the Ministry of Defense contract worth (603,051) riyals, and the rest for private entities, while it turned out that the amount recorded in the automated system as contracts for 2018AD totaled (243,151,464) riyals, and therefore the amount was profitable as follows: total contracts according to the automated system (243,151,464) - Government contracts according to the Taxpayer's statement (55,606,534) = Difference Unauthorized contracts (187,544,930), 10% unauthorized contracts difference profit (18,754,493). Since the decision under appeal was based on the fact that the Authority did not provide a statement of government contracts for 2018AD, the Authority provided an Excel statement of these contracts, which was extracted from the Authority's automated system, and since the Taxpayer did not provide a statement of all these contracts and did not provide a justification for this difference, the burden of proof falls on the Taxpayer. Therefore, the Authority maintains the validity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

On Monday, 12/2/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.



On the merits of the appeal of the Authority regarding the clause (Revenue Difference and Value Added Declarations), and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435AH. "If the agreement takes place before the lawsuit is set, the content of the lawsuit and the answer must be monitored before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the lawsuit or some of it is among those agreed upon." Based on the above, and where it has been proven to this Circuit the Authority's request to leave the appeal as stated in the letter issued by it in the supplementary appeal list submitted on 24/12/2023AD, which includes: "Firstly, the Authority appeals against clause (1) of the Circuit's decision to accept the plaintiff's objection to the difference between revenue and value-added declarations. Her point of view is as follows: - the Authority would like to inform the Honorable Circuit that it has withdrawn its appeal in relation to the above-mentioned clause in particular and the consequences of the Authority's appeal for this clause in accordance with the decision of the Adjudication Circuit, which concludes that the Circuit accepts the abandonment of the litigation."

Regarding the Authority's appeal regarding the clause (Estimated Profits for Unauthorized Contracts), and where its appeal lies in the fact that it added the clause unauthorized contracts to the net profit at the time of assessment, due to the lack of supporting documents. Based on the above, and where the dispute lies in the failure of the Authority to submit the statement of contracts extracted by it; as the total amount of contracts as shown is (243,151,464) riyals and that the Authority's action was to maximize the difference in contracts, and upon reviewing the case file; and where the Authority submitted an excel statement of contracts and after reviewing it, it is clear that the statement did not include all parties as it included only part of the amount (160,734,610) riyals, and this amount included the name of the entity contracted by the Taxpayer and the name of the Taxpayer as indicated in the statement, and with regard to the rest of the amount, it did not indicate the names of the contracted entities except that it came with the amounts only, which leads the Circuit to partially accept the Authority's appeal and amend the decision of the Adjudication Circuit in this clause in the amount of (160,734,610) riyals and reject the rest.

Whereas, regarding the Taxpayer's appeal regarding the clause (Discounting of overdue government debts), and where his appeal lies in the fact that the Authority did not discount the government debts in the amount of (5,116,986) riyals from the Zakat base for the year 2018AD, and states that he attached all the supporting documents represented by the analytical statement of these debts and official letters demanding the collection of the debt, and explained that the amounts are dues of the company with government agencies



from the years before 2010AD until 2017AD, and emphasizes his attempt to collect these amounts several times without response from these agencies. The fatwa number (23408) dated 18/11/1426AH issued by the Permanent Committee for Scientific Research and Ifta regarding the debts owed by government entities stated the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." Based on what has been presented, it is clear that the authority did not accept the deduction of delayed government debts and argues that those debts owed by government entities represent debts on a solvent person and thus zakat is due on them. The Taxpayer argues that those amounts represent a debt owed by a solvent person and that those amounts cannot be collected due to the delay of that entity and not due to any negligence on their part. Upon reviewing the facts of the dispute regarding the clause, it is clear that it is limited to whether it can be deducted or not and whether it represents a debt that cannot be collected or not. It is clear that the Taxpayer provided an analytical statement of the delayed debts from before 2010AD until 2017AD and also provided official correspondence to the entities requesting those debts represented in (...), and it is clear from the Taxpayer's situation and the documents submitted that the clause represents a debt on a solvent person that cannot be collected, and the reason is not due to the Taxpayer but rather due to the delay of the entity and not due to any negligence on their part, which leads the division to accept the Taxpayer's appeal and cancel the decision of the division regarding this clause.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2569) issued in case number (Z-2021-82235) related to the zakat assessment for the year 2018AD.

Second: On the Merits:

- 1 - Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (revenue differences and value-added declarations).
- 2 - Acceptance of the authority's appeal partially and amending the decision of the division regarding the clause (estimated profits for unreported contracts).
- 3 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (estimated profits on import differences).
- 4 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (retained earnings differences).
- 5 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (other credit balances).
- 6 - Rejection of the Taxpayer's appeal and upholding the decision of the division regarding the clause (not deducting investments in the capital of foreign companies - debtor partner's account).
- 7 - Acceptance of the Taxpayer's appeal and canceling the decision of the division regarding the clause (deduction of delayed government debts).
- 8 - The Taxpayer's appeal is rejected and the decision of the division regarding the clause (deduction of advance payments to suppliers) is upheld.
- 9 - The Taxpayer's appeal is rejected, and the decision of the division regarding clause (paid expenses) is upheld.
- 10 - The Taxpayer's appeal is rejected, and the decision of the division regarding clause (employee advances) is upheld.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-189905

Case No. Z-2023-189905

Keywords:

Zakat - The era of Zakat deduction - Debt owed to government entities - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority's appeal against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6727), where its appeal is based on the clause (debts owed by government agencies), as it claims that the amounts withheld are debts owed by the Taxpayer and can be collected at any time upon presentation of the necessary justifications, and therefore may not be deducted from the Zakat base. The Appellate Committee found that Zakat is not obligatory on a creditor for money owed to government agencies that he is unable to collect due to a delay by the government agencies and not as a result of his own negligence or failure to comply with the standards and requirements set by the government agency. The documents presented in the case file show that the Taxpayer did not submit letters of claim to several agencies, including: the Ministry of Education, Ministry of Social Affairs, and Ministry of Health, but they turned out to be claims for project extracts, not arrears, and there was no delay in receiving the claims or escalating them. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (4/1) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal was heard on: 20/03/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6727) issued in Case No. (Z-2021-58638) related to the Zakat assessment for 2015AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

- 1- Reject the plaintiff's objection regarding the 2015AD statute of limitations.
- 2- Cancel the defendant's decision with respect to the clause "Payments from Customers".
- 3- Rejecting the plaintiff's objection with regard to the clause "Accrued expenses".
- 4- Annulment of the defendant's decision regarding the clause (debts owed to government entities).
5. Demonstrate that the disagreement is over for all other objections.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (debts owed to government entities), the Authority states that it did not accept the deduction of receivables in the amount of (3,523,676) riyals, which are commercial debtors for receivables for government projects, it turns out that the receivables are governmental receivables, meaning that they are certain to be collected, and the contracted party (Ministry of Education, Ministry of Health) is one of the trusted parties and its financial ability to pay, and the amounts withheld represent debts on the full and collectible at any time when the necessary justifications are presented, and therefore may not be deducted from the Zakat base, and the Authority's action was supported by Appeal Resolution No. (1769) of 1438 AH. The Circuit issuing the decision under appeal also annulled the decision of the Authority since Zakat is not obligatory on the creditor in the money owed to government agencies that he cannot collect due to the delay of the government agencies. The Authority answers that the clause that the Taxpayer claims to deduct from the base represents debts owed by government agencies and is not one of the clauses to be deducted from the base according to Article 4(II) of the Executive Regulations for the Collection of Zakat, where debt is zakat as a desired and full debt and based on Sharia Fatwa No. (19643) dated 23/5/1418AH, answer to the first question, paragraph (6), which stipulates: "The debts that the company has on its debtors, whether they are due sooner or later, regardless of their terms, zakat is due on them if they are in the hands of a full debtor who is not procrastinating and the creditor is able to recover his money." Also, the Circuit's decision indicated that this confirms and proves that the debt is full and can be collected at any time once the necessary justifications for disbursement are presented, and therefore cannot be deducted from the Zakat base, and the Authority's action was supported by Appeal Decision No. (IR- 2022-428) issued in Case No.(Z-2021-82823) regarding the appeal against the decision (ITR-2021-914) issued in Case No.(Z-2020-30277),



which makes the decision flawed, and therefore the Authority requests the acceptance of its appeal and the reversal of the decision of the Circuit of Determination regarding the clause that is the subject of its appeal.

On Wednesday, 05/22/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated 8/4/1445AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

In the merits, regarding the Authority's appeal regarding the clause (debts owed to government entities), the Authority's appeal lies in the appeal against the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, as it claims that the amounts withheld represent debts that are collectible at any time upon presentation of the necessary justifications, and therefore may not be deducted from the Zakat base. Based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, it is clear that Zakat is not obligatory on a creditor in his money owed to government agencies, which he is unable to collect due to a delay by the government agencies and not as a result of his failure to comply with the standards and requirements set by the government agency, and by reviewing the case file, it is clear from the documents submitted in the case file that the Taxpayer did not submit letters of claim to several agencies, including: the Ministry of Education, Ministry of Social Affairs, and Ministry of Health, but it turned out that they were claims for project abstracts and not arrears, and there was no evidence of delay in receiving the claims or escalation thereof, which leads the Circuit to conclude that accepting the Authority's appeal and canceling the decision of the Adjudication Circuit on this clause.



With regard to the Authority's appeal regarding the clause (Payments from customers), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the adjudication Circuit with respect to the outcome of the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6727) issued in case number (Z-2021-58638) related to the Zakat assessment for the year 2015AD.

Secondly: On the merits:

- 1- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (advances from customers).
- 2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (debts owed to government entities).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-131744

Case No. Z-2023-131744

Keywords:

Zakat - Deductions from the Zakat Base - Government Accounts Payable - Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer's objection to the decision of the First Circuit for resolving income tax violations and disputes in Jeddah Governorate No.(IZJ-2022-743), where his appeal is based on the clause (other reserves formed for the year 2018AD) as the other reserves were not carried over from previous years but were formed during the year and did not come due , and the clause (government payables for the year 2018AD) according to the following reasons that the Authority did not deduct all receivables from the Zakat bowl: The Authority did not deduct all receivables from the Zakat bowl. The Appellate Committee, upon reviewing the case file, found that the government receivables amounted to (92) billion SAR, and therefore the entire government receivables amounting to (19,675,526,000) SAR must be deducted because of the existence of the corresponding payables. This means accepting the Taxpayer's appeal and modifying the decision of the Adjudication Circuit.

Document:

- Paragraph (4/5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 18/05/2022AD from /... National ID number (...) As an agent for the appellant company under Agency No. (...), and the appeal filed on 08/06/2022AD from the Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah



Governorate No.(IZJ-2022-743) issued in Case No. (Z-2021-78645) related to the 2018AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer is entitled to the following:

First: the plaintiff's objection to the 2018AD receivables clause was rejected.

Second: modification of Defendant's action on the line clause Loans to Affiliates for 2018AD.

Third: dismissed the plaintiff's objection to the long term investments clause in the Electricity and Investment Assessment Authority (EILA) to the 2018AD maturity date.

Forth: dismissed the plaintiff's objection to the other reserves constituted for 2018.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (government receivables for 2018AD) that fuel is not considered a fixed asset, and he stated that the Authority's action was incorrect as the Authority did not deduct all receivables from the Zakat base, as it excluded the receivables owed by the organization. Therefore, the Taxpayer is required to deduct it from the Zakat base. Regarding the clause (Other Reserves Formed for 2018AD), the Taxpayer claims that the other reserves were not carried over from previous years, but were formed during the year and did not come due, and the Authority partially accepted the Taxpayer's objection by adding the balance of other reserves in the amount of (362,599,000 riyals) in the amended Zakat assessment instead of (606,713,000 riyals) in the original Zakat assessment. The Taxpayer also objects to the clause (Long-term investments for 2018), so the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, it submitted a list of appeals, which was reviewed by the Circuit and included that the Authority requests the acceptance of its appeal and the reversal of the decision of the Adjudication Circuit regarding the clause (loans granted to subsidiaries for the year 2018AD).

On Tuesday, 16/01/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441AH; and by calling on the opponents, he/she attended ... National ID No. (...), as agent for the plaintiff under agency No. (...). (National ID No. ...), in her capacity as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) And the date is 19/03/1445AH. When the appellant's representative was asked about the lawsuit, he replied that he does not deviate from what was



stated in the objection memorandum filed with the General Secretariat of the Zakat, Tax and Customs Committees and the supplementary memorandums, and that he is satisfied with them and adheres to the arguments, defenses and requests contained therein, and when this was brought to the Defendant's representative, she replied that she does not deviate from what was stated in the reply memorandum and the supplementary memorandums, and that she is satisfied with the submissions filed on the General Secretariat of the Zakat, Tax and Customs Committees' portal, and adheres to the arguments, defenses and requests contained therein. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the pleadings and adjourn the case to Tuesday, 32/1/2024AD, at 11:00 a.m.

On Tuesday, 23/1/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Article 15, clause (2) of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; calling on the litigants, / ..., National ID No. (...), as the plaintiff's agent under agency No. (...), attended..., National ID No. (...), as agent for the plaintiff under agency No. (...), and ... (National ID No. ...), as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445 AH., and because the pleadings in the case have already been closed, this session is dedicated to the pronouncement of the decision.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal regarding the clause (Government Receivables for the year 2018AD), wherein his appeal lies in the fact that the Authority's action was incorrect, as the Authority did not deduct all receivables from the Zakat base, as it excluded the receivables owed by the organization (...). Where paragraph (5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition.



C- What is used in trade offers and has passed the hawl." And where Fatwa No. (23408) dated 11/18/1426 AH issued by the Permanent Committee for Scientific Research and Fatwa on the debts owed by government agencies to: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is consolation, it is not obligatory on a person who cannot receive it and has nothing in his hand." Paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and whereas the correct Zakat treatment is to set off the debit and credit balance if it is for a single customer with debit and credit accounts, and after reviewing the case file and the defenses and documents contained therein; and whereas after reviewing what was stated in the Authority's reply memorandum, it appears that the Authority, when performing the deduction of receivables with the corresponding credit receivables only, as the difference claimed by the Taxpayer is receivables that were not offset by credit receivables, and the difference claimed by the Taxpayer, upon reviewing the case file, it was found that the government receivables amounted to (92) billion riyals, and therefore the entire government receivables amounting to (19,675,526,000) riyals must be deducted due to the existence of the corresponding creditors, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal regarding the clause (Other Reserves Formed for 2018AD), and where his appeal lies in the fact that other reserves were not carried over from previous years, but were formed during the year and did not fall due, the Authority partially accepted the Taxpayer's objection by adding the balance of other reserves in the amount of (362,599,000 riyals) in the amended Zakat assessment instead of (606,713,000 riyals) in the original Zakat assessment, which was added to the original Zakat assessment. Whereas paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438AH, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 7 - Reserves carried forward from previous years at the end of the year. 8 - Balance of profits carried forward from previous years at the end of the year. 9 - Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting their use during the year." based on the above, and since what the Authority did after reviewing its reply note was to add an amount of (362,599,000) riyals to the Zakat base, which represents the balance of the last period other reserve (companies invested in the equity method), the balance of the first period other reserve (employee benefit



liabilities) and the balance of the last period other reserve (financial assets), and it was found from the audited financial statements that it is included in the amount of (106,897,000)riyals, which represents the total other reserves, as the audited financial statements show that the other reserves added to the Zakat base by the Taxpayer are as follows: - the Company's share in other comprehensive income of equity investees at the beginning of the year in the amount of SAR (296,810,000), - Employee benefit obligations in the amount of SAR (370,715,000), - Financial assets through other comprehensive income in the amount of SAR (32,992,000), - Total (SAR 106,897,000). Other reserves are as follows: - the Company's share in other comprehensive income of equity investees at year-end amounted to SAR (34,851,000), - Employee benefit obligations amounted to SAR (370,715,000), - Financial assets through other comprehensive income at year-end amounted to SAR (26,735,000), - and - Total amounted to SAR (362,599,000). Since the reserves are added to the Zakat base at the beginning of the year, and the Authority deducted the reserves at the end of the year due to the existence of the corresponding investments, the amount of SAR (106,897,000) is deducted and SAR (362,599,000) is added to the Zakat base, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province with number (IZJ-2022-743) issued in case number (Z-2021-78645) related to the Zakat assessment for the year 2018AD.

Secondly: On the merits:



- 1- Acknowledging the Taxpayer's appeal accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Government Payables for 2018AD).
- 2 rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Long-term investments for 2018AD).
- 3- Acknowledging the Taxpayer's appeal in part accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit with respect to the clause (Other Reserves Formed for 2018AD).
- 4 rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Loans granted to subsidiaries for the year 2018AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-167474

Case No. Z-2023-167474

Keywords:

Zakat - Deductions from the Zakat Base - Trade Receivables - Acceptance of Authority's Appeal

Summary:

The Zakat, Tax and Customs Authority's objection to the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (ITR-2022-6041) is its appeal on the clause (trade receivables), as it claims that it did not accept the deduction of the clause from the zakat base, as it is one of the clauses that are not deducted from the zakat base and is not provided for in the Zakat Collection Regulation issued by Ministerial Resolution (2082) of 1438 AH. And it has been established to the appellate committee through the legal fatwa that zakat is not obligatory on the creditor for the amounts due to him from government entities that he cannot collect due to delays from the government entities and not as a result of his negligence or failure to comply with the standards and conditions set by the government entity. Upon reviewing the case file, it became clear to the circuit that the Taxpayer did not provide evidence of his claims to the government entities, and that the inability to collect the amounts due is due to the shortcomings of that entity. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 01/01/2023 was considered by the ... The appeal filed on 18/01/2023 by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2022-6041) issued in Case No. (Z-2021-35005) related to the 2018AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority,



in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's case is filed against the Zakat, Tax and Customs Authority:

First: Procedurally:

Acceptance of the plaintiff's objection/ Company ... (Commercial Register No. ...), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

1- Cancel the defendant's decision regarding the trade receivables clause.

2- Reject all other requests.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, he submitted an appeal list, which was reviewed by the Circuit, which included the Taxpayer's request to accept his appeal and reverse the Adjudication Circuit's decision on the clauses under appeal.

With regard to the Authority's appeal against the decision of the Dispute Resolution Circuit, its appeal lies with regard to the clause (trade receivables) that it did not accept the deduction of the above clause from the Zakat base, as it is one of the clauses that are not deducted from the Zakat base and is not stipulated by the Zakat Collection Regulation issued by Ministerial Decision (2082) for the year 1438 AH with regard to the decision of the Appellate Committee No. (1514) of 1437AH, to which the Taxpayer referred, the Authority emphasizes that it was issued before the issuance of the Zakat Collection Regulation issued by Ministerial Decision (2082) of 1438AH, and therefore the Authority rejected his objection regarding the above clause and maintains the validity of its procedure. The reasons for the Circuit's decision are incorrect and contrary to the correct statutory requirement: - the Circuit issuing the decision canceled the Authority's action; however, the receivables are not clauses that are deducted from the Zakat base, and a large part of these amounts are commercial transactions in projects with government entities and other private sector entities, which means that these amounts represent an outstanding debt that is repayable in the future and that all debtors, whether due from government entities or other entities, will be collected, and therefore no impairment or provision for doubtful debts has been made. On the other hand, assuming that these debts cannot be collected, the Taxpayer will form a provision for doubtful debts in its financial statements, and the provision will be processed by refunding the component during the year to the net profit and adding the balance of the first period after deducting the user to the Zakat base, and the evidence of the obligation of Zakat is general and includes all Zakat funds, and no valid evidence is provided to deduct debts from the Zakat base, also, these receivables are debts owed by entities that are not bankrupt or insolvent, and this is confirmed by the subsequent financial statements where the receivable balances were reduced according to Note (5) to the financial statements for the year 2019AD, so deducting the clause from the base means



that the realized revenue is not subject to it because this balance is the result of applying the generally accepted accounting policies, including the accrual basis of accounting, where the revenue is included in the income statement includes revenues that belong to the financial period, whether cash or future, in accordance with the principles of accrual, which is represented by the clause Long-term commercial debtor balances (customers) in the financial statements, which is a good debt on which Zakat is legally obligatory, which makes the decision flawed, and therefore the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Circuit of Determination of the clauses under appeal for the above reasons.

On Sunday, 21/01/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits of the Authority's appeal regarding the clause (trade receivables), and where its appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that it did not accept the deduction of the above clause from the Zakat base, as it is one of the clauses that are not deducted from the Zakat base and is not provided for in the Zakat collection regulation issued by Ministerial Decision (2082) of 1438 AH. The fatwa number (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Ifta regarding the debts owed by government entities stated the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is consolation, it is not obligatory on a person who cannot receive it and has nothing in his hand." Article 20, paragraph 3 of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. 2082 dated 1/6/1438AH also stipulates: "The burden of proving the accuracy of what is



stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, it is clear from the above legal opinion that Zakat is not obligatory on the creditor in his money owed to the government agencies, which he is unable to collect due to a delay by the government agencies and not as a result of his failure to comply with the standard and requirements specified by the government agency, and by reviewing the case file; it appears that the Taxpayer did not provide proof of his claim to the government agencies, and that the inability to collect the amounts due is due to the failure of that agency, which leads the Circuit to accept the Authority's objection and annul the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial register (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the Third Circuit regarding violations and disputes of income tax in Riyadh No. (ITR-2022-6041) issued in case No. (Z-2021-35005) related to the Zakat assessment for the years from 2015AD to 2018AD.

Secondly: On the merits:

1- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (advances from customers).



- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (trade receivables).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (amounts due from affiliated entities).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Investments).
- 5-Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (trade receivables).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178673

Case No. Z-2023-178673

Keywords:

Zakat - Deductions from the Zakat Base - Long-term receivables - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority's appeal against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6894) long-term receivables) the Zakat, Tax and Customs Authority (ZTA) argues that the clause in dispute cannot be deducted from the Zakat base because it is not a deductible clause. The Appellate Committee found that the Taxpayer did not provide documents proving the validity of his claim to deduct long-term receivables or the difficulty of collecting them, but only a statement unsupported by documents, thus the Authority proved the correctness of its position not to deduct this clause from the Zakat base. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (3) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 16/02/2023AD from the Zakat, Tax and Customs Authority, and the appeal filed on 18/09/2023AD from ... Commercial Registration No. (...), on the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6894) issued in Case No.(Z-2021-70920) related to the 2015 Zakat assessment, in the lawsuit filed by ... Against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: accepting the objection as a matter of form.

Secondly: On the merits:

- 1- Cancel the defendant's decision regarding the long-term receivables clause.



2- Reject all other objections.

Since this decision was not accepted by the Taxpayer (... Company Ltd. Filed a list of appeals that was reviewed by the Circuit, which included, in essence, that the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit be overturned. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (long-term receivables). The Authority explains that it rejected the deduction of long-term receivables because it is a financial lease investment for governmental and semi-governmental institutions to sell equipment on installment payments, and the Authority confirms that the long-term receivables at issue are amounts due to governmental and semi-governmental organizations, after studying and referring to the company's activity, which is wholesale and retail trade in the sale of heavy equipment, and studying a sample of contracts for the sale of equipment in installments, the Authority confirms that the long-term receivables subject to objection are amounts due to the company from governmental and semi-governmental entities resulting from commercial, operational and secured transactions, and are not on procrastinators or insolvent, but are collectible debts, and therefore the Taxpayer's objection to deduct the receivables from the zakat base was rejected as they were not included in the deductions of the zakat base according to the executive regulation of zakat, the Authority notes that the Circuit issuing the decision under appeal overturned the Authority's decision, given that trade receivables are a component of the Zakat base, provided that they turn over or are used to finance the assets deducted from the Zakat base, and that the dispute is based on this, the Authority answers that after reviewing the merits of the Circuit's decision and the data the Authority confirms that the Circuit accepted the Taxpayer's objection and relied on Article 4(1)(5), which relates to the positive clauses that are added to the Zakat base when they turn over or finance fixed assets or any of the clauses that are excluded from the Zakat base, the Circuit stated that the clause (trade payables) is one of the components of the Zakat base provided that it turns around or is used to finance the assets deducted from the Zakat base, and this reasoning is misplaced as the disputed clause relates to long-term receivables and the Taxpayer's request to deduct it from the Zakat base, on the basis of the above, the Authority confirms the correctness and soundness of its procedure that the disputed clause cannot be deducted from the Zakat base because it is not one of the deduction clauses specified in Article 4 of the Zakat Regulation governing the collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438AH. She asks that her appeal be accepted and that the decision of the Adjudication Circuit on the clause under appeal be overturned.

On Sunday, 14/4/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated 8/4/1445AH : after reviewing the appeal request, the pleadings submitted, the papers and documents



contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Whereas, with regard to the Taxpayer's appeal, and after examining the case file, and whereas ascertaining the status of the parties to the case is one of the preliminary matters to be decided before entering into the merits of the case, which the Circuit rules on its own initiative, in accordance with Article (76) of the Sharia Procedure Law, which stipulates that: "The defense of lack of jurisdiction of the court due to lack of jurisdiction or due to the type or value of the case, or the defense of inadmissibility of the case due to lack of capacity, competence, interest or for any other reason, as well as the defense that the case cannot be heard because it has already been adjudicated, may be raised at any stage of the case and the court shall rule on its own initiative." Ltd. Did not attach any proof of the applicant's status, which means that the Circuit should not accept the appeal procedurally because it was filed by a person without status.

Whereas, with regard to the Authority's appeal, upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal is procedurally accepted because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the subject of the Authority's appeal regarding the clause (long-term receivables), and where the Authority's appeal lies in its claim that the disputed clause cannot be deducted from the Zakat base because it is not a deduction clause, and based on Fatwa No. (23408) dated 18/11/1426AH issued by the Permanent Committee for Scientific Research and Fatwa on debts due from government agencies, which stipulated the following "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is consolation, it is not obligatory on a person who cannot receive it and has nothing in his hand." Based on paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438AH, which stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." in accordance with the above, it is clear from the above legal opinion that Zakat is not obligatory on a creditor in his outstanding funds that he is unable to collect due to a delay from the authorities and not as a result of his failure to comply with the standards and requirements



set by these authorities, it is clear from the decision of the issuing circuit that it did not examine the origin of the dispute, as it turns out that the Circuit stated that the clause (trade receivables) is one of the components of the Zakat base, provided that it is turned around or used to finance the assets deducted from the Zakat base, and this reasoning is misplaced, as the objectionable clause and the subject of the dispute concerns long-term receivables, and it accepted the Taxpayer's objection considering the lack of turning around. In terms of the merits of the dispute and after reviewing the documents submitted, and where the long-term receivables that the Taxpayer is unable to collect due to delays from the authorities and not as a result of his own negligence or failure to comply with the standards and requirements specified by these authorities are resolved provided that the Taxpayer proves his claim to these authorities and that his failure to collect them is not due to his own negligence, however, it was proven that the Taxpayer did not provide supporting documents, as he only submitted a statement of receivables in Excel format in the amount of SAR (253,560,677), and the Taxpayer did not indicate in his submissions the difficulty of collecting these receivables, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Resolution Circuit with regard to this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Procedurally:

1- Inadmissibility of the appeal procedurally by the Taxpayer/company ... Commercial Register No. (...), distinctive number (...), against the decision of the Third Circuit of Income Tax Violations and Disputes in Riyadh (IFR-2022-6894) issued in Case No. (Z-2021-70920) related to the Zakat assessment for the year 2015, because it was issued without status.

Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6894) issued in case number (Z-2021-70920) related to the Zakat assessment for the year 2015AD.

Secondly: On the merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the "Long-Term Receivables" clause.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170721

Case No. Z-2023-170721

Keywords:

Zakat - Deductions from the Zakat Base - Government receivables - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appealed the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-2173), claiming that the government receivables clause should not be deducted from the Zakat base, as it is a non-deductible debit debt. The Appellate Committee found that the Taxpayer did not provide supporting documents to prove that the Ministry of Education had been claimed and that the inability to collect the amounts due was due to the negligence of that entity. The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)

Facts:

The appeal was heard on: 19/01/2023AD, from the Zakat, Tax and Customs Authority, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (IFR-2022-2173) issued in Case No. (Z-2021-82899) related to the Zakat assessment for 2017AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: the decision of the defendant/Zakat, Tax and Customs Authority against the plaintiff is overturned/ (.....) Related to the government receivables clause at issue in the lawsuit.

Secondly: proving the end of the plaintiff's dispute/ (.....) With the Defendant/Zakat, Tax and Customs Authority, regarding the Plaintiff's objections to the Defendant's disputed decisions, with the Plaintiff's acceptance of the Defendant's action in this regard.



Whereas this decision was not accepted by the appellant (Zakat, Tax and Customs Authority) she submitted a list of appeals, which was reviewed by the Circuit, wherein the Authority's appeal lies on the clause (government receivables for 2017AD) it stated that it did not deduct the government receivables clause from the Zakat base, as it is a non-deductible debit debt the Authority believes that there is no provision in the articles of the Zakat Collection Executive Regulations to deduct long-term defaulted government debts, even if they are in full, as Article (4) of Clause 2 of the Zakat Collection Executive Regulations issued by Ministerial Resolution No. 2082 dated 1/6/1438H did not include a provision to deduct government debts, and the Taxpayer did not attach any court rulings in favor of the company to his objection, as the provisions of the articles of the Zakat Collection Executive Regulations the Zakat Regulation has replaced all previous decisions, instructions and circulars related to the elements of Zakat collection, which are carried out only in accordance with it, as well as government debts are a full and collectible party, and the Authority's action was supported by Appeal Decision No. 1769 of 1438 AH not to deduct government debts, so the Authority maintains the validity and soundness of its action and requests that its appeal be accepted and the decision of the Dispute Resolution Circuit regarding this clause be overturned.

On Monday, 62/2/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause (2) of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated 21/4/1441AH : after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

In the merits, regarding the Authority's appeal regarding the clause (Government Receivables for 2017AD), where its appeal lies after it deducted the government receivables clause from the Zakat base, as it is a non-deductible debit debt. Based on the above, and since Zakat is not obligatory on the creditor in his money owed to government agencies, which he is unable to collect due to a delay by the government agencies and not as a result of his own negligence or failure to comply with the standard and requirements specified by the government agency, and upon reviewing the appeal file, it is clear that the Taxpayer did not provide supporting documents to prove that the (Ministry of Education) was claimed and that the inability to collect



the amounts owed is due to the negligence of that agency, as he merely attached a statement from the Taxpayer (.....) Without providing supporting documents to support his point of view, the Circuit concluded by accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (IFR-2022-2173) issued in case number (Z-2021-82899) related to the Zakat assessment for the year 2017AD.

Secondly: On the merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Government Receivables for 2017AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-127607

Case No. Z-2023-127607

Keywords:

Zakat - Zakat Deduction Clauses - Other Long-Term Receivables - Acceptance of the Authority's Appeal

Summary:

The objection of the Zakat, Tax and Customs Authority to the decision of the First Circuit regarding violations and disputes of income tax in Jeddah Governorate No. (IZJ-2022-687), where its appeal lies on the clause (Investments for the years 2015 and 2016AD) for deducting the balance at the end of the period after deducting the loan for the subsidiary company as it was not subject to zakat, and the clause (Other long-term receivables for the year 2016AD) because the debt arose during the year in dispute and did not exceed one year, and the clause (End of service benefits paid for the year 2018AD) regarding the amount of (485,062) riyals for its treatment of provisions during the assessment. The Appellate Committee found that the amount of severance pay paid is less than what is declared in the lists and the amount claimed by the Taxpayer, and with regard to the long-term receivables clause, the amount claimed by the Taxpayer to be deducted from the Zakat base did not exceed one year, and therefore it is not permissible to deduct it from the Zakat base. As a result, in the clause (Severance Pay for 2018AD), the Authority's appeal was partially accepted, and in the clause (Other Long-Term Receivables for 2016AD), the Authority's appeal was accepted.

Document:

- Paragraph (9) of article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on 27/04/2022AD, from ..., National ID No.(...) As an agent under Agency No. (...) On behalf of the appellant company, the appeal filed on 28/04/2022AD from the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No.(IZJ-2022-687) issued in Case No. (Z-2021-44626) related to the Zakat



assessment for the years 2015 to 2018AD in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim is filed against the Zakat, Tax and Customs Authority:

First: rejected the plaintiff's objection to the deferred contributions clause for 2015 and 2016AD.

Second: dismissed the plaintiff's objection to the trade and other credits for the years 2015 to 2018AD.

Third, the plaintiff's objection to the loan clause is dismissed.

Iv: accepting the plaintiff's objection to the investments clause for 2015 and 2016AD.

V: plaintiff's objection to the employee receivables-homeownership line clause for 2018AD is denied.

Sixth: rejected the plaintiff's objection to the net investment clause in the 2016 and 2017AD leases.

Seventh: accepting the plaintiff's objection to the other long-term receivables clause for 2016AD.

Eighth: accepting the plaintiff's objection to the share of other comprehensive loss clause for 2017AD.

Ix: accepting the plaintiff's objection to the severance pay paid for 2018AD.

Tenth: dismissed the plaintiff's objection to the assets held for exclusion for 2015AD.

Eleventh: rejected the plaintiff's objection to the unrealized financing component of long-term receivables for 2016 and 2017AD.

As this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit, which included, in essence, that the Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals reviewed by the Circuit, where the Authority's appeal lies on the clause (investments for the years 2015 and 2016AD). The Authority explains that it deducted the balance of the last period after deducting the loan to the subsidiary company, which was not taxed, and during the stage of studying the objection, where the plaintiff had previously submitted the financial statements of the company ...he submitted the Memorandum of Association of the company and submitted the Board of Directors' resolution approving the increase in the capital and where the additional contribution to the capital appeared according to the list of changes in partners' rights of the company. (75,000,000) SAR in 2015 and (990,000,000) SAR in 2016, which is registered with the Authority and submitted the Zakat declaration for the two years and an examination case was opened by the Authority and the assessment was made for the two years and it became clear through the declaration that this contribution was added to the capital but the company did not have to pay Zakat since the base is negative, so the Authority rejected the plaintiff's objection regarding the above clause since these amounts were not Zakat in the subsidiary company. With regard to the clause (Other Long-Term Receivables for 2016AD), the Authority explains that it did not accept the deduction of



the clause Other Long-Term Receivables from the Zakat base, as there is no statutory provision supporting the deduction of long-term receivables, and during the stage of studying the objection, the plaintiff presented a court ruling issued in favor of ...during the stage of studying the objection, the Authority held a hearing on 21/02/2021AD, in which it explained its viewpoint in its action taken regarding the above clause, and accordingly, the Authority rejected the plaintiff's objection regarding the above clause, as the Zakat Collection Regulation issued in 1438AH did not authorize the deduction of any clause from the Zakat base that has no basis in the financial statements, and there is no article in the regulation authorizing the deduction of the clause, as no clause can be deducted except by a statutory text. Regarding the clause (End of service gratuity paid for 2018AD): a- Regarding the amount of SR (485,062), the Authority explains that when assessment , it processed the allocations based on the provisions of paragraph (9) of Article (4) of the Zakat Collection Regulation issued in 1438AH, which stipulates that: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." what the plaintiff is claiming is the deduction of the payments included in the statement of other comprehensive income, and since the Authority, when assessment , took the net profit before zakat according to the income statement, while the elements of comprehensive income were not taken when calculating the due zakat and net profit because they are the result of valuation and not real, the Authority rejected the plaintiff's objection regarding the above clause, and the Authority maintains the validity of its procedure. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Sunday, 10/3/2024AD , the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; and by calling on the opponents, he/she attended/... National ID No. (...), as agent for the plaintiff under agency No. (...) I attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445 AH., the Circuit reviewed the supplementary memorandum submitted by the Authority during the hearing. Upon presenting this to the plaintiff's agent, he requested an extension to respond, and the Circuit decided to accept his request and informed the plaintiff that she must respond to the defendant's memorandum within a maximum period of Sunday 17/3/2024AD, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date. The next session will be on 04/23/2024AD to pronounce the decision.

On Tuesday, 32/4/2024AD , the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing



in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; Calling on the opponents, Mr. ... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) ... (National ID No. ...) Attended, as the representative of the defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/ 1445 A.H., the Circuit decided to close the pleadings and deliberations.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal on the clause (Investments for 2015 and 2016AD), and where the basis of the Authority's appeal is that it deducted the balance of the last period after deducting the loan to the subsidiary company, which was not taxed, according to the above, and where the basis of the decision challenged in the revocation of the Authority's action is that the investee company is registered with the Authority and that the capital contribution was added to its Zakat base, which entails that this contribution is considered an investment that may be deducted from the Zakat base of the company appealed against, and where the Authority indicated in its supplementary appeal note that these amounts are not subject to the investee company, and attached the following

With regard to the Authority's appeal on the clause (other long-term receivables for 2016AD), and where the Authority's appeal lies in the fact that the debt arose during the year in dispute and did not exceed a year, and after the Circuit reviewed the case file and the papers it contains, and the decision of the Circuit in question, it appears that the Authority's appeal on this clause lies in the fact that the debt arose during the year in dispute and did not exceed a year, and by reviewing Note (26) of the financial statements for 2016 regarding other income it turns out that it includes the clause "Compensation from a customer" for an amount of (96) million riyals, which includes the amount in dispute (48) million riyals, and through non-current assets it is clear that there is an clause "Other long-term receivables" for an amount of (48) million riyals that arose during the year in dispute, which shows that the amount that the Taxpayer claims to deduct from the Zakat base did not exceed one year, and therefore it cannot be deducted from the Zakat base, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Resolution Circuit on this clause.



Regarding the Authority's appeal on the clause (End of service gratuity paid for 2018): a- With regard to the amount of (485,062 riyals), where the Authority's appeal lies in the fact that when assessment, it processed the allocations based on the provisions of paragraph (9) of Article (4) of the Zakat Collection Regulation issued in 1438 AH. Based on the above, and after reviewing the case file and the papers it contains, the Circuit found through the documents provided by the Taxpayer in the adjudication phase, represented by an analytical statement prepared manually in addition to financial settlements, and tracing them, it was found that they amount to (3,213,562) riyals, which is less than the amount claimed by the Taxpayer, which turns out to be less than what is declared in the lists and the amount claimed by the Taxpayer, which leads the Circuit to partially accept the Authority's appeal in the amount of (485,062) riyals and modify the decision of the Adjudication Circuit for not proving its payment.

B- With regard to the Authority's appeal regarding (3,468,000 riyals), Article 70 of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and whereas this circuit has proven the Authority's request to leave the appeal as stated in the letter issued by the Authority in the attachment memorandum the Authority informs your Honorable Circuit that the Taxpayer is requesting that the user be deducted from the allowance and not revaluation, and where the Taxpayer submitted a sample of the cash payment for the user from the allowance along with his objection, and the movement of the allowance according to Note 24 of the Notes to the Financial Statements confirmed the existence of amounts paid. As well as the statement of cash flows. Moreover, the amount that the Taxpayer claims to deduct is SAR(3,953,062) while the amount used according to the financial statements is SAR (3,468,000), so the Authority would like to inform the Honorable Circuit to partially leave its appeal by deducting the user from the provision of SAR (3,468,000)." therefore, the Circuit must accept the abandonment of the litigation.

With regard to the Authority's appeal on the clause (share of other comprehensive loss for 2017AD), and where Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435AH. "If the



agreement occurs before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, and where it is proven that the dispute ended with the Authority's acceptance of the claimant's requests as stated in the letter from the Authority in the supplementary note, which includes: "In light of the above, the Authority accepts the Taxpayer's view by discounting the amount of SAR (32,142,000), from the net profit without reducing it by the amount of the actuarial profit of SAR (4,111,000) since it was not deducted from the rounded balance." therefore, it is necessary for the Circuit to establish that the dispute over the appeal on this clause is over.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clause was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, in accordance with its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the first adjudication committee regarding violations and disputes of income tax in Jeddah province with number (IZJ-2022-687) issued in case number (Z-2021-44626) related to the zakat assessment for the years from 2015 to 2018AD.

Second: On the merits:

- 1- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (deferred contribution) is upheld.
- 2- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (trade payables and other credit balances) is upheld.



- 3- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (long-term loans) is upheld.
- 4- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (employee receivables - ownership of houses) is upheld.
- 5- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (net investment in lease contracts) is upheld.
- 6- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (assets held for exclusion for the year 2015AD) is upheld.
- 7- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (unrealized financing element from long-term receivables) is upheld.
- 8- The authority's appeal is accepted and the decision of the adjudication committee regarding clause (investments for the years 2015 and 2016AD) is annulled.
- 9- The authority's appeal is accepted and the decision of the adjudication committee regarding clause (other long-term receivables for 2016AD) is annulled.
- 10- Confirmation of the end of the dispute regarding the authority's appeal on clause (share of other comprehensive loss for 2017AD).
- 11- Regarding the authority's appeal on (end-of-service benefits paid for 2018AD):
 - A- The authority's appeal is partially accepted and the decision of the adjudication committee regarding (amount of (485,062) riyals) is amended.
 - B- Acceptance of the abandonment of the dispute regarding the authority's appeal concerning (amount of (3,468,000) riyals).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170826

Case No. Z-2023-170826

Keywords:

Zakat – Deductions from the Zakat Base - amounts due from customers - acceptance of the Taxpayer's appeal

Summary:

The objection of the Taxpayer and the Zakat, Tax and Customs Authority to the decision of the second division regarding violations and disputes of income tax in Riyadh number (ISR-2022-1804), where the authority's appeal lies in not deducting clause) amounts due to government entities(as the withheld amounts are due receivables that are government-held meaning they are confirmed for collection and considered from trusted entities with the ability to pay, and the Taxpayer's appeal lies in clause (amounts due from customers) demanding its deduction as it is from the doubtful receivables (bad debts), and it has been established to the appellate committee regarding the Taxpayer's appeal that the debt is on a delaying debtor and the collection of the due balance has become impossible. The implication of this; acceptance of the authority's appeal and acceptance of the Taxpayer's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)

Facts:

The appeal was heard on 19/01/2023AD from / (.....) National ID number (...) As the statutory representative of the appellant company according to the Board of Directors' decision submitted in the case file, and the appeal filed on 22/01/2023AD from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes (ISR-2022-1804) issued in Case No. (Z-2021-72656) related to the Zakat assessment for the years 2016 and 2018AD, in the lawsuit filed



by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

First: accepting the lawsuit filed by the plaintiff (.....), Commercial Registration No. (.....), against the defendant/Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits:

Rescind the Defendant's action with respect to the 2016AD accrued airfare allowance, as set forth in the Reasons.

Dismiss the claim with respect to the 2018AD salary differential for employees.

Revoke the Defendant's action with respect to the 2016 and 2018AD balances due to government entities, as stated in the reasons.

Dismissal of the claim with respect to the 2016 and 2018AD balances owed by customers.

Dismiss the claim with respect to the related parties clause owed for 2016 and 2018AD.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (Balances due from customers for the years 2016 and 2018AD) that his objection lies in not deducting the debit balances due from customers in the amount of (31,553,125) riyals for the year 2016AD and (38,981,180) riyals for the year 2018AD due to the fact that the Zakat Executive Regulations did not stipulate the deduction of debit balances due from customers from the Zakat base, 180) riyals for the year 2018 due to the fact that the Zakat Executive Regulations did not provide for the deduction of debit balances owed by customers from the Zakat base. The Taxpayer explained that the Authority confused between debit balances that can be collected and debit balances that are unlikely to be collected (bad debts), as confirmed by fatwas Nos. (9069) and (20977) and the Executive Regulations confirmed that debts that are not likely to be collected are not subject to Zakat until they are collected, and that what the Taxpayer is asking for is not to impose Zakat on the balance of a customer that is unlikely to be collected, and explained that he took all steps to collect these balances and was unable to collect him to date, as he was contracted with (an organization). On 07/04/2010AD to lease a complex worth (8,500,000) riyals annually, and on May 2015AD, the tenant stopped paying, and the company made many communications and warnings to demand payment from the tenant, and a case was filed against the tenant to terminate the contract and a judgment was issued in favor of the company to terminate the contract on 18/10/2017AD, and the company obtained an execution order to evict them on 11/4/2016AD, and a case was filed against the institution to claim the dues amounting to (43,500,000) riyals and a final judgment was issued in favor of the company for the amount, and the company has not been able to collect the mentioned amount to date,



and whereas the balance owed to the Foundation (.....) From May 2015AD to date, the Taxpayer has taken all available measures to collect the amount to no avail, including legal procedures until a court ruling was issued in his favor that the amount is due, and therefore the Taxpayer requests the acceptance of the deduction of (31,553,125) SAR for 2016AD and (38,981,180) SAR for 2018AD, which represents the balance due to the company from, and confirms that the Taxpayer has not claimed the deduction of the balance due from Being a bad debt but claiming a deduction for a debit balance that is unlikely to be repaid. The Taxpayer also objects to the clause (Employee Salary Difference for 2018) and the clause (Related Party Debtors for 2016 and 2018AD), therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

With regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (Balances due to government entities for the years 2016 and 2018AD) that the receivables are governmental receivables in the sense that they are certain to be collected and are considered from trusted parties and their ability to pay, and by reviewing the financial statements, it is clear that the amounts due to government entities amount to SR (31,090,805) for 2016 and (9.4) million riyals for 2018AD and the amount due for more than one year from these amounts is SR (1,337,091) and (1. 2 million) riyals only, respectively this means that the majority of these debts are current debts and are repaid in less than a year, as disclosed in Note No. (4) and (6) of the financial statements for the years 2016 and 2018AD, and therefore this debt is in the hands of a full debtor who is not procrastinating and the creditor (the Taxpayer) is able to collect his money, therefore, the Authority maintains the validity of its procedure and requests the reversal of the Circuit's decision on the clauses under appeal for the above reasons.

On Thursday, 15/2/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.



On the merits, with regard to Authority's appeal regarding the clause (Balances due to government entities for the years 2016 and 2018AD), Authority's appeal lies in the fact that the receivables are governmental receivables in the sense that they are certain to be collected and are considered reliable and capable of repayment, and by reviewing the financial statements, Authority found that the majority of these debts are current debts that are repaid in less than a year's time. Whereas Fatwa No. 23408 (11/18/1426 AH) issued by the Permanent Committee for Scientific Research and Fatwa on debts owed by government agencies stipulates that "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is a consolation, it is not obligatory on a person who cannot collect it and has nothing in his hand." Article (20), paragraph (3), states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the foregoing, and after reviewing the Authority's appeal regulations, it is clear that it did not accept the deduction of amounts owed by governmental entities, namely: - (35,436,313) SAR for 2016AD and (10,192,549) SAR for 2018AD. - project... (2,126,777) SAR for 2016AD. - project... (6,608,282) SAR for 2016AD. - flood drainage project in Al-Malqa and Hattin neighborhoods with an amount of (24,481,809) riyals for the year 2016AD. The total amount of (68,653,181) SAR for 2016AD and (10,192,549) SAR for 2018AD. The Taxpayer argues that these amounts represent balances owed by the state for projects that were contracted with government entities that he was unable to collect and that these entities are stalling. Considering the facts of the dispute over the clause, it is clear that it is limited to whether or not it can be deducted and whether or not it represents a debt that cannot be collected, and since government receivables are deducted from the Zakat base according to the settled fatwas if the amounts cannot be collected for reasons beyond the Taxpayer's control and not due to negligence arising from their non-compliance what can be verified is that these balances cannot be collected from the entity by the Taxpayer's submission of proof of his claim to these entities and that the default is not due to him, but rather due to the default and procrastination of these entities in paying, which does not allow the deduction of the clause, and where the Taxpayer did not submit proof of his arguments that these entities are procrastinating in paying and also did not submit proof of his claim to these entities to pay, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal regarding the clause (Balances due from customers for the years 2016 and 2018AD), and where his appeal lies that (.....organization) was contracted on 07/04/2010AD to lease a complex worth (8,500,000) riyals per year. On May 2015, the tenant stopped paying and the Taxpayer made many calls and warnings to demand payment from the tenant, and a case was filed against the tenant



to terminate the contract and a case was filed against the institution to claim the dues of (43,500,000) riyals and a final judgment was issued in favor of the Taxpayer for the amount, but he could not collect the mentioned amount until now. Accordingly, the dispute between the parties lies in the resolution of receivables owed by a company (.....) After reviewing the case file and the defenses and documents it contains, it is clear that the Taxpayer submitted the lease contract for the apartment complex concluded with (....) In 2010AD, the tenant also delayed payment and was notified of this, as well as the judgment issued to terminate the contract in 2017AD and the issuance of the judgment in favor of the Taxpayer to hand over the complex and execute the judgment, and the final judgment that obligates the company (....) To pay the balance due and has not been able to collect the amount to date therefore, it is clear from the Taxpayer's situation that he has taken the necessary and available measures to collect the amount, as the reasons for his inability to collect the amount are beyond his control and not his negligence, and since the principle is that all debts are not deducted from the Zakat base unless it is proven that this debt cannot be collected; therefore, it appears that the debt is on a procrastinating debtor and the outstanding balance cannot be collected, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Dispute Resolution Circuit in this clause.

Whereas, with regard to the Taxpayer's appeal against the remaining clauses at issue in the case, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in those reasons, and because it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (....), commercial registration (.....), unique number (.....) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-1804) issued in case number (Z-2021-72656) related to the zakat assessment for the years 2016 and 2018.

Secondly: On the merits:

1- Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (amounts due to government entities for the years 2016 and 2018AD).



- 2- Rejection of the Taxpayer's appeal and upholding the decision of the division regarding clause (salary differences for the year 2018AD).
- 3- Acceptance of the Taxpayer's appeal and cancellation of the decision of the division regarding clause (amounts due from customers for the years 2016 and 2018AD).
- 4- Rejection of the Taxpayer's appeal and upholding the decision of the division regarding clause (related parties with debts for the years 2016 and 2018AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170826

Case No. Z-2023-170826

Keywords:

Zakat - Deductions from the Zakat Bases - Balances owed to government entities - Acceptance of the Authority's appeal - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) appealed against the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022-1804), where the Authority's appeal lies on the non-determination of the clause (Balances Due to Government Entities) , as the receivables are governmental receivables in the sense that they are certain to be collected and are considered reliable and able to pay, and the Taxpayer's appeal lies on the clause (Balances Due from Customers), requesting its determination, as it is an uncollectible receivable (bad debts). Consequently, the authority's appeal is accepted, and the Taxpayer's appeal is accepted.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)

Facts:

The appeal was heard on 19/01/2023AD from / (.....) National ID number (....) As the statutory representative of the appellant company according to the Board of Directors' decision submitted in the case file, and the appeal filed on 22/01/2023AD from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes (ISR-2022-1804) issued in Case No. (Z-2021-72656) related to the Zakat assessment for the years 2016 and 2018AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

First: accepting the lawsuit filed by the plaintiff (.....), Commercial Registration No. (.....), against the defendant/Zakat, Tax and Customs Authority, procedurally.



Second: On the Merits:

Rescind the Defendant's action with respect to the 2016AD accrued airfare allowance, as set forth in the Reasons.

Dismiss the claim with respect to the 2018AD salary differential for employees.

Revoke the Defendant's action with respect to the 2016 and 2018AD balances due to government entities, as stated in the reasons.

Dismissal of the claim with respect to the 2016 and 2018AD balances owed by customers.

Dismiss the claim with respect to the related parties clause owed for 2016 and 2018AD.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (Balances due from customers for the years 2016 and 2018AD) that his objection lies in not deducting the debit balances due from customers in the amount of (31,553,125) riyals for the year 2016AD and (38,981,180) riyals for the year 2018AD due to the fact that the Zakat Executive Regulations did not stipulate the deduction of debit balances due from customers from the Zakat base) due to the fact that the Zakat Executive Regulations did not provide for the deduction of debit balances owed by customers from the Zakat base. The Taxpayer explained that the Authority confused between debit balances that can be collected and debit balances that are unlikely to be collected (bad debts), as confirmed by fatwas Nos. (9069) and (20977) and the Executive Regulations confirmed that debts that are not likely to be collected are not subject to Zakat until they are collected, and that what the Taxpayer is asking for is not to impose Zakat on the balance of a customer that is unlikely to be collected, and explained that he took all steps to collect these balances and was unable to collect him to date, as he was contracted with (an organization)

On 07/04/2010AD to lease a complex worth (8,500,000) riyals annually, and on May 2015, the tenant stopped paying, and the company made many communications and warnings to demand payment from the tenant, and a case was filed against the tenant to terminate the contract and a judgment was issued in favor of the company to terminate the contract on 18/10/2017AD, and the company obtained an execution order to evict them on 11/4/2016AD, and a case was filed against the institution to claim the dues amounting to (43,500,000) riyals and a final judgment was issued in favor of the company for the amount, and the company has not been able to collect the mentioned amount to date, and whereas the balance owed to the Foundation (.....) From May 2015 to date, the Taxpayer has taken all available measures to collect the amount to no avail, including legal procedures until a court ruling was issued in his favor that the amount is due, and therefore the Taxpayer requests the acceptance of the deduction of (31,553,125) SAR for 2016AD and (38,981,180) SAR for 2018AD, which represents the balance due to the company from, and confirms that the Taxpayer has not claimed the deduction of the balance due from Being a bad debt



but claiming a deduction for a debit balance that is unlikely to be repaid. The Taxpayer also objects to the clause (Employee Salary Difference for 2018AD) and the clause (Related Party Debtors for 2016 and 2018AD), therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

With regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (Balances due to government entities for the years 2016 and 2018AD) that the receivables are governmental receivables in the sense that they are certain to be collected and are considered from trusted parties and their ability to pay, and by reviewing the financial statements, it is clear that the amounts due to government entities amount to SR (31,090,805) for 2016AD and (9.4) million riyals for 2018AD and the amount due for more than one year from these amounts is SR (1,337,091) and (1. 2 million) riyals only, respectively this means that the majority of these debts are current debts and are repaid in less than a year, as disclosed in Note No. (4) and (6) of the financial statements for the years 2016 and 2018AD, and therefore this debt is in the hands of a full debtor who is not procrastinating and the creditor (the Taxpayer) is able to collect his money, therefore, the Authority maintains the validity of its procedure and requests the reversal of the Circuit's decision on the clauses under appeal for the above reasons.

On Thursday, 15/2/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to Authority's appeal regarding the clause (Balances due to government entities for the years 2016 and 2018AD), Authority's appeal lies in the fact that the receivables are governmental receivables in the sense that they are certain to be collected and are considered reliable and capable of repayment, and by reviewing the financial statements, Authority found that the majority of these debts are current debts that are repaid in less than a year's time. Whereas Fatwa No. 23408 (11/18/1426 AH) issued



by the Permanent Committee for Scientific Research and Fatwa on debts owed by government agencies stipulates that "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is a consolation, it is not obligatory on a person who cannot collect it and has nothing in his hand." Article 20, paragraph 3, states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the foregoing, and after reviewing the Authority's appeal regulations, it is clear that it did not accept the deduction of amounts owed by governmental entities, namely: - (35,436,313) SAR for 2016AD and (10,192,549) SAR for 2018AD. - abha Sports Club project with an amount of (2,126,777) SAR for the year 2016AD. - jizan Sports Club project with an amount of (6,608,282) riyals for the year 2016AD. - flood drainage project in Al-Malqa and Hattin neighborhoods with an amount of (24,481,809) riyals for the year 2016AD. The total amount of (68,653,181) SAR for 2016AD and (10,192,549) SAR for 2018AD. The Taxpayer argues that these amounts represent balances owed by the state for projects that were contracted with government entities that he was unable to collect and that these entities are stalling. Considering the facts of the dispute over the clause, it is clear that it is limited to whether or not it can be deducted and whether or not it represents a debt that cannot be collected, and since government receivables are deducted from the Zakat base according to the settled fatwas if the amounts cannot be collected for reasons beyond the Taxpayer's control and not due to negligence arising from their non-compliance what can be verified is that these balances cannot be collected from the entity by the Taxpayer's submission of proof of his claim to these entities and that the default is not due to him, but rather due to the default and procrastination of these entities in paying, which does not allow the deduction of the clause, and where the Taxpayer did not submit proof of his arguments that these entities are procrastinating in paying and also did not submit proof of his claim to these entities to pay, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit on this clause.

Regarding the Taxpayer's appeal regarding the clause (Balances due from customers for the years 2016 and 2018AD), and where his appeal lies that (.....organization) was contracted on 07/04/2010AD to lease a complex worth (8,500,000) riyals per year. On May 2015, the tenant stopped paying and the Taxpayer made many calls and warnings to demand payment from the tenant, and a case was filed against the tenant to terminate the contract and a case was filed against the institution to claim the dues of (43,500,000) riyals and a final judgment was issued in favor of the Taxpayer for the amount, but he could not collect the mentioned amount until now. Accordingly, the dispute between the parties lies in the resolution of receivables owed by a company (.....) After reviewing the case file and the defenses and documents it



contains, it is clear that the Taxpayer submitted the lease contract for the apartment complex concluded with (...). In 2010AD, the tenant also delayed payment and was notified of this, as well as the judgment issued to terminate the contract in 2017AD and the issuance of the judgment in favor of the Taxpayer to hand over the complex and execute the judgment, and the final judgment that obligates the company (...) To pay the balance due and has not been able to collect the amount to date. Therefore, it is clear from the Taxpayer's situation that he has taken the necessary and available measures to collect the amount, as the reasons for his inability to collect the amount are beyond his control and not his negligence, and since the principle is that all debts are not deducted from the Zakat base unless it is proven that this debt cannot be collected; therefore, it appears that the debt is on a procrastinating debtor and the outstanding balance cannot be collected, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Dispute Resolution Circuit in this clause.

Whereas, with regard to the Taxpayer's appeal against the remaining clauses at issue in the case, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in supporting them with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (...), commercial registration (...), unique number (....) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-1804) issued in case number (Z-2021-72656) related to the zakat assessment for the years 2016 and 2018AD.

Secondly: On the merits:

- 1- Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (amounts due to government entities for the years 2016 and 2018AD).
- 2- Rejection of the Taxpayer's appeal and upholding the decision of the division regarding clause (salary differences for the year 2018AD).



- 3- Acceptance of the Taxpayer's appeal and cancellation of the decision of the division regarding clause (amounts due from customers for the years 2016 and 2018AD).
- 4- Rejection of the Taxpayer's appeal and upholding the decision of the division regarding clause (related parties with debts for the years 2016 and 2018AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170015

Case No. Z-2023-170015

Keywords:

Zakat - Deductions from the Zakat Bases - Disallowing the deduction of a loan receivable - Partial acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appealed the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (ITR-2022-6028), where its appeal lies on the clause (not accepting a loan discount due) by not accepting a loan discount provided to a subsidiary company as it was not recommended to the subsidiary company. The Appellate Committee found that part of the loan and advance (depending on the investment percentage) does not constitute lending to another party. This means that the Authority's appeal is partially accepted.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal was heard on: 15/01/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, Case No. (ITR-2022-6028) issued in Case No. (Z-2021-47573) related to the 2017 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: Procedurally:



Acceptance of the plaintiff's objection/ (.....) (.....), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Secondly: On the merits:

- 1- Cancellation of the Defendant's decision with regard to the clause (not accepting deductions for investments in listed Saudi companies).
- 2- Annulment of the Defendant's decision with regard to the clause (not accepting the deduction of a loan owed to Company A).
- 3- Reject all other objections.

This decision was not acceptable to the appellant (Zakat, Tax and Customs Authority) the Authority's appeal is based on the clause (not accepting the deduction of a loan owed to Company A). The Authority explained that it did not accept the deduction of loans made to (A) as he was not recommended to the subsidiary, and after referring to the investment movement submitted by the Taxpayer, these investments were deducted from the zakat base and included the loans made to (A), as the investment movement and financial statements showed that these investments were deducted from the zakat base as for what was mentioned in the Taxpayer's objection that it is (A), the investment movement and financial statements showed that it is (A (with a difference in wording)) and did not indicate that it is (A) company, and since the movement submitted by the Taxpayer included the value of the loan within the clause of investments, it was deducted from the zakat base, the Authority reviewed the return submitted for the year under appeal to the company against which the appeal is filed, which showed that the loan was not deducted from the investments, and the Authority reviewed the company's financial statements for the year 2017AD and found that the clause was included in non-current assets under amounts due from related parties in the amount of SR (30,509,598), and by referring to the financial statements of Company A (the company receiving the loan) for the year 2017AD, It has become clear that the clause included under non-current assets is amounts due from related parties in the amount of SAR (30,509,598). Referring to the financial statements of Company (A) (the company receiving the loan) for the year 2017AD, unique number (.....), it is clear that the company subject to the appeal (the Taxpayer) is a partner in the company with a share of (18.03%). The financial statements of the investee company showed partner loans under non-current liabilities, including a loan from the appellant in the amount of SAR (21,600,000). Upon reviewing the declaration submitted by the investee company for the year 2017AD it is clear that partner loans were added to the zakat base in the amount of (119,781,810) riyals, including the Taxpayer's loan in the amount of (21,600,000) riyals, the Circuit's decision concluded that the entire loan should be deducted in the amount of (21,600,000) riyals due to the fact that it is subject to Zakat in the investee company in order to prevent bending, which is incorrect, as it is clear that what must be deducted is the loan in an amount equal to the percentage of the Taxpayer's share in the capital of the investee company, and therefore the Authority



maintains the validity and integrity of its procedure and requests that its appeal be accepted and the decision of the Adjudication Circuit regarding the clause under appeal be overturned.

On Thursday, 29/2/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause (2) of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated 21/4/1441 AH : after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, with respect to the Authority's appeal regarding (Not accepting the deduction of an outstanding loan A) the Authority's appeal lies in the fact that it does not accept the deduction of loans to (A) as he was not recommended by the subsidiary. Based on paragraph (II/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, it is defined as "the current account owed to the owner or partner subject to Zakat not exceeding their share in the profits carried forward". Based on the above, since the investee company has submitted its Zakat declarations, and the loans and advances to the subsidiary company has submitted its declarations to the Authority, special Zakat treatment is required to avoid discouraging Zakat, as part of the loan and advances (according to the investment percentage) does not represent lending to another party. Therefore, the Taxpayer (lender) is entitled to deduct part of the loans and advances to the subsidiary company from his Zakat base to the extent equal to his investment percentage in the subsidiary company to which he provided the loan. As a result, the Circuit ended up accepting the Authority's appeal in part and modifying the decision of the Adjudication Circuit on this clause.

With regard to the Authority's appeal regarding the clause (not accepting the deduction of investments in listed Saudi companies), the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that the Circuit did not find any of the objections to the decision worthy of a response beyond what was included in these reasons as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and



as this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (ITR-2022-6028) issued in case number (Z-2021-47573) related to the Zakat assessment for the year 2017AD.

Secondly: On the merits:

- 1- Rejecting Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not accepting the deduction of investments in listed Saudi companies).
- 2- Accepting Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not accepting the deduction of an outstanding loan).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170651

Case No. Z-2023-170651

Keywords:

Zakat - Deductions from the Zakat Base not deducting the full value of the assets accepting the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6622). His appeal lies in the clause (not deducting the full value of the assets) to deduct the net value of the assets according to the financial statements, and in the clause (adding debts to the Zakat base) to add the end-of-year balance of long-term loans as it was used to finance fixed assets. The Appellate Committee has proven the validity of the Taxpayer's request to approve the amount of assets deducted from the base as shown in the approved financial statements and in the clause (adding debts to the Zakat base), it appears that the addition to the assets may have been financed from any of the other activities and it was not proven to be financed from loans since the loans appeared as cash during the year in the statement of flows in an amount that the company cannot rely on this amount to finance the deducted assets. Consequently; accepting the Taxpayer's appeal and canceling the decision of the adjudication authority.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (2) of Article (7) [of the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 18/01/2023AD, from/ (.....) National ID number (....) In his capacity as the statutory representative of the Appellant Company under the Memorandum of Association, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, Case No. (IFR-2022-6622) issued in Case No. (Z-2021-50705) regarding the Zakat Tax Assessment for the years 2015 to 2018AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: acceptance of the plaintiff's objection/ (.....) , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority from a procedural point of view.

Secondly: On the merits:

1. Regarding the clause (Accounts payable and credits against assets):

Recognize the end of the dispute in relation to the clause (Other receivables and payables for the year 2016AD in the amount of SAR 2,945,371).

Recognize the end of the dispute in relation to the clause (Short-term loans for 2016AD in the amount of SAR 1,150,736).

Rejecting the plaintiff's objection regarding the clause "Adding debts to the Zakat base and credits against assets for the years 2016 and 2018AD".

2. Regarding the clause (Credits):

Prove the end of the dispute for the year (2017AD).

Plaintiff's objection is denied (2018AD).

3- Disregarding the clause "Non-deductibility of spare parts inventory".

4- Rejecting the objection on all other clauses.

Whereas this decision was not accepted by the Taxpayer (.....) The Taxpayer appealed to the Circuit, where his appeal lies with regard to the clause (adding debts to the zakat base for 2016AD). The Taxpayer cites the Executive Regulations for the Collection of Zakat, in which the zakat base is determined for those who keep commercial books, where paragraph (10) states that any clause of liabilities that financed an clause that is deducted from the zakat base shall be added, thus the criterion for adding debts to the zakat base is whether or not these debts were financed by a deduction, with regard to the clause (not deducting the full value of assets for 2016AD), the Taxpayer explains that the value of assets according to the financial statements (73,245,819 riyals) and the value of assets according to the Authority's amendment (64,569,144) riyals, the Authority based its decision on the Income Tax Law applicable to the persons mentioned in Article 2 of the Income Tax Law and accordingly took its decision to reject the clause since the objectionable clause is a



Zakat clause and must be based on the Zakat Collection Regulation. The Authority also justified its rejection of this clause by stating that the Taxpayer filled out Assets Table No. (10), so the depreciation value calculated by the table was calculated by the number, although Table No. (10) applies the group method to calculate the group method to calculate the depreciation rate the Taxpayer states that he was unable to file the return without filling out the table of assets and when the Taxpayer was related by the Authority, the assessment clauses were reviewed and the regulations were reviewed so that he could understand the procedure taken by the Authority based on Article 7 paragraph (6) of the Executive Regulations for Zakat Collection, which states (If the establishment uses depreciation rates for its assets that are lower than the rates established above, the depreciation premium may not be increased by the Authority to conform to the established rates since these assets are all used in the economic activity and the Chartered Accountant has verified their supporting documents and what is stated in the Executive Regulations for Zakat Collection which states: "Net fixed assets (Acquisition assets), any payments for the purchase of fixed assets and the value of spare parts not intended for sale shall be deducted from the Zakat base, provided that the assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity with regard to the clause (spare parts for the years 2016 to 2018AD), the Taxpayer explains that what was calculated in this clause was done in error by the Authority and the error is returned, but the fact that the Taxpayer did not object does not exempt the Authority from the error because it violates the Sharia, the law and the instructions of the ruler in this regard, and the Taxpayer's documents categorically support the error made by the Authority in the calculation method, so he requests that his appeal be accepted and the decision of the Dispute Resolution Circuit on the clauses subject to his appeal be reversed.

On Monday, 12/2/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause No. (2) of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated 21/4/1441 AH: after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.



The Taxpayer's appeal on the clause "Adding debts to the Zakat base for the year 2016AD", and where the Taxpayer's appeal lies in the fact that the Authority added the year-end balance of long-term loans as it was used to finance fixed assets, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed a year on it." And based on paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."

Referring to the case file and the attached documents represented in the Authority's reply memorandum, it is clear that it added the clause to the Zakat base on the basis that it is a financed asset, and based on the list of cash flows, it stated that the total addition to fixed assets during the year amounted to SR (37,903,658), while cash flows from operating activities amounted to SR (3,882,866), and stated that it is certain that these additions were financed through loans and other commitments. However, by referring to the cash flow statement, it is clear that there are other cash flows from which the asset additions can be financed as follows: -flows from operating activities (3,882,886) SAR - Cash at the beginning of the year (1,671,801) SAR - Change in capital (12,925,000) SAR - Due to related parties (20,213,639) SAR Total cash inflows without loans = (38,693,326) SAR and that the total addition to fixed assets during the year was (37,903,658) SAR It is clear that the addition to the assets may have been financed from any of the above-mentioned activities and did not prove that they were financed from loans, as loans appeared as cash during the year in the statement of flows in the amount of (1,150,736) SAR, and the company cannot rely on this amount to finance the discounted assets, and by referring to the financial statements, it is not clear that loans financed the discounted assets according to the statement of cash flows, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal on the clause (not deducting the full value of the assets for 2016AD), where the Taxpayer's appeal lies in the deduction of the net value of the assets according to the financial statements, and based on paragraph (2) of Article (7) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 1/6/1438 AH ,which stipulates that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: ...". With



reference to the Authority's response, it is not clear to the Circuit how it is calculated, and with reference to the Zakat Regulation, paragraph (2) of Article (7) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH, where the regulation refers to the user's right to use the straight-line method for depreciation. According to the response note issued by the Authority, the Taxpayer is using the straight-line method according to his lists. Accordingly, the Circuit considers the Taxpayer's request to approve the amount of the assets deducted from the base as shown in the approved financial statements to be correct, as the Taxpayer attached the approved lists to confirm the correctness of the amount he claimed and as requested by the adjudication committee, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit in this clause.

With regard to the Taxpayer's appeal on the clause (spare parts for the years 2016 to 2018AD), and where the Taxpayer's appeal lies in the Authority's error in calculating the above clause, and based on paragraph (1) of Article (22) of the Zakat Collection Regulation issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH: "The Taxpayer has the right to object to the assessment of the Authority within sixty days from the date of receiving the assessment letter, and his objection must be in a written and reasoned memorandum submitted to the entity that notified him of the assessment. When the objection period expires during the official vacation, the objection shall be accepted if it is delivered on the first working day immediately following the vacation." based on the above, and since the disputed clause was not included in the list of the Taxpayer's objection to the assessment issued by the Authority on 10/12/2020AD. As the Taxpayer did not provide evidence of his objection to this clause before the Authority, as the entity responsible for issuing the assessment and communicating it to the Taxpayers, the Circuit concludes that this clause should be disregarded.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial Registration No. (.....), distinctive number (.....), against the decision of the Third Circuit for adjudicating income tax violations and disputes in the city of Riyadh (IFR-2022-6622) issued in Case No. (Z-2021-50705) related to the tax Zakat assessment for the years 2015 to 2018AD.

Secondly: On the merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (adding debts to the Zakat base for 2016AD).
- 2- Dismissing the Taxpayer's appeal on the clause (spare parts for the years 2016 to 2018AD).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit with regard to the clause (not deducting the full value of the assets for 2016AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171013

Case No. Z-2023-171013

Keywords:

Zakat - Deductions from the Zakat Bases failure to deduct amounts due from affiliated organizations accepting the Taxpayer's partial appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit of Income Tax Violations and Disputes in Dammam (IZD-2022-2562), where his appeal lies on the clause (not deducting amounts due from affiliates) that the amounts he claims to deduct are amounts due from affiliates that are 100% owned by the company from the Zakat base, and on the clause (not allowing the deduction of the long-term reserves clause for 2015AD) that the basis of the long-term reserves in dispute represents amounts the basis of the disputed long-term retentions represents amounts withheld by a contracted company until the completion of the contracted works and the entire revenue of the contract was subjected to Zakat; (Disallowance of the foreign investments clause for the year 2015AD) The financial statements of the foreign invested companies have been submitted by a certified public accountant in the country of investment. The Appellate Committee determined that the Taxpayer is entitled to deduct financing activities, as loans to subsidiaries that file their returns with the Authority require special zakat treatment to avoid zakat withholding. This means accepting the Taxpayer's appeal on the foreign investment clause, and partially accepting the other two clauses.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 22/01/2023AD, from / (...), National ID No. (...), as the statutory representative of the appellant company under the commercial register, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam, No. (IZD-2022-2562) issued in Case No. (Z-2021-78138) related to the Zakat assessment for the year 2015 AD in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the Adjudication Circuit's decision ruled as follows:

- 1.dismissed the plaintiff's objection with respect to the 2015AD Zakat issue without reasoning.
- 2.rejected the plaintiff's objection regarding the clause disallowing the deduction of offshore investments.
- 3.dismissed the plaintiff's objection with respect to the non-deduction of amounts due from affiliates.
- 4.rejected the plaintiff's objection with respect to the non-discounting clause for long-term reserves.

This decision was not acceptable to the Taxpayer (...). The Taxpayer's appeal lies in the clause (not allowing the deduction of the foreign investment clause for 2015AD). The Taxpayer explained that there is a clear contradiction in the Circuit's decision regarding this clause, as the Circuit stated that the required condition for the deduction of foreign investment is to submit the financial statements of the invested companies audited by a certified public accountant in the country of investment to the Authority in order to calculate the zakat due on these investments. I also mentioned that the company has submitted these audited financial statements from a certified public accountant in the country of investment is (...) After a certified translation into Arabic however, the Circuit issued its decision rejecting the company's objection and deciding not to deduct the investments outside the Kingdom despite the company's compliance with the condition required to deduct these investments from the Zakat base, which is to submit the financial statements of the investee company audited by a certified public accountant in the country of investment, and the Circuit has supported many decisions in similar cases the Taxpayers' viewpoint in deducting foreign investments in which the financial statements of the investee companies are submitted audited by a certified public accountant in the country of investment from the Zakat base, for example in the grounds of your honorable Circuit decision No. (IAR-2020-114) Non-deduction of long-term foreign investments from the zakat base in the amount of (21,902,406) riyals , whereas, after the Circuit considered the appeal submitted by the Taxpayer company regarding this clause, and the position of the Authority through the initial decision that ruled on the treatment adopted by the Authority regarding these foreign investments, which consisted of not deducting these investments from its zakat base, and where the Taxpayer provided the Authority with the financial statements of the companies invested abroad, and where the instructions for assessment foreign investments came to subject them to zakat when they are not visited in the country of investment, and where the Authority has the documents with which it can calculate zakat on the Taxpayer regarding these foreign investments, and therefore concluded accordingly, the Authority shall calculate Zakat from these lists and include in the assessment the Taxpayer's share of Zakat from these



companies but not from others, whether it is an investment in debt instruments, shares or shares in companies for which audited financial statements have not been submitted. This does not detract from the Authority's defense to respond to the Taxpayer company's appeal by stating that the appellant company did not submit the documents proving what it claims at the time, and that this constitutes negligence on its part, and that the negligent is the first to lose, because the purpose aimed by the drafter of the Law is to determine the rules for collecting Zakat and organizing it the aim of the drafter of the system in determining the rules for collecting and regulating zakat will be confirmed by assessment the Taxpayer when it submits to the Authority the documents and financial statements of its investments abroad, which must be subjected to zakat by the Authority upon submission by the Taxpayer, and that this matter will be realized with the Authority exercising its right to collect zakat as required by the laws, decisions and instructions regulating how to collect zakat on foreign investments, as stated in the reasoning of the Circuit's decision No. (IAR - 2020-117) the clause of not deducting foreign investments from the zakat base for the year 2012 في (19,974,343 riyals); Whereas, after the Circuit considered the appeal submitted by the Taxpayer company regarding this clause, and the position of the Authority through the initial decision that ruled on the treatment adopted by the Authority regarding these foreign investments, which consisted of not deducting these investments from its zakat base, and where the Taxpayer provided the Authority with the financial statements of the companies invested abroad, and where the instructions on assessment foreign investments subject them to zakat when they are not visited in the country of investment, and where the Authority has the documents that enable it to calculate zakat on the Taxpayer regarding these foreign investments; and accordingly, the Authority will calculate Zakat from these lists and include in the assessment the Taxpayer's share of the Zakat of these companies without any other investment, whether in debt instruments, shares or shares in companies for which no audited financial statements have been submitted.

Regarding the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015AD", the Taxpayer explained that the grounds of the decision are related to adding the credit balances that have passed the zakat threshold, while the company's objection is related to deducting amounts due from affiliates owned by the company (100%) from the zakat threshold, and therefore these grounds are not related to the subject of the company's objection. The reasons for the Circuit's decision were based on Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/06/1438AH, which is the article related to additions to the Zakat base, while the company's objection is to amounts deducted from the Zakat base, and the article related to deductions is Article (5) of the regulation. Accordingly, it is clear that the Circuit's decision was based on an incorrect basis and should therefore be canceled and considered as if it never existed, and the company emphasizes that in its additional memorandum it provided a statement of the amounts due from Saudi companies wholly owned by the plaintiff company since the said amounts are due from Saudi companies wholly owned by the plaintiff company, and since the said amounts are due from Saudi companies wholly owned by the plaintiff



company and submit their zakat returns to the Authority, they should be deducted from the company's zakat base in order to avoid flexing the zakat. In many decisions, the objection and appeal committees have supported the Taxpayers' view that loans and financing granted to subsidiaries that are subject to zakat should be deducted in order to avoid Deductions from the Zakat Base. For example, the reasoning of your esteemed circuit's decision No. (IR-2021-20), which was guided by the company's additional memorandum, states as for the Taxpayer's appeal regarding the clause of loans to affiliates, it turns out that the subject of the appeal lies in the fact that the Taxpayer disagrees with the decision of the Trial Committee, which is supported by the Authority, not to approve the deduction of loans granted to affiliates, as they are subject to Zakat in affiliated companies and therefore must be deducted to avoid Zakat, while the Authority believes that its addition of these loans is an application of the fatwas that emphasized the addition of loans to the Zakat base, The company's benefit from them whether a full year has passed on them or they were used to finance non-current assets in application of the Sharia Fatwa No. (22665), whereas the Circuit found that the amounts in dispute represent loans to affiliated entities and are not in addition to the amounts invested in them, and where the Circuit found that these entities are subject to Zakat and submit their declarations to the Authority, and based on the investment relationship between the Taxpayer and these affiliated entities, the Circuit determined that the loans provided to these entities require special Zakat treatment in order to avoid bending Zakat, as part of the loans (according to the investment percentage) therefore, the appellant (the lender) is entitled to deduct a portion of the loans provided to affiliated entities from his Zakat base equal to his investment percentage in those entities to which he provided the loan. This does not affect the Authority's argument in its reply memorandum, as the basis for its defense was on the loans received from affiliated entities, which is therefore, the Circuit decided to amend the decision by deciding that the Taxpayer is entitled to deduct the loans to affiliated entities equal to his percentage of ownership in them from his Zakat base, and the above decision is fully applicable to the case of the amounts in dispute that the company claims to deduct from the Zakat base. In addition, the Appeals Circuit did not require proof that the amounts provided to the subsidiaries are subject to Zakat in the subsidiaries in light of the fact that these companies are registered with the Authority and submit their declarations to the Authority, and the company asserts that the Authority did not require the company to provide it with a detailed movement of the clause of amounts due from affiliates, but refused to deduct the clause in principle on the pretext that the Executive Regulations on Zakat collection did not provide for its deduction, and the Appeals Circuit did not require the company to provide it with this detailed movement to accept the company's objection.

Regarding the Taxpayer's appeal regarding the clause (Disallowing the deduction of long-term reserves for the year 2015AD), the Taxpayer explained that the rationale for the decision relates to the addition of credit balances to the Zakat base, while the company's objection relates to the company's objection relates to deducting long-term receivables from the Zakat base therefore, these arguments are not related to the subject of the company's objection. The Circuit's decision was based on Article (4) of the Executive



Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 1/06/1438AH, which is the article related to additions to the Zakat base, while the company's objection is to amounts deducted from the Zakat base and the article that relates to deductions is Article (5) of the regulation the Circuit's decision was based on an incorrect basis therefore, it should be annulled and considered as if it was never made. The company asserts that the long-term holdings at issue represent amounts withheld by the ... Until the completion of the contracted works. The entire revenue of the said contract was subjected to Sharia Zakat while the company did not receive the entire revenue as the company deducted a percentage of the contract as a guarantee for the proper execution of the project. The above contracted company did not pay these reserves, which led the plaintiff company to file a lawsuit before the Commercial Court in Jeddah in 2017 to collect the remaining balance due from these reserves amounting to (21,994,888) SAR. The Commercial Court in Jeddah ruled in favor of the plaintiff company and ordered the company to ... By paying the above-mentioned amount. As can be seen, the long-term receivables in dispute are not in the possession or control of the company, and its hand is tied to them, which prevents it from benefiting from them, and therefore the condition of full ownership is absent, which removes them from the funds on which Zakat is due. The Circuit issuing the decision under appeal has itself issued decisions supporting the Taxpayers' objection to deducting the receivables from the Zakat base. For example, it is stated in the reasons for the decision of the Dispute Resolution Circuit No. (IZD-2020-10) "Regarding the balances of the contracts receivable and receivables payable upon collection of the balances of contracts owed and receivables due from (...) Company (Zakat Company) and the claim of the plaintiff to deduct the amounts withheld by (...).(…), and the plaintiff's claim to deduct the amounts withheld by the company (....) due to the fact that the amounts claimed by the plaintiff are in the hands of a full and non-delinquent person, namely the company (...), but the plaintiff is unable to receive them, meaning that the reason for not receiving these amounts was not the plaintiff but the company (...), which means that these amounts were not in the plaintiff's hands and were not under her control, and the plaintiff's hands are tied regarding these amounts, which prevents him from benefiting from them, the Circuit decided to accept the plaintiff's objection by discounting the outstanding contract balances and reserves that Company owes. Saudi Arabia from his Zakat bowl for the years 2005 through 2012AD." the Circuit also upheld the Taxpayer's appeal regarding the resolution of receivables that were not in the Taxpayer's possession and control. For example, the reasons for the Circuit's decision No.(IR-2020-9) "Whereas, after hearing the statements of the parties to the case and reviewing the letters exchanged between the appellant (the creditor) and the General Authority of Civil Aviation (the debtor), it is clear that the company's debt to the third party, the General Authority of Civil Aviation, is a debt that cannot be collected, and therefore the reason for not receiving these amounts is not due to the Taxpayer's will, but was due to a reason attributable to the debtor, the Civil Aviation Authority, and since the amount of the debt was not in the possession of the Taxpayer, nor was it under his control, which results in its improper inclusion in the zakat base for the Taxpayer's company. This does not affect the claim of the General Authority for Zakat and Income (GAZT) that this debt is owed to a



government entity that is full of money, as the consideration is the ability of the creditor to receive the amount of the debt after the debtor's claim, which was impossible to obtain for a reason not related to the Taxpayer's company. Therefore, the Circuit concluded to determine the impact of the appellant's defenses on the result reached by the contested decision, which entails ruling to exclude the debtors of trade receivables from the Taxpayer's zakat base for the year 2011AD, and not supporting the authority in its dealing with this clause by including it in the tax base of the Taxpayer's Taxpayer company." as for what was stated in the rulings of the Adjudication Circuit that the company did not provide the movement made on the end-of-term balance, we state that the Authority did not ask the company to provide it with a detailed movement of the long-term receivables clause, but rather refused to deduct the clause in principle on the grounds that the Zakat Collection Executive Regulations did not provide for its deduction. Therefore, the Taxpayer requests that his appeal be accepted and that the decision of the Dispute Resolution Circuit regarding the clauses under appeal be overturned.

On Sunday, 17/3/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause (2) of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated: after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

As for the Taxpayer's appeal regarding the clause (disallowing the deduction of the foreign investment clause for 2015AD), the Taxpayer's appeal lies in the appeal against the dismissal of his objection regarding the disputed clause, as he claims that there is a contradiction in the Circuit's decision, as the Circuit stated that the required condition for deducting the foreign investment is to submit the financial statements of the investee companies audited by a certified public accountant, and the company provided this. Based on Ministerial Decision No. (1005) dated 4/28/1428 AH: Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof of



payment of zakat in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies, if they do not provide the above mentioned, these investments shall not be deducted from his zakat base." based on the above, and based on the provisions of Ministerial Decision No. (1005) referred to above, the Taxpayer is entitled to deduct the foreign investment from his Zakat base, provided that he complies with the provisions of the decision, namely that he submits to the Authority audited accounts from a certified public accountant in the country of investment in order to calculate the Zakat due on these investments and deliver them to the Authority, or provide proof of payment of Zakat thereon in the country of investment if he does not provide what was referred to, these investments will not be deducted from his Zakat base, and by reviewing the case file, it became clear that the Taxpayer submitted the financial statements of the invested company, audited by a certified public accountant in the country of investment, and provided a copy of these lists in Arabic, the Taxpayer emphasized that he has no objection to paying the zakat that the authority will calculate on the investment, which led the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015AD", the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the amounts he claims to deduct are amounts due from affiliates that are 100% owned by the company from the Zakat base. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed the hawl." Based on Article (4) clause (II) paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438AH, which stipulates that: "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on Article 20(3), which states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, loans provided to subsidiaries that submit their returns to the Authority require special zakat treatment to avoid the discouragement of zakat, as part of them (according to the percentage of investment) does not represent lending to another party,



and therefore the Taxpayer (the lender) is entitled to deduct part of the loans provided to subsidiaries from his zakat base in an amount equal to his investment percentage in the subsidiary company to which he provided the loan, and with reference to the case file and what it contains, it is clear that the Taxpayer claims to deduct the amounts due from 100%-owned Saudi companies, which are the following companies (.....) , ... , ... , ...) It turned out that the Authority refused to discount considering that the transactions with the related parties are expenses paid on behalf of the company and part of a financing activity, as the expenses paid on behalf were rejected as commercial transactions and not loans subject to Zakat in subsidiaries, therefore, upon reviewing the audited financial statements, it became clear that the transactions were classified as financing activities and expenses paid on behalf of the company, which leads to the correctness of the Authority's action in refusing to deduct the expenses paid on behalf of the company as commercial transactions, as for the financing activities, we believe that the Taxpayer is entitled to deduct them, as the loans provided to subsidiaries that submit their returns to the Authority require special zakat treatment to avoid discouraging zakat, as part of them (according to the investment percentage) does not represent lending to another party, and the Authority's argument that the Taxpayer did not prove that they are subject to the subsidiaries, as the subsidiaries are all Saudi companies and submit their returns to the Authority, and the Taxpayer provided the unique numbers of all subsidiaries, which leads the Circuit to partially accept the appeal and amend the decision of the Adjudication Circuit regarding this clause.

With respect to the Taxpayer's appeal regarding the "Disallowance of the 2015AD Long-Term Reserves" clause, the Taxpayer's appeal is to appeal the Adjudication Circuit's rejection of his objection regarding the disputed clause, as he claims that the basis for the disputed long-term reserves represents amounts previously withheld by (.....) Until the completion of the contracted works, all revenues from the contract are subject to zakat. Based on the above, Zakat is not obligatory on the creditor in his due funds that he is unable to collect due to delays from customers and not as a result of his failure to comply with the standards and requirements specified by the authority, and with reference to the case file and what it contained, it was found through the financial statements that there are reserves in the amount of (29,779,160) Riyals ,it turned out that the Taxpayer stated that he filed a lawsuit against the contracted company due to its failure to pay the amounts due, which amounted to (21,994,888) riyals, and by reviewing the documents, it became clear that the Taxpayer submitted a decision issued by the Commercial Court in Jeddah on 03/07/1439 AH obligating the contracted company "AD....." payment of (21,994,888) riyals to the Taxpayer, therefore, we believe that the amounts owed to the Taxpayer in dispute and for which a court judgment has been issued are not subject to Zakat until the Taxpayer receives them, as the reason for the delay in the payment of the receivables is due to reasons beyond the Taxpayer's control and not as a result of his failure or non-compliance, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding this clause.



With regard to the Taxpayer's appeal regarding the clause "Issuing the Zakat assessment for the year 2015AD without reasoning", wherein the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and wherein it is established that the decision under appeal regarding the disputed clauses as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., commercial registration (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2562) issued in case number (Z-2021-78138) related to the zakat assessment for the year 2015AD.

Second: On the Merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (issuing the 2015AD Zakat assessment without reasoning).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (disallowing the deduction of the foreign investment clause for 2015AD).
- 3- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause "No deduction of amounts due from affiliates for the year 2015AD".
- 4- Accepting the Taxpayer's appeal in part and modifying the decision of the Adjudication Circuit regarding the disallowance of the long term reserves clause for 2015AD.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-161337

Case No. Z-2023-161337

Keywords:

Zakat-Deductions from the Zakat Base-No deduction for long-term employee benefits-Acceptance of the Authority's appeal-Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority object to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2160)) the Taxpayer's appeal lies on the clause (adding financing obligations for asset additions and accrued expenses) and believes that these costs are part of the loans and are treated as loans and the loan balances are taken according to the financial statements. The Taxpayer's appeal lies on the clause (not deducting long-term employee benefits) that the Authority does not accept the long-term employee benefits represented in the housing support program provided by the Taxpayer to his employees because there is no provision in the executive regulations for collecting zakat issued in 1440 AH that authorizes deducting them. The Appellate Committee examined the contracts concluded with the employees and found that the employee pays the same total cost incurred by the company for the house, and there was no term in these contracts indicating a profit intention from the company for this project, and it was found that the mentioned controls applied to the Taxpayer. Consequently, the authority's appeal is accepted, and the Taxpayer's appeal is accepted.

Document:

- Paragraph (1) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (7) of Article (6) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (3) of Article (4) of [The Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. \(2216\) dated 07/07/1440 AH.](#)



Facts:



The appeal filed on 11/16/2022AD, from /... As the Chairman of the Board at the company ... The appeal filed on 11/17/2022AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City (IZD-2022-2160) issued in Case No. (Z-2022-112956) related to the Zakat assessment for the years 2019 and 2020AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed against the Zakat, Tax and Customs Authority:

Canceling the defendant's decision regarding the clause of adding commissions and follow-up fees related to loans, and rejecting the other requests.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (social insurance difference added to the net profit for 2019AD), the appellant (the Taxpayer) requests to cancel the Circuit's decision on this clause on the grounds that the Authority did not specify the nature of the documents supporting its request, and the company does not agree with the Authority's assessment due to the difference in the bases for declaring salaries and wages in the financial statements and information from the social insurance certificate, and therefore, if the Authority provides reasons for its action, the company will exercise its right to provide the appropriate response, and requests the cancellation of the Authority's assessment on the clause, whereas the response of the Defendant (the Authority) stated that it refunded the overcharged social insurance difference by comparing the social insurance charged to the Taxpayer's accounts according to the trial balance with the social insurance according to the data of the General Organization for Social Insurance, and in response to the statement in the Taxpayer's list that the Authority did not provide the basis for the assessment, the Authority answers that the clause was mentioned in the assessment sent to the Taxpayer on 22/09/2021AD, and the Authority's procedure was explained in detail to the Taxpayer during the hearing held on 01/02/2022 AD and he was notified of the assessment and the reasons for rejecting the objection to the clause, so the statement is incorrect in the appeal list, accordingly, the Authority relied on the data of the General Organization for Social Insurance, which represents a third-party document showing the salaries of Saudis and foreigners subject to social insurance, especially since it is the party responsible for collecting the value of social insurance, and by comparing the load on the declaration with the insurance data at 12% of the wages of Saudi participants and 2% of the wages of non-Saudi participants, the Authority rejected the Taxpayer's objection, whereas the Authority bases its procedure on the provisions of paragraphs (2-4) of Article (9) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216



dated 7/7/1440 AH, and where the adjudication decision concluded in favor of the Authority's procedure, as the Authority presented the method of calculating the difference in the social insurance expense, as for the Taxpayer's objection regarding the failure to inform him of the method of calculating the difference in the expense in the assessment issued to him and the authority's mere reference to the existence of a difference in the expense, we believe that this does not affect the Taxpayer's right to object and he had to provide proof of the expense from his point of view, as the burden of proof of the validity of the declaration according to the text of the article of the regulation is on the Taxpayer, and it also appears that there was a meeting between the authority and the Taxpayer to discuss the terms of the assessment , so the Circuit believes that his request does not affect the validity of the authority's action.

With regard to the clause "Adding liabilities to finance asset additions, adding accrued expenses and adding other credit balances for 2019AD", the appellant (the Taxpayer) requests to cancel the Circuit's decision on this clause on the grounds that he disagrees with the Authority's assessment and requests the Authority to provide the basis for its assessment, as he points out that the Authority assumed that some of the payable balances are used to finance the deductible assets, he emphasizes that the company has sufficient cash that can be used to finance the deductible assets and that the company has added all credit balances due for more than a year to the base, so if the Authority does not provide a specific calculation method, then it is clear that it is only assumptions by the Authority, while the response of the Defendant (the Authority) states that with regard to the obligations to finance asset additions, the Authority explains that before the assessment, it requested a statement of the suppliers of asset additions and spare parts, and with the Taxpayer's submission of the requested statement, the Authority added the balances of asset suppliers and spare parts suppliers by taking the balance of the first or last period, whichever is less, in exchange for financing assets and spare parts deducted from the Zakat base, and the Taxpayer confirmed in his response to the assessment on 30/09/2021AD that only SR (4,820,936) should be added, but the Authority added an amount of (5,013,756), as for the accrued expenses, the Authority clarifies that it has added the clause of advance payments to the balance of the first or last period, whichever is less, and the clause of dividends payable has been added, as no proof was provided that the accrued dividends are deposited in a separate bank account. During the hearing session held on 01/02/2022AD, Since the Taxpayer did not provide any of the required data, the Authority rejected his objection. In response to what the Taxpayer indicated in his lawsuit petition that the Authority did not clarify the basis of calculation, this is an unfounded statement that cannot be relied upon due to its incorrectness, as the Authority added the clause based on the data it provided. The clause was also included in the assessment sent to the Taxpayer on 22/09/2021, and it was provided with a copy of the final assessment showing the tax base clauses in detail on 08/11/2021, and it was clarified again during the study of the objection and notification of the objection result. Since the adjudication decision concluded by upholding the Authority's procedure, where the Authority relied in its assessment on the statement of suppliers of asset additions and spare parts provided by the Taxpayer and relied on the financial statement balances for other clauses due to the Taxpayer's failure to provide detailed



account movements and documents related to profit distributions. With regard to the clause (adding short-term loans to the Zakat base for 2019AD), the appellant (the Taxpayer) requests that the Circuit's decision on this clause be annulled on the grounds that the balance has not remained outstanding for more than one year and that the Authority's procedure of taking the balance of short-term loans, whichever is less, is incorrect, as he states that if the Authority's objective in adding short-term loans is to finance the company's assets, it is an incorrect assumption because the company's cash is able to finance the assets, he states that the Authority added short-term loans to the base without taking into account the third paragraph of Article 4 of the Executive Regulations of 1440 AH, which clearly stipulates that debts must be long-term in order to be added, and therefore he demands that the Authority's action be canceled, whereas, the response of the Defendant (the Authority) stated that before the assessment procedure, it requested a detailed statement of the short-term loans, and it was found from the statement provided by the Taxpayer that the short-term loans are revolving loans, meaning that the loans are renewed as soon as they expire, and repayments and additions to the loans are made continuously during the year in light of the above, and in light of the fact that short-term loans are revolving in nature, the Authority rejected the Taxpayer's objection based on paragraph (B/3) of Article (4) of the Executive Regulations for the Collection of Zakat for the year 1440 AH, whereas, the adjudication decision concluded in favor of the Authority's action, as by reviewing the detailed movement of short-term loans and by tracking the movement of these loans, it was found that they are renewable and continuous, as the loan is obtained from the bank and after a short period of time, this loan is repaid and on a date close to the date on which the repayment is made, a loan of the same value is obtained, which shows that this loan is in essence a long-term loan.

The appellant (Non-deduction of Long-term Employee Benefits from the 2019 Zakat Base) the Taxpayer is requesting that the Circuit's decision on this clause be overturned. He states that the company incurred specific expenditures on the home ownership program related to its employees, which is a residential scheme dedicated to the company's Saudi employees, where homes were granted to eligible employees according to certain criteria, according to Note 8 to the financial statements, he points out that the Authority did not allow the deduction of the value used for unallocated units and deferred cost and states that the value used for unallocated units, which are fixed assets of the company, are re-reported in the company's balance sheet and have been classified within operating fixed assets, however, the reclassification in the lists should not affect the deduction for Zakat purposes, the Company confirms that it operates a home ownership program whereby the Company builds homes for its eligible employees and recovers the housing allowance plus 17% of the employees' base salary, and the unrecovered portion of the cost is deferred and amortized over the life of the program, homes under construction are capitalized as part of "under construction" and once completed, the housing units are allocated to eligible Saudi employees or to fixed assets as part of other assets owned by the company and the cost of these homes transferred to employees is reported within the home ownership receivables account and the down payment and installments paid by the employees are deducted against said receivables, he states that the company funds



the home ownership program for employees from equity or other sources that are already subject to Zakat, and therefore the corresponding funds in the assets should be deductible under the Zakat regulations and emphasizes that the company has no intention of selling these units, while in the response of the Defendant (the Authority) it stated that it did not accept the deduction of long-term employee benefits as there is no provision in the executive regulations for the collection of Zakat issued in 1440 AH authorizing their deduction, the Authority clarifies that the nature of the clause is not in any way similar to the fixed assets used in the activity in terms of deduction from the Zakat base, and the Zakat Collection Executive Regulation issued by Ministerial Decision No. 2216 dated 7/7/1440 AH stipulates that the fixed assets must be used in the activity, and the regulation allows the deduction of assets financed to the lessee only in construction, operation and conversion projects, in accordance with the provisions of paragraphs (a - d/1) of Article (5) of Zakatd/1) of Article (5) of the same regulation, therefore, receivables arising from housing ownership programs cannot be considered as fixed assets, therefore, since the clause is not considered among the elements or clauses that are deducted from the base and is not considered one of the assets used in the activity according to Article (5) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, and there is no clause within the deductions of this name or of the same nature, the Authority maintains the validity and integrity of its procedure, and notes that the Authority's procedure was supported by decision No. (IR-2021-37) issued by the First Appeals Circuit for Income Tax Violations and Disputes, whereas, the adjudication decision concluded to uphold the Authority's action, as it turns out that the clause that the Taxpayer claims to deduct is not considered an asset intended for the company's use, but are considered loans granted to employees and are not deducted from the Zakat base. "The Authority indicates to your esteemed circuit that the Taxpayer is not subject to the provisions of the Ministerial Decision on adding and amending some paragraphs of the articles of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, concerning the determination of clauses that may be deducted from the Zakat base, which stipulates that: "a. Add subparagraphs (e) and (f) to article V, paragraph 1, to read as follows: (e) Employee housing owned by the Taxpayer. (f) Housing loans paid to employees through the Employee Housing Support Program, if their contracts include a statement that the financing was through Hassan loan or forward sale without the company accruing any financial profits or fees in excess of the principal amount of the financing:

1- The Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, stipulates in the third clause as follows: "The regulation attached to this decision shall apply to fiscal years beginning on and after 1/1/2019AD for all Taxpayers."

2-Ministerial Decision No. 58705 dated 21/9/1444 AH clarified the scope of its application in clause (II), as it reads as follows: "This decision shall be communicated to those necessary to enforce it, and it shall be enforced from the date of its issuance." Since the decision clarified that it is enforced from the date of its issuance, and the ministerial decision did not indicate that it applies to cases in which an administrative



decision was issued with retroactive effect, it is proven that the date of the assessment issued by the Authority on the Taxpayer is dated 04/11/2021AD corresponding to 29/03/1443 AH, i.e. Before the date of issuance of the aforementioned ministerial decision.

3- We find that the amendment contained in paragraph (a) of Ministerial Decision No. 58705 dated 21/9/1444AH on adding and amending some paragraphs of the articles of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, which stipulates: "A- Subparagraphs (e) and (f) shall be added to paragraph (1) of Article (V), with the following text: (e) Employee housing owned by the Taxpayer."

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (adding commissions and follow-up fees related to loans to the Zakat base for 2019AD), the appellant (the Authority) requests the annulment of the Circuit's decision on this clause and the Authority explains that the income statement was charged with interest costs of approximately 16 million "interest costs for loan discounting and borrowing" according to Note (20-4), accordingly, it appears that the amount of commissions and fees in essence arises from the accounting measurement according to the effective interest rate method, and from the Zakat point of view, it follows the origin of the loan from which it arose, which is the long-term loan, and what confirms this is that it is classified in the financial statements as a single clause and not classified by the Taxpayer as short-term accrued loan interest, whereas in the Defendant's (the Taxpayer) response, the company asserts that these balances did not remain due for more than one year and therefore the Authority's action to add them to the base is incorrect, and points out that there is no relevance to the Authority's reference to the accounting policy as in Note (3-12) and financing costs Note (20-4) according to the income statement because the basis adopted by the Authority in adding the amounts is their maturity for more than one year, and where Adjudication Decision concluded to cancel the Authority's action, whereas, upon reviewing Note (3-12) of the Taxpayer's financial statements related to loans, which shows that the amortization of the costs of the loans to which they relate and the capitalization of costs that relate to subsequent financial periods are recognized within the expenses of the year, and upon reviewing Annex 5 in the case file containing the movement of these expenses, it is clear that the entire balance of the first period of these bank expenses has been paid, and therefore there are no amounts due.

On Tuesday, 11/28/2023AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; and by calling on the litigants, he attended / ... National ID No. (...),



as agent for the appellant under agency No. (...). (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) dated 19/03/1445AH. After examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and a decision on its substance, so the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits of the Taxpayer's appeal regarding the clause (not deducting long-term employee benefits from the Zakat base and canceling the Circuit's decision), and based on paragraph (e) of the first paragraph of Article 5 of the Executive Regulations for Zakat Collection issued by Decision No. (2216) of 07/07/1440 AH, as amended by Decision No. (58705) of 21/09/1444 AH, which stipulates that: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 1- Net fixed assets and their equivalents, including, but not limited to, the following: e. Employee housing owned by the Taxpayer." based on the seventh paragraph of Article 6 of the Executive Regulations for Zakat Collection issued by Resolution No. (2216) of 07/07/1440AH, as amended by Resolution No. (58705) of 21/09/1444 AH, which stipulates that "The Zakat base is calculated by adding the clauses listed in Article (IV) of the Regulation, minus the clauses listed in Article (V) of the Regulation, in accordance with the following controls: 7- With regard to employee housing support programs, the price of the housing unit borne by the employee must not exceed its actual cost to the Taxpayer, and the employee must not bear any additional amounts against the loan, including cases in which the contract is terminated before completing its term."

Based on the above, since the dispute lies the Authority did not accept the long-term employee benefits represented in the housing subsidy program provided by the Taxpayer to his employees because there is no provision in the Zakat Collection Executive Regulations issued in 1440 AH that authorizes its deduction with reference to the case file and what it contains, and since the dispute is centered on the lack of a text authorizing the deduction of the clause, a review of the Executive Regulations for the Collection of Zakat issued by Resolution No. (2216) of 07/07/1440AH, as amended by Resolution No. (58705) dated 21/09/1444 AH, shows that paragraph (e) was added to the first paragraph of Article 5 authorizing the deduction of employee housing owned by the Taxpayer and paragraph 7 to Article 6, which clarifies the controls of the deduction, the ministerial decision did not stipulate the years to which the decision applies,



but only mentioned "effective from the date of its issuance," and since the amendment applies to the regulation of 1440 AH, which is applicable to the case in question, the amendment may be applied to the clause, also, the regulation before the amendment did not contain an explanation of the correct treatment of the clause, so the amendment has created a new fact regarding employee housing, and the decision did not stipulate, as mentioned above, that there are exceptions stating that it does not apply retroactively, and therefore, upon reviewing the case file and where the seventh paragraph of Article 6 of the amended executive regulations stipulates several controls for the acceptance of the discount and upon reviewing the documents submitted by the Taxpayer, namely: - the company's policy for the home ownership program. - a sample of contracts for employees who obtained homes under the Homeownership Program. The controls stipulate that the price of the housing unit borne by the employee must not exceed its actual cost to the Taxpayer and that the employee must not bear any additional amounts for the loan, including cases in which the contract is terminated before completing its term, and that the contracts concluded with the employees show that the employee pays the same total cost incurred by the company for the house, and there was no term in these contracts indicating a profit intention from the company for this project, and therefore, as it turns out that the mentioned controls applied to the Taxpayer, which means that the appeal must be accepted regarding the non-deduction of employee benefits.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit is not to be faulted for adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, since in upholding the decision with the contents of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the result it reached, taking into account its reasons in the remaining clauses under appeal.

Regarding the Authority's appeal on the rest of the clause (adding commissions and follow-up fees related to loans to the Zakat base for 2019AD), based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, which stipulates that "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: Government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: A- If the debts owed by the Taxpayer or other sources of funding have a duration



of three hundred and fifty-four (354) days or more overlapping during the zakat year and the following year, they are added to the zakat base according to the number of days for each zakat year. B- The zakat year for debts does not cease with their renewal or rescheduling with the same creditor, or by replacing these debts with other debts or sources of funding that finance what these debts were financing. (c) The addition of what is mentioned in this paragraph shall not exceed the total amount deducted from the base in accordance with Article (5) of the Regulations." article 4, paragraph (10) also stipulates the following: "Any clause of liabilities and equity that financed an clause deducted from the zakat base."

Based on the above, as the dispute centers around adding commissions and follow-up fees related to loans to the Zakat base, where the Taxpayer believes that these costs related to loans have not yet reached the end of the year, while the Authority believes that these costs are part of the loans and are treated as loans and the loan balances are taken according to the financial statements, and by referring to the case file and its contents, the amount of the dispute is (1,407,160) SAR, resulting from the difference between what the Taxpayer added and the Authority's calculation of the loans, as the Taxpayer added loans in the amount of (727,889,840) riyals, while according to the Authority's assessment , the clause (729,297,000) riyals, including commissions and loan fees in the amount of (1,407,160) riyals, and by reviewing the audited financial statements, specifically Note (16-2) related to long-term loans, it appears that what was declared for long-term loans amounted to (729,297,000) riyals, which is the same amount added by the Authority, including commissions, so the Taxpayer declared them within one clause, also, with reference to the explanations of the loans (16), it appears that the long-term loans financed a deductible asset "harvesting factories", and since the disputed commissions take the judgment of the related loan, and where paragraph (10) of Article (4) mentioned above stipulates that the Zakat base for the Taxpayer who maintains commercial books consists of all his funds subject to Zakat collection, including any clause of liabilities and equity that financed an clause deducted from the Zakat base, this does not affect the Taxpayer's point that there is no relevance to the Authority's reference to the accounting policy as in Note (3-12) and financing costs as in Note (20-4), whereas, a review of the interest costs of discounting loans and borrowing declared within the income statement in the amount of (16) million shows that they include commissions in the amount of (1,407,160) riyals, according to the detailed movement of loan commissions, as the total interest costs of discounting loans and borrowing in the income statement are the additions according to the indicated movement, which the Taxpayer requested to be deducted within the income statement, which means that the appeal regarding the addition of commissions and follow-up fees related to loans to the Zakat base should be accepted and the decision of the Circuit should be canceled.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:



Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IZD-2022-2160) issued in case number (Z-2022-112956) related to the zakat assessment for the years 2019 and 2020AD.

Secondly: On the merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (adding commissions and follow-up fees related to loans to the Zakat base for the year 2019AD).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (social insurance difference added to the net profit for 2019AD).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Adding funding obligations for asset additions, adding accrued expenses and adding other credits for 2019AD).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (adding short-term loans to the Zakat base for 2019AD).
- 5- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting long-term employee benefits from the Zakat base for 2019AD).



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-136107

Case No. Z-2023-136107

Keywords:

Zakat-Deductions from the Zakat Base-No deduction for investment in foreign companies-Acceptance of Taxpayer's appeal-Acceptance of the Authority's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam (IZD-2022-922), where the ZTCA's appeal lies on the clause (dividends received from the current year's profits of local investee companies that are not excluded from the company's zakat able profit) the Taxpayer's appeal lies in the fact that it added these profits to the adjusted net profit due to the Taxpayer's failure to provide proof that the excluded profits are related to the current year's profits. The Taxpayer's appeal lies in the clause (deducting investments in local companies at fair value recognized in the income statement for 2017 and 2018AD) to claim the deduction of investments with an ending balance, and the clause (not deducting investments in foreign companies declared as available for sale) because he attached the financial statements of the invested company outside the Kingdom from a certified public accountant (CPA). Whereas the Appellate Committee found that the Taxpayer attached the financial statements of the company invested in outside the Kingdom from a certified public accountant in addition to the public accountant's office (...) At the end of his report, he stated, "The data and information in the financial statements provided to us by your company "Company ..." for those companies and the financial statements that we have verified and obtained from the financial statements disclosed by the Swiss Capital Market Authority and the Australian Capital Market Authority, it is necessary to reissue our reports on the calculation of Shari'ah zakat on investments in international securities of the companies for the years 2014, 2016AD and 2016/2017AD. This means accepting the Taxpayer's appeal, canceling the decision of the Adjudication Circuit, and accepting the Authority's appeal.



Document:

- Paragraph (4.b) of Clause (II) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 04/07/2022AD, from ..., ID No. (...) As an agent under Agency No. (...) For the appellant company, the appeal filed on 05/07/2022AD from the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No.(IZD-2022-922) issued in Case No. (Z-2021-41784) related to the zakat levies for the years 2015 to 2018, in the case filed by the Taxpayer against the ZTA, in which the decision of the Adjudication Circuit ruled as follows:

- 1.annulment of the defendant's decision regarding the clause of profits received for the years 2015 to 2017AD.
- 2.modification of the Defendant's decision with respect to the additional matching contribution deduction for investments in domestic subsidiaries for the years 2015 to 2018AD
- 3.rejected the claimant's objection regarding the non-deductibility of investments in foreign companies authorized as available-for-sale investments for the years 2015 to 2018AD.
- 4.rejecting the plaintiff's objection regarding the deduction of investments in local companies at fair value recognized in the income statement for 2017 and 2018AD.
- 5.dismissed plaintiff's objection regarding the non-deductibility of the long-term homeownership program offered to employees for 2017 and 2018AD.
- 6.dismissed the plaintiff's objection regarding the use of loans to finance impaired assets for 2016 and 2017AD.
- 7.rescind the Defendant's decision regarding the incorrect addition of the opening balance of the 2017AD End of Service Allowance.
- 8.annulment of the defendant's decision regarding the clause of not deducting the Zakat paid for 2016AD.

This decision was not accepted by the Taxpayer (Company ...).the Taxpayer's appeal lies on the clause "Non-deduction of investments in foreign companies declared as available-for-sale investments for the years 2015 to 2018AD." The Taxpayer explains that he submitted, upon the request of the Honorable Committee,



a copy of the financial statements of the invested foreign companies approved by an auditor in the invested country, which was translated into Arabic, in addition to that the company paid the zakat due on the foreign investments in accordance with the report of the independent chartered accountant through which zakat was calculated for the investments in foreign companies. Regarding the clause (deduction of investments in local companies at fair value recognized in the income statement for 2017 and 2018AD), the Taxpayer explains that the securities were recorded at fair value within other comprehensive income in 2017 and 2018AD and were classified as available-for-sale investments in accordance with the requirements of IFRS 9 "Financial Instruments" and therefore the related gains and losses classified in other comprehensive income became part of retained earnings on a regular basis and will be subject to Zakat according to the Zakat collection regulations, and these investments are long-term and not for commercial purposes. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed.

This decision was not accepted by the appellant (the Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (dividends received from the current year's profits of local invested companies that are not excluded from the company's profit subject to zakat for the years 2015, 2016 and 2017AD), where the Authority explains that it added these profits to the adjusted net profit due to the Taxpayer's failure to provide proof that the profits that were excluded are for the year (current year) by referring to the financial statements of the invested companies, it was found that the balance of retained earnings is higher than the profits announced to be distributed, and therefore the profits announced to be distributed are definitely from the retained earnings and not from the profits of the year, as for the distributions from the company.... For the year 2015AD, the declared dividend is higher than the dividend balance

In addition, the announcement of dividends after the financial results is not a presumption that the distributions were actually made from the net profit, as the date of the announcement of the distributions after the company's financial results cannot be related to the fact that the distributions were made from net profit instead of retained earnings, and that the customary basis for dividend distributions is to be made from the first balance of the period from retained earnings. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Thursday 7/3/ 2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 1 of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH.; and by calling on the opponents, he/she attended/... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) I attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445 AH., the Circuit reviewed



the supplementary memorandum submitted by the Taxpayer. Accordingly, the Circuit decided to accept her request and informed the representative of the Authority that she must respond to the Taxpayer's memorandum no later than Thursday, 14/3/2024AD, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memorandums submitted after the aforementioned date. The next session will be on 04/23/2024AD to pronounce the decision.

On Tuesday, 32/4/2024AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; Calling on the opponents, Mr. ... National ID No. (...), as agent for the plaintiff by virtue of agency No. (...) He attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) On 19/3/1445 AH., the Circuit decided to close the pleadings and deliberations.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, with regard to the Authority's appeal on the clause "Dividends received from the current year's profits of local investee companies that are not excluded from the company's profit subject to Zakat for the years 2015, 2016 and 2017AD", and where the Authority's appeal lies in the fact that it added these profits to the adjusted net profit because the Taxpayer did not provide proof that the profits that were excluded are for the profits of the year (current year), and based on the above, the profits received are deducted from the Zakat base if they are tzedakkah by the company distributing the profits to avoid bending in Zakat, and whereas the dispute lies in the fact that the distribution was made through the balance of the first period of the retained profits and not from the profits of the year, and the Circuit's review of the case file and reference to the Authority's appeal regulations and the Taxpayer's response shows that the retained profits in the invested companies at the beginning of the period are greater than the declared distributions, so it appears that the distributions were made from the retained profits for the distributions of (Company .. (...) For the years 2015 to 2017AD, and (Company...) For the year 2016AD, and (Company ... For the year 2016AD). From the above, it is clear that the balance of the retained earnings is greater than the dividends



distributed, and there is no clear and explicit confirmation that the dividends distributed were made from the profits of the year, and since it is the nature of business to distribute from the retained earnings and then distribute through the profits of the year, in addition to the above, it is clear by referring to the attached documents represented in the dividend distribution decision that the announcements were all before the fourth quarter (i.e. Before the end of the lunar calendar) of the year, which results in the distributions being deducted from the Zakat base for the invested companies. From the above, it is clear that dividends have been distributed from the retained earnings, which leads the Circuit to accept the Authority's appeal and overturn the decision of the Adjudication Circuit in this clause.

Regarding the Taxpayer's appeal on the clause (not deducting investments in foreign companies declared as available-for-sale investments for the years 2015 to 2018) and where the Taxpayer's appeal lies in attaching the financial statements of the company invested in outside the Kingdom from a certified public accountant, and based on paragraph (4.b) of clause (II) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438AH which stipulates that "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. Based on Ministerial Decision No. (1005) dated 28/4/1428AH, which stipulates Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof that zakat has been paid in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies. If the Taxpayer does not provide the above, these investments shall not be deducted from his tax base." based on the above, the company is entitled to deduct the foreign investment from its Zakat base, provided that it complies with the provision, which is to provide the Authority with audited accounts from a certified public accountant in the country of investment, in order to calculate the Zakat due on these investments and provide it to the Authority, and then deduct these investments from the company's Zakat base whereas, the dispute over this clause is a based dispute, and the Circuit's reference to the attached case documents shows that the Taxpayer attached the financial statements of the company invested in outside the Kingdom from a certified public accountant, in addition to that the certified public accountant is the office of (...) At the end of his report, he stated, "The data and information in the financial statements provided to us by your company "Company ..." about those companies and the financial statements that we verified and obtained from the financial statements disclosed by the Swiss Capital Market Authority and the Australian Capital Market Authority, so it is



necessary to reissue our reports on the calculation of Sharia zakat for investments in international securities of the companies "Company ... - Swiss nationality and Company ... - Australian nationality for the years 2014/2016/2016/2017AD.", which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the clause (deduction of investments in local companies at the fair value recognized in the income statement for the years 2017 and 2018AD) and where the Taxpayer's appeal lies in his claim to deduct the investments with the balance of the last period, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on Article 20, paragraph (3), which stipulates that "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and the Circuit's review of the case file and the defenses and documents it contains, it is clear that the Taxpayer claims to deduct the investments with the balance of the last period (i.e. After revaluation), as he argues that the revaluation gains/losses have affected the statement of comprehensive income and have become part of the retained earnings, which will be subjected by adding them to the Zakat base for the same period, while the impact on the balance of investments has not been calculated and deducted from the base. On 7/11/2022AD, the attachments to the 2017 and 2018AD declarations (attached tables) were requested, as well as proof that other reserves including (revaluation gains/losses) are subject to Zakat. Accordingly, the Taxpayer has attached the full declarations with the annexes and with reference to Table No. (12) (for other additions to the Zakat side), it is clear that the other reserves with the balance at the end of the period are subject to Zakat, i.e. After the impact of revaluation gains/losses on them. Since the Taxpayer proved that the revaluation gains/losses were included in equity for the same year, as they were added to other additions in the return and found to be subject to Zakat, which shows that the Authority's procedure is incorrect, as the investments should be deducted with the balance of the last period (i.e. After revaluation), which concludes the Circuit accepts the Taxpayer's appeal and annuls the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is



contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clause was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, in accordance with its reasons. On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the first adjudication committee regarding violations and disputes of income tax in Jeddah province with number (IZD-2022-922) issued in case number (Z-2021-44626) related to the zakat assessment for the years from 2015 to 2018AD.

Secondly: On the merits:

1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (dividends received from the current year's profits of local invested companies that are not excluded from the company's profit subject to Zakat for the years 2015, 2016, and 2017AD).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Deducting additional contributions similar to investments in local subsidiaries at less than their value for the years 2015 to 2018AD).

3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting investments in foreign companies declared as available-for-sale investments for the years 2015 to 2018AD).

4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (deducting investments in local companies at the fair value recognized in the income statement for the years 2017 and 2018AD).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting the long-term home ownership program provided to employees).



6- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the incorrect addition of loans to the Zakat base without taking into account the use of the loan to finance the Zakat deductible assets for the years 2016 and 2017AD.



Appellate Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-165783

Case No. Z-2023-165783

Keywords:

Zakat - Deductions from the Zakat Base - Disallowing Deduction of Debtors - Accepting the Authority's Appeal

Summary:

The Zakat, Tax and Customs Authority's objection to the decision of the First Circuit for adjudicating income tax violations and disputes in Riyadh (IFR-2022-2133)) its appeal is based on the clause (not allowing the deduction of debtors), and its appeal is based on the fact that it did not deduct the clause according to the Taxpayer's declaration from the elements of the Zakat base, as it is not included among the base's determinants in the Zakat Collection Regulation and there is no provision that the said clause must be deducted. The Appellate Committee found that the Authority did not take into consideration that in order to settle debts with government agencies, it is required to provide proof of the inability to collect the amount from them, and by reviewing the documents submitted in the case file, it is clear that the Taxpayer did not provide supporting documents to prove that the government agencies were requested and that the inability to collect the amounts due was due to the negligence of that agency. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

the appeal filed on 25/12/2022AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-2133) issued in Case No. (Z-2021-71146) related to the Zakat assessment for 2015, was considered in the case filed by the Taxpayer



against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed against the Zakat, Tax and Customs Authority:

First: the decision of the defendant/Zakat, Tax and Customs Authority against the plaintiff is overturned/ (.....) (.....) Related to the debtors' receivables clause in the lawsuit.

Second: defendant/Zakat, Tax and Customs Authority's action against the plaintiff/ (.....) (....) Related to the subject spare parts clause, as explained in the reasons.

Third: plaintiff's other objections are dismissed/(.....) (.....) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

This decision was not acceptable to the appellant (Zakat, Tax and Customs Authority) she submitted a list of appeals, which included the following:

As the Authority disagrees with the decision of the Appeals Circuit, it claims that with regard to the clause (not allowing the deduction of debtors), it did not deduct the clause according to the Taxpayer's declaration of (845,080,757) riyals from the Zakat base, as it did not appear among the base's determinants in the Zakat Collection Regulation, 757 riyals from the elements of the Zakat base, as they are not included in the Zakat base in the Zakat Collection Regulation and there is no stipulation that the said clause must be deducted, and after study it was found that these debts are to government agencies, but the Taxpayer did not provide any of the supporting documents indicating that they are to government agencies (Ministry of Finance), and the Authority confirms its commitment to not accepting the deduction of these debts the Authority's action was upheld by Appeal Decision No. (1066) of 1432 AH and Decision No. (1769) of 1438 AH, while the Circuit issuing the decision under appeal accepted this clause on the grounds that zakat is not deducted from the base in accordance with Article (4) Clause (II) of the Executive Regulations for the Collection of Zakat, as it is a debt that is expected to be paid this clause is justified on the grounds that Zakat is not obligatory on the creditor in his money owed to government agencies, which he is unable to collect due to a delay by the government agencies and not as a result of negligence or non-compliance with the standard and requirements specified by the government agency, according to Sharia Fatwa No. (23408) dated 18/11/1426 AH, while the Authority emphasizes that the executive regulations, which came issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, replaces all previous decisions, instructions and circulars related to the collection of Zakat, and the clause is not one of the clauses that must be deducted according to paragraph (2) of Article (4) of this regulation, therefore, the Authority requests the reversal of the decision of the Circuit of Determination of the clauses under appeal for the above reasons.

On Monday, 10/10/2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated



21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, and as it relates to the Authority's appeal regarding the clause (not allowing the deduction of debtors), and where its appeal is that it did not deduct the clause in accordance with the Taxpayer's declaration of (845,080,757) riyals from the elements of the Zakat base,) from the Zakat base, as they are not included in the Zakat collection regulations and there is no stipulation that the said clause must be deducted, and after study, it was found that these debts are to government agencies, but the Taxpayer did not provide any of the supporting documents indicating that they are to government agencies (Ministry of Finance), and the Authority confirms its commitment to not accept the deduction for these civilians as they are not clauses that are deducted from the base. Whereas Fatwa No. 23408 (18/11/1426 AH) issued by the Permanent Committee for Scientific Research and Fatwa on debts owed by government agencies to "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is consolation, it is not obligatory on a person who cannot receive it and has nothing in his hand." Article 20, paragraph 3 of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. 2082 dated 1/6/1438 AH also stipulates: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, it is clear from the above legal opinion that Zakat is not obligatory on the creditor in his money owed to government agencies that he is unable to collect due to a delay by the government agencies and not as a result of his failure to comply with the standard and requirements specified by the government agency. Upon reviewing the case file, it is clear that the Authority argues that the clause is not an element of deduction from the Zakat base, and the regulation does not provide for



authorizing its deduction, and the Circuit did not take into consideration that in order to deduct debts with government agencies it is required to provide proof of inability to collect the amount from them.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from its submitter/ Zakat, Tax and Customs Authority, against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam with the number (IFR-2022-2133) issued in case number (Z-2021-71146) related to the zakat assessment for the year 2015AD.

Secondly: On the merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not allowing debtors' discount), in accordance with the reasons and rationale provided in this decision.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171013

Case No. Z-2023-171013

Keywords:

Zakat - Deductions from the Zakat Base - Disallowing Deduction of Long-Term Holdings - Partial Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit of Income Tax Violations and Disputes in Dammam (IZD-2022-2562), where his appeal lies on the clause (disallowing the deduction of amounts due from affiliates) that the amounts he claims to deduct are amounts due from affiliates that are 100% owned by the company from the Zakat base, and on the clause (disallowing the deduction of foreign investments for 2015 AD) that the financial statements of the foreign invested companies were submitted (Disallowing the deduction of the long-term reserves clause for 2015 AD), the basis of the long-term reserves in dispute represents amounts that were withheld by a contracted company until the completion of the contracted works and the entire contract revenue was subjected to Zakat. The Appellate Committee found that the amounts owed in dispute and for which a court judgment has been issued are not subject to Zakat until the Taxpayer receives them, as the reason for the delay in the payment of the receivables is due to reasons beyond the Taxpayer's control and is not the result of his negligence or non-compliance. This means accepting the Taxpayer's appeal on the foreign investment clause and partially accepting the other two clauses.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:

The appeal was heard on: 22/01/2023 AD, from (...), National ID No. (...), as the statutory representative of the appellant company under the commercial registry, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2562) issued in Case No. (Z-2021-78138) related to the 2015 Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

1. dismissed the plaintiff's objection with respect to the 2015 AD Zakat issue without reasoning.
2. rejected the plaintiff's objection regarding the clause disallowing the deduction of offshore investments.
3. dismissed the plaintiff's objection with respect to the non-deduction of amounts due from affiliates.
4. rejected the plaintiff's objection with respect to the non-discounting clause for long-term reserves.

This decision was not acceptable to the Taxpayer (...). The Taxpayer's appeal lies in the clause (not allowing the deduction of the foreign investment clause for 2015 AD). The Taxpayer explained that there is a clear contradiction in the Circuit's decision regarding this clause, as the Circuit stated that the required condition for the deduction of foreign investment is to submit the financial statements of the invested companies audited by a certified public accountant in the country of investment to the Authority in order to calculate the zakat due on these investments. It also stated that the company has submitted these audited financial statements from a certified public accountant in the country of investment is (...) However, the Circuit issued its decision rejecting the company's objection and deciding not to deduct investments outside the Kingdom despite the company's compliance with the required condition for deducting these investments from the Zakat base, which is to submit the financial statements of the investee company audited by a certified public accountant in the country of investment, and the Circuit has supported many decisions in similar cases the Taxpayer's viewpoint in deducting foreign investments in which the financial statements of the investee company audited by a certified public accountant in the country of investment from the Zakat base, For example, your honorable committee's decision No. (IAR -2020-114) states that long-term foreign investments should not be deducted from the zakat fund in the amount of (21,902,406) riyals. Whereas, after considering the appeal filed by the company in charge of that clause and the opinion of the Authority in its initial decision, which ruled on the Authority's approach to those foreign investments, which consisted in not deducting these investments from its zakat base, and where the Taxpayer provided the Authority with the financial statements of the companies invested abroad, and where the instructions for assessment foreign investments came to subject them to zakat when they are not zakatized in the country of investment, and where the Authority has the documents that enable it to calculate zakat on these foreign investments, thus concluding that the Taxpayer is entitled to pay zakat for these foreign investments. Accordingly, the Authority shall calculate Zakat from these lists and include in the assessment the Taxpayer's share of Zakat from these companies but not from others, whether it is an investment in debt instruments, shares or shares



in companies for which audited financial statements have not been submitted. This does not detract from the Authority's defense to respond to the Taxpayer company's appeal by stating that the appellant company did not submit the documents proving what it claims at the time, and that this constitutes negligence on its part, and that the negligent is the first to lose, because the purpose aimed by the drafter of the Law is to determine the rules for collecting Zakat and organizing it the aim of the drafter of the system in determining the rules for collecting and regulating zakat will be confirmed by assessment the Taxpayer when it submits to the Authority the documents and financial statements of its investments abroad, which must be subjected to zakat by the Authority upon submission by the Taxpayer, and that this matter will be realized with the Authority exercising its right to collect zakat as required by the laws, decisions and instructions regulating how to collect zakat on foreign investments, as stated in the reasoning of the Circuit's decision No. (IAR - 2020-117) the clause of not deducting foreign investments from the zakat base for the year 2012 AD in the amount of (19,974,343 riyals); Whereas, after the Circuit considered the appeal submitted by the Taxpayer company regarding this clause, and the position of the Authority through the initial decision that ruled on the treatment adopted by the Authority regarding these foreign investments, which consisted of not deducting these investments from its zakat base, and where the Taxpayer provided the Authority with the financial statements of the companies invested abroad, and where the instructions on assessment foreign investments subject them to zakat when they are not visited in the country of investment, and where the Authority has the documents that enable it to calculate zakat on the Taxpayer regarding these foreign investments; and accordingly, the Authority will calculate Zakat from these lists and include in the assessment the Taxpayer's share of the Zakat of these companies without any other investment, whether in debt instruments, shares or shares in companies for which no audited financial statements have been submitted.

Regarding the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015 AD", the Taxpayer explained that the grounds of the decision are related to adding the credit balances that have passed the zakat threshold, while the company's objection is related to deducting amounts due from affiliates owned by the company (100%) from the zakat threshold, and therefore these grounds are not related to the subject of the company's objection. The reasons for the Circuit's decision were based on Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH, which is the article related to additions to the Zakat base, while the company's objection is to amounts deducted from the Zakat base, and the article related to deductions is Article (5) of the regulation. Accordingly, it is clear that the Circuit's decision was based on an incorrect basis, and therefore, it must be canceled and considered as if it were not, and the company emphasizes that in its additional memorandum it provided a statement of the amounts due from Saudi companies wholly owned by the plaintiff company, and since the said amounts are due from Saudi companies wholly owned by the plaintiff company and submit their Zakat declarations to the Authority, they must be deducted from the company's Zakat base in order to avoid flexing in Zakat. In many decisions, the objection and appeal



committees have supported the Taxpayers' view that loans and financing granted to subsidiaries that are subject to zakat should be deducted in order to avoid Deductions from the Zakat Base. For example, in the reasoning of your esteemed circuit's decision No. (IR -2021- 20), which was guided by the company's additional memorandum, it is stated As for the Taxpayer's appeal regarding the clause of loans to affiliates, it turns out that the subject of the appeal lies in the fact that the Taxpayer disagrees with the decision of the Trial Committee supported by the Authority not to approve the deduction of loans granted to affiliates because they are subject to Zakat in affiliated companies and therefore must be deducted to avoid Zakat, while the Authority believes that its addition of these loans is an application of the fatwas that emphasized the addition of loans to the Zakat base, the company's benefit from them whether a lunar year has passed over them or they were used in financing non-current assets in application of the Sharia fatwa (22665), and whereas it became clear to the Committee that the amounts in dispute represent loans to related parties and are not an addition to the amounts invested in , and where the Circuit found that these entities are subject to Zakat and submit their declarations to the Authority, and based on the investment relationship between the Taxpayer and these affiliated entities, the Circuit determined that the loans provided to these entities require special Zakat treatment in order to avoid bending Zakat, as part of the loans (according to the investment percentage) therefore, the appellant (the lender) is entitled to deduct a portion of the loans provided to affiliated entities from his Zakat base equal to his investment percentage in those entities to which he provided the loan. This does not affect the Authority's argument in its reply memorandum, as the basis of its defense was on the loans received from affiliated entities, which is therefore, the Circuit decided to amend the decision by deciding that the Taxpayer is entitled to deduct the loans to affiliated entities equal to his percentage of ownership in them from his Zakat base, and the above decision is fully applicable to the case of the amounts in dispute that the company claims to deduct from the Zakat base. In addition, the Appeals Circuit did not require proof that the amounts provided to the subsidiaries are subject to Zakat in the subsidiaries in light of the fact that these companies are registered with the Authority and submit their declarations to the Authority, and the company asserts that the Authority did not require the company to provide it with a detailed movement of the clause of amounts due from affiliates, but refused to deduct the clause in principle on the pretext that the Executive Regulations on Zakat collection did not provide for its deduction, and the Appeals Circuit did not require the company to provide it with this detailed movement to accept the company's objection.

Regarding the Taxpayer's appeal regarding the clause (disallowing the deduction of long-term reserves for the year 2015 AD), the Taxpayer explained that the grounds of the decision are related to the addition of credit balances that have passed the zakat threshold, while the company's objection is related to the deduction of long-term receivables from the zakat threshold, and therefore these grounds are not related to the subject of the company's objection. The reasons for the Circuit's decision were based on Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH, which is the article related to additions to the Zakat base, while the company's objection



is to amounts deducted from the Zakat base, and the article that relates to deductions is Article (5) of the regulation. The company asserts that the long-term holdings at issue represent amounts withheld by the ... Until the completion of the contracted works. The entire revenue of the said contract was subjected to Sharia Zakat while the company did not receive the entire revenue as the company deducted a percentage of the contract as a guarantee for the proper execution of the project. The above contracted company did not pay these reserves, which led the plaintiff company to file a lawsuit before the Commercial Court in Jeddah in 2017 AD to collect the remaining balance due from these reserves amounting to (21,994,888) SAR. The Commercial Court in Jeddah ruled in favor of the plaintiff company and ordered the company to ... By paying the above-mentioned amount. As can be seen, the long-term receivables in dispute are not in the possession or control of the company, and its hand is tied to them, which prevents it from benefiting from them, and therefore the condition of full ownership is absent, which removes them from the funds on which Zakat is due. The Circuit issuing the decision under appeal has itself issued decisions supporting the Taxpayers' objection to deducting the receivables from the Zakat base. For example, it is stated in the reasons for the decision of the Dispute Resolution Circuit No. (IZD -2020-10) "Regarding the balances of the contracts receivable and receivables payable upon collection of the balances of contracts owed and receivables due from (...) Company (Zakat Company) and the claim of the plaintiff to deduct the amounts withheld by (...).(…), and the plaintiff's claim to deduct the amounts withheld by the company (....) due to the fact that the amounts claimed by the plaintiff are in the hands of a full and non-delinquent person, namely the company (...), but the plaintiff is unable to receive them, meaning that the reason for not receiving these amounts was not the plaintiff but the company (...), which means that these amounts were not in the plaintiff's hands and were not under her control, and the plaintiff's hands are tied regarding these amounts, which prevents him from benefiting from them, the Circuit decided to accept the plaintiff's objection by discounting the outstanding contract balances and reserves that Company owes. Saudi Arabia from his Zakat bowl for the years 2005 AD through 2012 AD." the Circuit also upheld the Taxpayer's appeal regarding the resolution of receivables that were not in the Taxpayer's possession and control. For example, the reasons for the Circuit's decision No. IR -2020-9) "Whereas, after hearing the statements of the parties to the case and reviewing the letters exchanged between the appellant (the creditor) and the General Authority of Civil Aviation (the debtor), it is clear that the company's debt to the third party, the General Authority of Civil Aviation, is a debt that cannot be collected, and therefore the reason for not receiving these amounts is not due to the Taxpayer's will, but was due to a reason attributable to the debtor, the Civil Aviation Authority, and since the amount of the debt was not in the possession of the Taxpayer, nor was it under his control, which results in its improper inclusion in the zakat base for the Taxpayer's company. This does not affect the claim of the General Authority for Zakat and Income (GAZT) that this debt is owed to a government entity that is full of money, as the consideration is the ability of the creditor to receive the amount of the debt after the debtor's claim, which was impossible to obtain for a reason not related to the Taxpayer's company. Therefore, the Circuit concluded to determine the impact of the appellant's defenses



on the result reached by the contested decision, which entails ruling to exclude the debtors of trade receivables from the Taxpayer's zakat base for the year 2011 AD, and not supporting the authority in its dealing with this clause by including it in the tax base of the Taxpayer's Taxpayer company." as for what was stated in the rulings of the Adjudication Circuit that the company did not provide the movement made on the end-of-term balance, we state that the Authority did not ask the company to provide it with a detailed movement of the long-term receivables clause, but rather refused to deduct the clause in principle on the grounds that the Zakat Collection Executive Regulations did not provide for its deduction. Therefore, the Taxpayer requests that his appeal be accepted and that the decision of the Dispute Resolution Circuit regarding the clauses under appeal be overturned.

On Sunday, 17/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated:21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

As for the Taxpayer's appeal regarding the clause (disallowing the deduction of the foreign investment clause for 2015 AD), the Taxpayer's appeal lies in the appeal against the dismissal of his objection regarding the disputed clause, as he claims that there is a contradiction in the Circuit's decision, as the Circuit stated that the required condition for deducting the foreign investment is to submit the financial statements of the investee companies audited by a certified public accountant, and the company provided this. Based on Ministerial Decision No. (1005) dated 28/04/1428 A.H: Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof of payment of zakat in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies, if they do not provide the above mentioned, these investments shall not be deducted from his zakat base." based on the above, and based



on the provisions of Ministerial Decision No. (1005) referred to above, the Taxpayer is entitled to deduct the foreign investment from his Zakat base, provided that he complies with the provisions of the decision, namely that he submits to the Authority audited accounts from a certified public accountant in the country of investment in order to calculate the Zakat due on these investments and deliver them to the Authority, or provide proof of payment of Zakat thereon in the country of investment if he does not provide what was referred to, these investments will not be deducted from his Zakat base, and by reviewing the case file, it became clear that the Taxpayer submitted the financial statements of the invested company, audited by a certified public accountant in the country of investment, and provided a copy of these lists in Arabic, the Taxpayer emphasized that he has no objection to paying the zakat that the authority will calculate on the investment, which led the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015 AD", the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the amounts he claims to deduct are amounts due from affiliates that are 100% owned by the company from the Zakat base. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed the hawl." Based on Article (4) clause (II) paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438H, which stipulates that: "The following shall be deducted from the zakat base:" 4 (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on Article 20(3), which states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, loans provided to subsidiaries that submit their returns to the Authority require special zakat treatment to avoid the discouragement of zakat, as part of them (according to the percentage of investment) does not represent lending to another party, and therefore the Taxpayer (the lender) is entitled to deduct part of the loans provided to subsidiaries from his zakat base in an amount equal to his investment percentage in the subsidiary company to which he provided the loan, and with reference to the case file and what it contains, it is clear that the Taxpayer claims



to deduct the amounts due from 100%-owned Saudi companies, which are the following companies (.....) , ... , ... , ...). It turned out that the Authority refused to discount considering that the transactions with the related parties are expenses paid on behalf of the company and part of a financing activity, as the expenses paid on behalf were rejected as commercial transactions and not loans subject to Zakat in subsidiaries, therefore, upon reviewing the audited financial statements, it became clear that the transactions were classified as financing activities and expenses paid on behalf of the company, which leads to the correctness of the Authority's action in refusing to deduct the expenses paid on behalf of the company as commercial transactions, as for the financing activities, we believe that the Taxpayer is entitled to deduct them, as the loans provided to subsidiaries that submit their returns to the Authority require special zakat treatment to avoid discouraging zakat, as part of them (according to the investment percentage) does not represent lending to another party, and the Authority's argument that the Taxpayer did not prove that they are subject to the subsidiaries, as the subsidiaries are all Saudi companies and submit their returns to the Authority, and the Taxpayer provided the unique numbers of all subsidiaries, which leads the Circuit to partially accept the appeal and amend the decision of the Adjudication Circuit regarding this clause.

With respect to the Taxpayer's appeal regarding the "Disallowance of the 2015 AD Long-Term Reserves" clause, the Taxpayer's appeal is to appeal the Adjudication Circuit's rejection of his objection regarding the disputed clause, as he claims that the basis for the disputed long-term reserves represents amounts previously withheld by (.....) Until the completion of the contracted works, all revenues from the contract are subject to zakat. Based on the above, Zakat is not obligatory on the creditor in his due funds that he is unable to collect due to delays from customers and not as a result of his failure to comply with the standards and requirements specified by the authority, and with reference to the case file and what it contained, it was found through the financial statements that there are reserves in the amount of (29,779,160) Riyals, it turned out that the Taxpayer stated that he filed a lawsuit against the contracted company due to its failure to pay the amounts due, which amounted to (21,994,888) riyals, and by reviewing the documents, it became clear that the Taxpayer submitted a decision issued by the Commercial Court in Jeddah on 03/07/1439 AH obligating the contracted company "....." payment of SAR 21,994,888 to the Taxpayer therefore, we believe that the amounts owed to the Taxpayer in dispute and for which a court judgment has been issued are not subject to Zakat until the Taxpayer receives them, as the reason for the delay in the payment of the receivables is due to reasons beyond the Taxpayer's control and not as a result of his failure or non-compliance, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "Issuing the Zakat assessment for the year 2015 AD without reasoning", wherein the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did



not find any objections to the decision that merit a response beyond what is contained in these reasons, and wherein it is established that the decision under appeal regarding the disputed clauses as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., commercial registration (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2562) issued in case number (Z-2021-78138) related to the zakat assessment for the year 2015 AD.

Secondly: On the merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (issuing the Zakat assessment for the year 2015 AD without reasoning).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not allowing the deduction of the foreign investments clause for the year 2015 AD).
- 3- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not deducting amounts due from affiliates for the year 2015 AD).
- 4- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not allowing the deduction of the long-term reserves clause for 2015 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-179439

Case No. Z-2023-179439

Keywords:

Zakat - Deductions from the Zakat Base - Denial of Deduction for Subsidized Loan to a Subsidiary - Taxpayer's Appeal Accepted - accepting the Authority's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022- 93030), where the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary) is that it did not deduct the backing loan as the clause is a non-deductible clause, and on the clause (Refusal to deduct prepaid expenses) is that the Authority objects to the deduction of prepaid expenses shown in the financial statements under current assets as non-deductible expenses, and the Taxpayer's appeal lies on the clause (Refusal of VAT expense) as the company is not registered for VAT purposes. The Appellate Committee found that the company is not registered for VAT purposes, and that the correct treatment of loans according to the Zakat Regulation for 1440 A.H. is not to deduct the loans, as each company has an independent legal personality, and with regard to the clause (rejecting the deduction of the prepaid expenses), the prepaid expenses are classified as current assets and are operating expenses (office rent, insurance) with regard to the clause (Refusal to deduct prepaid expenses), the prepaid expenses are classified as current assets and are operating expenses (office rent, insurance, subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base. This means accepting the Taxpayer's appeal, accepting the Authority's appeal, and partially accepting the Authority's appeal with regard to the clause (refusal to deduct the subsidized loan granted to a subsidiary).

Document:

- Paragraph (3) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



- Paragraph (4) Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Article (18) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (1) of Article (8) of [The executive Regulations for Zakat Collection issued by Decision No. \(2216\) of the Minister of Finance dated 07/07/1440 AH.](#)

Facts:



The appeal filed on 21/02/2023 AD by (...), Civil Registry No. (...), as an agent under agency No. (...), and under law license No. (...), was considered.), and the appeal filed on 26/02/2023, from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-93030) issued in Case No. (Z-2022-93030) related to Zakat taxes for the years 2019 AD and 2020 AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: accepting the lawsuit filed by the plaintiff /, Commercial Registration No. (...), against the defendant / Zakat, Tax and Customs Authority, procedurally.

Secondly: On the merits:

- 1- Dismissing the lawsuit with regard to the VAT expense clause charged to the accounts for the years 2019 AD and 2020 AD.
- 2- Dismissing the case with regard to the clause of consulting fees for the years 2019 AD and 2020 AD.
3. Annulment of the defendant's action with respect to the donation expense clause (...) For 2020 AD, according to the reasons.
- 4- Amending the defendant's action with regard to the subsidized loan granted to a subsidiary for the year 2019 AD, by deducting the long-term loan provided to the subsidiary equal to the percentage of the plaintiff's ownership in it from the Zakat base, as stated in the reasons.
- 5- Revoke the Defendant's action with respect to the prepaid expenses clause for the years 2019 AD and 2020 AD, as stated in the reasons.
- 6- Dismissing the lawsuit regarding the clause of loans for employees for the years 2019 AD and 2020 AD.
- 7- Dismissal of the claim regarding the cash versus bank guarantee for the years 2019 AD and 2020 AD.

This decision was not acceptable to the Taxpayer (...). The Taxpayer's appeal is based on the clause "Rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD." The Taxpayer



explains that the representative of the Authority during the hearing before the adjudication committee indicated that the Authority obtained a certificate proving the company's VAT registration, but the certificate provided by the Authority is not applicable to the company and has no value whatsoever the VAT registration certificate provided by the Authority was issued automatically from Revenue's automated system without the company applying for VAT registration, in addition to the lack of applicability of the conditions and requirements for registration for VAT purposes, as its revenues, mainly represented by its share of investment in subsidiaries, are exempt from VAT, the company clarified this matter to the Authority immediately after the Authority registered it for VAT purposes and requested to cancel the VAT registration, which the representative of the Authority completely ignored and did not address it, and therefore the company provided a copy of the email sent by the Authority to the company dated October 29, 2019 AD, which confirms and proves that the company is not registered for VAT purposes, which is a conclusive document that includes confirmation to the Authority that the company is not registered for VAT purposes contrary to what the representative of the Authority claimed before the adjudication committee, which the adjudication committee ignored in its decision under this appeal, and the adjudication committee also

With regard to the clause (Non-deduction of the balance of loans to employees for 2019 AD and 2020 AD). The Taxpayer explains that the nature of these receivables are loans granted to the company's Saudi employees, which are non-interest-bearing loans to help them purchase housing units within the home ownership program and are secured by a mortgage on the purchased property. These loans are repayable in installments over a maximum period of (15) years, and the installments due within one year are classified under "Prepayments and other receivables" within current assets, such loans are amounts that the company was forced to lend to its employees in accordance with the reality of the requirements of the activity and the obligation of the company towards its employees, and therefore the funds are retained and unutilized and are not used in trade offers and have not yet reached the end of the year in the company's liabilities. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority) the Authority's appeal is based on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019 AD). The Authority explains that it did not deduct the backing loan in the amount of (339,291,000) riyals for the year 2019 AD, and the clause was not accepted in previous years, as it is one of the non-deductible clauses in accordance with the provisions of paragraph (4) of Article 5 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, the Circuit issuing the decision concluded to amend the Authority's procedure by deducting a portion of the loans and advances provided to the subsidiary company from the zakat base equal to the percentage of its investment (65%) in the subsidiary company to which it provided the loan, and with reference to the financial statements of the investee company."....." it turns out that the clause is classified as non-current liabilities, and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment, accordingly, the loan granted cannot be considered as an investment to be deducted, as it is financing for a



commercial purpose and an interest rate is charged on it; therefore, the loan granted to the investor company must be recommended, and it is not considered additional or supportive financing, and even if the Circuit issuing the decision considers it as additional financing and as an investment, the clause is not deductible according to the provisions of paragraph (4) of Article (5) of the executive regulations of the Zakat Collection Law issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, referred to above. With regard to the clause (Refusal to deduct prepaid expenses for the years 2019 AD and 2020 AD), the Authority explains that it did not accept the deduction of prepaid expenses from Zakat in the amount of (508,000) riyals and (726,000) riyals for the years 2019 AD and 2020 AD as a non-deductible clause, as the Taxpayer stated in his objection that these expenses relate to expenses for more than one fiscal year, they are considered deferred expenses and take the judgment of capital expenditures, and the Authority referred to the financial statements, which showed that the prepaid expenses appear in addition, these expenses represent operating expenses (medical insurance, office rent, subscriptions) and are not capitalized and do not fall under the provisions of paragraph (6) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, in this regard, the Authority responds that the Circuit's decision was incorrect; the Authority asserts that its procedure was correct as these expenses represent operating expenses (office rent, insurance expenses) and are not capital expenses that are deductible, noting that they are extracted from the trial balance provided by the Taxpayer, since these prepaid expenses are considered operating expenses, and since the accrual basis of accounting requires that prepaid expenses be recognized as an clause of current assets and then periodically amortized and charged to income with the amortization expense annually in accordance with the principle of offsetting expenses with income this means that this expense has been taken into account when calculating the Zakat base since net income is one of the components of the Zakat base; in light of this, the entire balance of deferred expenses cannot be deducted from the Zakat base, but the realized expense is deducted periodically; this confirms the incorrectness of the Circuit's ruling in accepting a deduction for these expenses. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Thursday, 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AD after reviewing the appeal request, the pleadings submitted, and the papers and documents contained in the case file, and at this session, the Circuit reviewed the request for postponement attached to the case file by the Authority. Accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024 AD, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024 AD, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the



documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

On Tuesday, 04/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 A.H.; and by calling the opponents, he attended National ID No. (....), as agent for the plaintiff by virtue of agency No. (....), and attended (National ID No.), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs (....) On 19/03/1445 A.H., the defendant's representative was asked about what she would like to add, and she stated that she adheres to what was previously submitted in this case. When the plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019 AD), and where the Authority's appeal lies in the fact that it did not deduct the backing loan, as the clause is one of the non-deductible clauses, and based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 3-"The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: government financing, commercial financing, creditors, payment notes, overdraft accounts, loans to owners or partners (including their current accounts)..."", and based on paragraph (4) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 H, which stipulates that: "Investments in an establishment inside the Kingdom for non-trading purposes, if that establishment is registered with the Authority and is subject to the collection of Zakat in accordance with the Regulations, and assets that are financially leased in the commercial books of the lessor are not considered an investment



that is deducted from the Zakat base, regardless of their classification in the financial statements, and neither are debit loans, supportive or additional financing and the like granted to the invested establishment considered an investment that is deducted from the Zakat base."Based on the above, and the Circuit's review of the documents attached to the case file, it is clear that the amount represents a support loan provided to the subsidiary company, and the dispute lies in the deduction of the support loan, as the Taxpayer demands its full deduction according to the financial statements of the company, as the subsidiary company has fully zakat these support loans provided by the parent company, but the Authority argues that the support loan should not be deducted as it is considered one of the non-deductible clauses and the clause is classified within non-current liabilities and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment and therefore not considered additional financing or a contribution.

With regard to the Authority's appeal on the clause (Refusal to deduct prepaid expenses for the years 2019 AD and 2020 AD), the Authority's appeal is that it did not accept the deduction of prepaid expenses from the Zakat base as a non-deductible clause, and based on Article (18) of the Executive Regulations for Zakat Collection issued by Decision No. (2216) dated 7/7/1440 AH, which stipulates that: "The burden of proving the validity of the clauses and any other data contained in the declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause that the Taxpayer does not prove to be valid or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it."Based on the above, the dispute between the parties lies in the Authority's objection to the deduction of prepaid expenses shown in the financial statements within current assets as non-deductible expenses, and that the expenses represent operating expenses consisting of medical insurance, office rent and subscriptions and not capital expenses, but the Taxpayer argues that they relate to more than one year and are therefore considered deferred expenses and take the rule of long-term capital expenses that may be deducted from the Zakat base, the Circuit's review of the Authority's appeal memorandum shows that the prepaid expenses are classified as current assets and are operational expenses (office rent, insurance, subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base, and since the Taxpayer did not provide evidence to the contrary, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause (rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies that the company is not registered for VAT purposes, and based on paragraph (1) of Article (8) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "The following expenses may be deducted to determine the net result of the activity: 1- Ordinary and necessary expenses necessary for the activity, provided that the following controls are met: a. The alimony must be



actual and supported by documents and evidence accepted by the Authority and verifiable, even if it relates to previous years. B. It must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer. C. Not be capitalist in nature. If an expense of a capital nature is included in the expenses, the result of the activity is adjusted, added to the fixed assets and amortized within the depreciation of the asset. " Whereas the dispute lies in the Taxpayer's objection to the rejection of the value-added tax expense charged to the accounts for the years 2019 AD and 2020 AD, and the Taxpayer argues that the certificate submitted by the Authority is not applicable to the company and has no value, as it was issued automatically from the automated system of the revenue system, and that the Authority registered the company for value-added tax and after communicating with the Authority to cancel the registration due to the non-applicability of registration conditions and requirements, the Authority canceled its registration, which is what the Authority confirmed through its email sent to the company on 29/10/2019 AD, which conclusively proves that the company is not registered for value-added tax purposes. The Taxpayer also attached a copy from the Zakat, Tax and Customs Authority system dated 30/01/2024 AD confirming the non-registration of the Taxpayer for value-added tax, the matter with which the Committee concludes by accepting the Taxpayer's appeal and canceling the Adjudication Committee's decision regarding this clause.

With regard to the Taxpayer's appeal on the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies in the fact that the funds are withheld and unutilized and are not used in trade offers and have not reached the due date in the company's possession, and based on paragraphs (e) and (f) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "Net fixed assets and their equivalents, including, but not limited to, the following: e. Employee housing owned by the Taxpayer. F. Housing loans paid to employees through employee housing support programs, if their contracts include a statement that the financing was through a good loan or a forward sale without the company accruing any financial profits or fees in excess of the original financing amount." based on the above, it is permissible to deduct housing loans paid to employees through employee housing support programs classified as fixed assets from the Zakat base, provided that these loans do not include fees in excess of the financing amount, with reference to the financial statements for the year 2019 AD (Note 9), it is clear that the loans represent non-interest-bearing housing loans and are secured by a mortgage on the properties purchased under the employee housing ownership program. Therefore, since the Zakat Regulation stipulates that housing loans paid to employees through employee housing support programs may be deducted, the Circuit concludes to accept the Taxpayer's appeal and cancel the decision of the Circuit of Determination regarding this clause.

With regard to the Taxpayer's and the Authority's appeal the Circuit has no fault in adopting the reasons for the contested decision without adding to them when it determines that these reasons do not contain



anything new, because in upholding them, it is clear that the Circuit did not find any objections to the decision worthy of consideration

Whereas it is evident that the decision that is the subject of the appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute and reached the result it concluded in its operative part in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's and the Authority's appeal and uphold the decision of the Appeals Circuit with respect to the outcome of the remaining clauses, in accordance with its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter The Taxpayer/ (.....) Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the second division regarding violations and disputes of income tax in Riyadh with number (ISR-2022-93030) issued in case number (Z-2022-113851) related to zakat assessments for the years 2019 and 2020.

Secondly: On the Merits:

1-Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal with regard to the clause (rejecting the deduction of the subsidized loan granted to a subsidiary for 2019 AD).

2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause "Expenses for donations (...) For 2020 AD).

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (refusal to deduct the expenses paid in advance for the years 2019 AD and 2020 AD).

4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (rejection of the VAT expense charged to the accounts for 2019 AD and 2020 AD).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Consultancy fees for 2019 AD and 2020 AD).

6- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD).

7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting a cash insurance versus a bank guarantee for the years 2019 AD and 2020 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-179439

Case No. Z-2023-179439

Keywords:

Zakat - Deductions from the Zakat Base - Denial of Deduction for Prepaid Expenses - Acceptance of Taxpayer's Appeal - accepting the Authority's Appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) objected to the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh (ISR-2022-93030), where the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary) is that it did not deduct the backing loan as the clause is a non-deductible clause, and on the clause (Refusal to deduct prepaid expenses) is that the Authority objects to the deduction of prepaid expenses shown in the financial statements under current assets as non-deductible expenses, and the Taxpayer's appeal lies on the clause (Refusal of VAT expense) as the company is not registered for VAT purposes. The Appellate Committee found that the company is not registered for VAT purposes, and that the correct treatment of loans according to the Zakat Regulation for 1440 A.H. is not to deduct the loans, as each company has an independent legal personality, and with regard to the clause (rejecting the deduction of the prepaid expenses), the prepaid expenses are classified as current assets and are operating expenses (office rent, insurance) with regard to the clause (Refusal to deduct prepaid expenses), the prepaid expenses are classified as current assets and are operating expenses (office rent, insurance, subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base. This means accepting the Taxpayer's appeal, accepting the Authority's appeal, and partially accepting the Authority's appeal with regard to the clause (refusal to deduct the subsidized loan granted to a subsidiary).

Document:

- Paragraph (3) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)



- Paragraph (4) Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Article (18) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (1) of Article (8) of [The executive Regulations for Zakat Collection issued by Decision No. \(2216\) of the Minister of Finance dated 07/07/1440 AH.](#)

Facts:



The appeal filed on 21/02/2023 AD by (...), Civil Registry No. (...), as an agent under agency No. (...), and under law license No. (...), was considered.), and the appeal filed on 26/02/2023 AD, from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-93030) issued in Case No. (Z-2022-93030) related to Zakat taxes for the years 2019 AD and 2020 AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: accepting the lawsuit filed by the plaintiff /, Commercial Registration No. (...), against the defendant / Zakat, Tax and Customs Authority, procedurally.

Secondly: On the merits:

- 1- Dismissing the lawsuit with regard to the VAT expense clause charged to the accounts for the years 2019 AD and 2020 AD.
- 2- Dismissing the case with regard to the clause of consulting fees for the years 2019 AD and 2020 AD.
3. Annulment of the defendant's action with respect to the donation expense clause (...) For 2020 AD, according to the reasons.
- 4- Amending the defendant's action with regard to the subsidized loan granted to a subsidiary for the year 2019 AD, by deducting the long-term loan provided to the subsidiary equal to the percentage of the plaintiff's ownership in it from the Zakat base, as stated in the reasons.
- 5- Revoke the Defendant's action with respect to the prepaid expenses clause for the years 2019 AD and 2020 AD, as stated in the reasons.
- 6- Dismissing the lawsuit regarding the clause of loans for employees for the years 2019 AD and 2020 AD.
- 7- Dismissal of the claim regarding the cash versus bank guarantee for the years 2019 AD and 2020 AD.

This decision was not acceptable to the Taxpayer (...). The Taxpayer's appeal is based on the clause "Rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD." The Taxpayer



explains that the representative of the Authority during the hearing before the adjudication committee indicated that the Authority obtained a certificate proving the company's VAT registration, but the certificate provided by the Authority is not applicable to the company and has no value whatsoever the VAT registration certificate provided by the Authority was issued automatically from Revenue's automated system without the company applying for VAT registration, in addition to the lack of applicability of the conditions and requirements for registration for VAT purposes, as its revenues, mainly represented by its share of investment in subsidiaries, are exempt from VAT, the company clarified this matter to the Authority immediately after the Authority registered it for VAT purposes and requested to cancel the VAT registration, which the representative of the Authority completely ignored and did not address it, and therefore the company provided a copy of the email sent by the Authority to the company dated October 29, 2019, which confirms and proves that the company is not registered for VAT purposes, which is a conclusive document that includes confirmation to the Authority that the company is not registered for VAT purposes contrary to what the representative of the Authority claimed before the adjudication committee, which the adjudication committee ignored in its decision under this appeal, and the adjudication committee also with regard to the clause (Non-deduction of the balance of loans to employees for 2019 AD and 2020 AD). The Taxpayer explains that the nature of these receivables are loans granted to the company's Saudi employees, which are non-interest-bearing loans to help them purchase housing units within the home ownership program and are secured by a mortgage on the purchased property. These loans are repayable in installments over a maximum period of (15) years, and the installments due within one year are classified under "Prepayments and other receivables" within current assets, such loans are amounts that the company was forced to lend to its employees in accordance with the reality of the requirements of the activity and the obligation of the company towards its employees, and therefore the funds are retained and unutilized and are not used in trade offers and have not yet reached the end of the year in the company's liabilities. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority) the Authority's appeal is based on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019 AD). The Authority explains that it did not deduct the backing loan in the amount of (339,291,000) riyals for the year 2019 AD, and the clause was not accepted in previous years, as it is one of the non-deductible clauses in accordance with the provisions of paragraph (4) of Article 5 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2216 dated 7/7/1440 AH, the Circuit issuing the decision concluded to amend the Authority's procedure by deducting a portion of the loans and advances provided to the subsidiary company from the zakat base equal to the percentage of its investment (65%) in the subsidiary company to which it provided the loan, and with reference to the financial statements of the investee company."....." it turns out that the clause is classified as non-current liabilities, and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment, accordingly, the loan granted cannot be considered as an investment to be deducted, as it is financing for a commercial purpose



and an interest rate is charged on it; therefore, the loan granted to the investor company must be recommended, and it is not considered additional or supportive financing, and even if the Circuit issuing the decision considers it as additional financing and as an investment, the clause is not deductible according to the provisions of paragraph (4) of Article (5) of the executive regulations of the Zakat Collection Law issued by Ministerial Resolution No. 2216 dated 7/7/1440 H, referred to above. With regard to the clause (Refusal to deduct prepaid expenses for the years 2019 AD and 2020 AD), the Authority explains that it did not accept the deduction of prepaid expenses from Zakat in the amount of (508,000) riyals and (726,000) riyals for the years 2019 AD and 2020 AD as a non-deductible clause, as the Taxpayer stated in his objection that these expenses relate to expenses for more than one fiscal year, they are considered deferred expenses and take the judgment of capital expenditures, and the Authority referred to the financial statements, which showed that the prepaid expenses appear in addition, these expenses represent operating expenses (medical insurance, office rent, subscriptions) and are not capitalized and do not fall under the provisions of paragraph (6) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 7/7/1440 AH, in this regard, the Authority responds that the Circuit's decision was incorrect; the Authority asserts that its procedure was correct as these expenses represent operating expenses (office rent, insurance expenses) and are not capital expenses that are deductible, noting that they are extracted from the trial balance provided by the Taxpayer, since these prepaid expenses are considered operating expenses, and since the accrual basis of accounting requires that prepaid expenses be recognized as an clause of current assets and then periodically amortized and charged to income with the amortization expense annually in accordance with the principle of offsetting expenses with income this means that this expense has been taken into account when calculating the Zakat base since net income is one of the components of the Zakat base; in light of this, the entire balance of deferred expenses cannot be fully deducted from the Zakat base, but rather the realized expense is deducted periodically; this confirms the incorrectness of the Circuit's decision to accept a deduction for these expenses. She asks that her appeal be accepted and that the decision of the dismissal panel be reversed.

On Thursday, 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, and the papers and documents contained in the case file, and at this session, the Circuit reviewed the request for postponement attached to the case file by the Authority. Accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024 AD, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024 AD, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the



documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

On Tuesday, 04/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 A.H.; and by calling the opponents, he attended National ID No. (....), as agent for the plaintiff by virtue of agency No. (....), and attended (National ID No.), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs (.....) On 19/03/1445 AH, the defendant's representative was asked about what she would like to add, and she stated that she adheres to what was previously submitted in this case. When the plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. When the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019 AD), and where the Authority's appeal lies in the fact that it did not deduct the backing loan, as the clause is one of the non-deductible clauses, and based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: government financing, commercial financing, creditors, payment notes, overdraft accounts, loans to owners or partners (including their current accounts)..."", and based on paragraph (4) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that: "Investments in an establishment inside the Kingdom for non-trading purposes, if that establishment is registered with the Authority and is subject to the collection of Zakat in accordance with the Regulations, and assets that are financially leased in the commercial books of the lessor are not considered an investment



that is deducted from the Zakat base, regardless of their classification in the financial statements, and neither are debit loans, supportive or additional financing and the like granted to the invested establishment considered an investment that is deducted from the Zakat base. "Based on the above, and the Circuit's review of the documents attached to the case file, it is clear that the amount represents a support loan provided to the subsidiary company, and the dispute lies in the deduction of the support loan, as the Taxpayer demands its full deduction according to the financial statements of the company, as the subsidiary company has fully zakat these support loans provided by the parent company, However, the Authority argues against deducting the supporting loan as it is considered among the clauses not permissible for deduction, and it appears that the clause is classified within non-current liabilities and that the loan is commercial and carries financing interest in exchange for the granted loan and is not provided as an investment and therefore is not considered additional or supporting financing. Whereas the correct treatment of loans according to the Zakat Regulations of 1440 AH lies in not deducting loans since each company has an independent legal personality, the matter with which the Committee concludes by partially accepting the Authority's appeal and amending the Adjudication Committee's decision regarding this clause.

With regard to the Authority's appeal on the clause (Refusal to deduct prepaid expenses for the years 2019 AD and 2020 AD), the Authority's appeal is that it did not accept the deduction of prepaid expenses from the Zakat base as a non-deductible clause, and based on Article (18) of the Executive Regulations for Zakat Collection issued by Decision No. (2216) dated 7/7/1440 AH, which stipulates that: "The burden of proving the validity of the clauses and any other data contained in the declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause that the Taxpayer does not prove to be valid or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it."Based on the above, the dispute between the parties lies in the Authority's objection to the deduction of prepaid expenses shown in the financial statements within current assets as non-deductible expenses, and that the expenses represent operating expenses consisting of medical insurance, office rent and subscriptions and not capital expenses, but the Taxpayer argues that they relate to more than one year and are therefore considered deferred expenses and take the rule of long-term capital expenses that may be deducted from the Zakat base, the Circuit's review of the Authority's appeal memorandum shows that the prepaid expenses are classified as current assets and are operational expenses (office rent, insurance, subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base, and since the Taxpayer did not provide evidence to the contrary, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause (rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies that the company is not



registered for VAT purposes, and based on paragraph (1) of Article (8) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "The following expenses may be deducted to determine the net result of the activity: 1- Ordinary and necessary expenses necessary for the activity, provided that the following controls are met: a. The alimony must be actual and supported by documents and evidence accepted by the Authority and verifiable, even if it relates to previous years. B. It must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer. C. Not be capitalist in nature. If an expense of a capital nature is included in the expenses, the result of the activity is adjusted, added to the fixed assets and amortized within the depreciation of the asset. " Whereas the dispute lies in the Taxpayer's objection to the rejection of the value-added tax expense charged to the accounts for the years 2019 AD and 2020 AD, and the Taxpayer argues that the certificate submitted by the Authority is not applicable to the company and has no value, as it was issued automatically from the automated system of the revenue system, and that the Authority registered the company for value-added tax and after communicating with the Authority to cancel the registration due to the non-applicability of registration conditions and requirements, the Authority canceled its registration, which is what the Authority confirmed through its email sent to the company on 29/10/2019 AD, which conclusively proves that the company is not registered for value-added tax purposes. The Taxpayer also attached a copy from the Zakat, Tax and Customs Authority system dated 30/01/2024 AD confirming the non-registration of the Taxpayer for value-added tax, the matter with which the Committee concludes by accepting the Taxpayer's appeal and canceling the Adjudication Committee's decision regarding this clause.

With regard to the Taxpayer's appeal on the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies in the fact that the funds are withheld and unutilized and are not used in trade offers and have not reached the due date in the company's possession, and based on paragraphs (e) and (f) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "Net fixed assets and their equivalents, including, but not limited to, the following: e. Employee housing owned by the Taxpayer. F. Housing loans paid to employees through employee housing support programs, if their contracts include a statement that the financing was through a good loan or a forward sale without the company accruing any financial profits or fees in excess of the original financing amount." based on the above, it is permissible to deduct housing loans paid to employees through employee housing support programs classified as fixed assets from the Zakat base, provided that these loans do not include fees in excess of the financing amount, with reference to the financial statements for the year 2019 AD (Note 9), it is clear that the loans represent non-interest-bearing housing loans and are secured by a mortgage on the properties purchased under the employee housing ownership program. Therefore, since the Zakat Regulation stipulates that housing loans paid to employees through employee housing support programs



may be deducted, the Circuit concludes to accept the Taxpayer's appeal and cancel the decision of the Circuit of Determination regarding this clause.

With regard to the Taxpayer's and the Authority's appeal the Circuit has no fault in adopting the reasons for the contested decision without adding to them when it determines that these reasons do not contain anything new, because in upholding them, it is clear that the Circuit did not find any objections to the decision worthy of consideration

Whereas it is evident that the decision that is the subject of the appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute and reached the result it concluded in its operative part in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's and the Authority's appeal and uphold the decision of the Appeals Circuit with respect to the outcome of the remaining clauses, in accordance with its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter The Taxpayer/ (.....) Commercial Register No. (...), distinctive number (...), and the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for adjudicating income tax violations and disputes in Riyadh, No (ISR-2022-93030) issued in Case No. (Z-2022-93030) related to zakat fees for the years 2019 AD and 2020 AD.

Secondly: On the Merits:

- 1- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal with regard to the clause (rejecting the deduction of the subsidized loan granted to a subsidiary for 2019 AF).
- 2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause "Expenses for donations (...) For 2020 AD).
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (refusal to deduct the expenses paid in advance for the years 2019 AD and 2020 AD).
- 4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (rejection of the VAT expense charged to the accounts for 2019 AD and 2020 AD).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Consultancy fees for 2019 AD and 2020 AD).
- 6- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD).



7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting a cash insurance versus a bank guarantee for the years 2019 AD and 2020 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171013

Case No. Z-2023-171013

Keywords:

Zakat - Deductions from the Zakat base - Disallowing deductions for foreign investments - Accepting the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the First Circuit of Income Tax Violations and Disputes in Dammam (IZD-2022-2562), where his appeal lies on the clause (not deducting amounts due from affiliates) that the amounts he claims to deduct are amounts due from affiliates that are 100% owned by the company from the Zakat base, and on the clause (not allowing the deduction of the long-term reserves clause for 2015 AD) that the basis of the long-term reserves in dispute represents amounts the basis of the disputed long-term retentions represents amounts withheld by a contracted company until the completion of the contracted works and the entire revenue of the contract was subjected to Zakat; (Disallowance of the foreign investments clause for the year 2015 AD) The financial statements of the foreign invested companies have been submitted by a certified public accountant in the country of investment. The Appellate Committee found that the Taxpayer submitted the financial statements of the investee company, which were audited by a chartered accountant in the country of investment. This means accepting the Taxpayer's appeal on the foreign investment clause, and partially accepting the other two clauses.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 22/01/2023 AD, from (...), National ID No. (...), as the statutory representative of the appellant company under the commercial registry, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2562) issued in Case No. (Z-2021-78138) related to the 2015 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1.dismissed the plaintiff's objection with respect to the 2015 AD Zakat issue without reasoning.
- 2.rejected the plaintiff's objection regarding the clause disallowing the deduction of offshore investments.
- 3.dismissed the plaintiff's objection with respect to the non-deduction of amounts due from affiliates.
- 4.rejected the plaintiff's objection with respect to the non-discounting clause for long-term reserves.

This decision was not acceptable to the Taxpayer (...). The Taxpayer's appeal lies in the clause (not allowing the deduction of the foreign investment clause for 2015 AD). The Taxpayer explained that there is a clear contradiction in the Circuit's decision regarding this clause, as the Circuit stated that the required condition for the deduction of foreign investment is to submit the financial statements of the invested companies audited by a certified public accountant in the country of investment to the Authority in order to calculate the zakat due on these investments. It also stated that the company has submitted these audited financial statements from a certified public accountant in the country of investment is (...) However, the Circuit issued its decision rejecting the company's objection and deciding not to deduct investments outside the Kingdom despite the company's compliance with the required condition for deducting these investments from the Zakat base, which is to submit the financial statements of the investee company audited by a certified public accountant in the country of investment, and the Circuit has supported many decisions in similar cases the Taxpayer's viewpoint in deducting foreign investments in which the financial statements of the investee company audited by a certified public accountant in the country of investment from the Zakat base, For example, your honorable committee's decision No. (IAR-2020-114) states that long-term foreign investments should not be deducted from the zakat fund in the amount of (21,902,406) riyals. Whereas, after considering the appeal filed by the company in charge of that clause and the opinion of the Authority in its initial decision, which ruled on the Authority's approach to those foreign investments, which consisted in not deducting these investments from its zakat base, and where the Taxpayer provided the Authority with the financial statements of the companies invested abroad, and where the instructions for assessment foreign investments came to subject them to zakat when they are not zakatized in the country of investment, and where the Authority has the documents that enable it to calculate zakat on these foreign investments, thus concluding that the Taxpayer is entitled to pay zakat for these foreign investments. Accordingly, the Authority shall calculate Zakat from these lists and include in the assessment the Taxpayer's share of Zakat from these companies but not from others, whether it is an investment in debt instruments, shares or shares



in companies for which audited financial statements have not been submitted. This does not detract from the Authority's defense to respond to the Taxpayer company's appeal by stating that the appellant company did not submit the documents proving what it claims at the time, and that this constitutes negligence on its part, and that the negligent is the first to lose, because the purpose aimed by the drafter of the Law is to determine the rules for collecting Zakat and organizing it the aim of the drafter of the law in determining the rules for collecting and regulating zakat will be confirmed by assessment the Taxpayer when it submits to the Authority the documents and financial statements of its investments abroad, which must be subjected to zakat by the Authority upon submission by the Taxpayer, and that this matter will be realized with the Authority exercising its right to collect zakat as required by the laws, decisions and instructions regulating how to collect zakat on foreign investments, as stated in the reasoning of the Circuit's decision No. (IAR - 2020-117) the clause of not deducting foreign investments from the zakat base for the year 2012 in the amount of (19,974,343 riyals); Whereas, after the Circuit considered the appeal submitted by the Taxpayer company regarding this clause, and the position of the Authority through the initial decision that ruled on the treatment adopted by the Authority regarding these foreign investments, which consisted of not deducting these investments from its zakat base, and where the Taxpayer provided the Authority with the financial statements of the companies invested abroad, and where the instructions on assessment foreign investments subject them to zakat when they are not visited in the country of investment, and where the Authority has the documents that enable it to calculate zakat on the Taxpayer regarding these foreign investments; and accordingly, the Authority will calculate Zakat from these lists and include in the assessment the Taxpayer's share of the Zakat of these companies without any other investment, whether in debt instruments, shares or shares in companies for which no audited financial statements have been submitted.

Regarding the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015 AD", the Taxpayer explained that the grounds of the decision are related to adding the credit balances that have passed the zakat threshold, while the company's objection is related to deducting amounts due from affiliates owned by the company (100%) from the zakat threshold, and therefore these grounds are not related to the subject of the company's objection. The reasons for the Circuit's decision were based on Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH, which is the article related to additions to the Zakat base, while the company's objection is to amounts deducted from the Zakat base, and the article related to deductions is Article (5) of the regulation. Accordingly, it is clear that the Circuit's decision was based on an incorrect basis, and therefore, it must be canceled and considered as if it were not, and the company emphasizes that in its additional memorandum it provided a statement of the amounts due from Saudi companies wholly owned by the plaintiff company, and since the said amounts are due from Saudi companies wholly owned by the plaintiff company and submit their Zakat declarations to the Authority, they must be deducted from the company's Zakat base in order to avoid flexing in Zakat. In many decisions, the objection and appeal



committees have supported the Taxpayers' view that loans and financing granted to subsidiaries that are subject to zakat should be deducted in order to avoid Deductions from the Zakat Base. For example, in the reasoning of your esteemed circuit's decision No. (IR-2021-20), which was guided by the company's additional memorandum, it is stated As for the Taxpayer's appeal regarding the clause of loans to affiliates, it turns out that the subject of the appeal lies in the fact that the Taxpayer disagrees with the decision of the Trial Committee supported by the Authority not to approve the deduction of loans granted to affiliates because they are subject to Zakat in affiliated companies and therefore must be deducted to avoid Zakat, while the Authority believes that its addition of these loans is an application of the fatwas that emphasized the addition of loans to the Zakat base, the company's benefit from them whether a lunar year has passed over them or they were used in financing non-current assets in application of the Sharia fatwa (22665), and whereas it became clear to the Committee that the amounts in dispute represent loans to related parties and are not an addition to the amounts invested in,, and where the Circuit found that these entities are subject to Zakat and submit their declarations to the Authority, and based on the investment relationship between the Taxpayer and these affiliated entities, the Circuit determined that the loans provided to these entities require special Zakat treatment in order to avoid bending Zakat, as part of the loans (according to the investment percentage) therefore, the appellant (the lender) is entitled to deduct a portion of the loans provided to affiliated entities from his Zakat base equal to his investment percentage in those entities to which he provided the loan. This does not affect the Authority's argument in its reply memorandum, as the basis of its defense was on the loans received from affiliated entities, which is therefore, the Circuit decided to amend the decision by deciding that the Taxpayer is entitled to deduct the loans to affiliated entities equal to his percentage of ownership in them from his Zakat base, and the above decision is fully applicable to the case of the amounts in dispute that the company claims to deduct from the Zakat base. In addition, the Appeals Circuit did not require proof that the amounts provided to the subsidiaries are subject to Zakat in the subsidiaries in light of the fact that these companies are registered with the Authority and submit their declarations to the Authority, and the company asserts that the Authority did not require the company to provide it with a detailed movement of the clause of amounts due from affiliates, but refused to deduct the clause in principle on the pretext that the Executive Regulations on Zakat collection did not provide for its deduction, and the Appeals Circuit did not require the company to provide it with this detailed movement to accept the company's objection.

Regarding the Taxpayer's appeal regarding the clause (disallowing the deduction of long-term reserves for the year 2015 AD), the Taxpayer explained that the grounds of the decision are related to the addition of credit balances that have passed the zakat threshold, while the company's objection is related to the deduction of long-term receivables from the zakat threshold, and therefore these grounds are not related to the subject of the company's objection. The reasons for the Circuit's decision were based on Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH, which is the article related to additions to the Zakat base, while the company's objection



is to amounts deducted from the Zakat base, and the article that relates to deductions is Article (5) of the regulation. The company asserts that the long-term holdings at issue represent amounts withheld by the ... Until the completion of the contracted works. The entire revenue of the said contract was subjected to Sharia Zakat while the company did not receive the entire revenue as the company deducted a percentage of the contract as a guarantee for the proper execution of the project. The above contracted company did not pay these reserves, which led the plaintiff company to file a lawsuit before the Commercial Court in Jeddah in 2017 AD to collect the remaining balance due from these reserves amounting to (21,994,888) SAR. The Commercial Court in Jeddah ruled in favor of the plaintiff company and ordered the company to ... By paying the above-mentioned amount. As can be seen, the long-term receivables in dispute are not in the possession or control of the company, and its hand is tied to them, which prevents it from benefiting from them, and therefore the condition of full ownership is absent, which removes them from the funds on which Zakat is due. The Circuit issuing the decision under appeal has itself issued decisions supporting the Taxpayers' objection to deducting the receivables from the Zakat base. For example, it is stated in the reasons for the decision of the Dispute Resolution Circuit No. (IZD -2020-10) "Regarding the balances of the contracts receivable and receivables payable upon collection of the balances of contracts owed and receivables due from (...) Company (Zakat Company) and the claim of the plaintiff to deduct the amounts withheld by (...).(…), and the plaintiff's claim to deduct the amounts withheld by the company (....) due to the fact that the amounts claimed by the plaintiff are in the hands of a full and non-delinquent person, namely the company (...), but the plaintiff is unable to receive them, meaning that the reason for not receiving these amounts was not the plaintiff but the company (...), which means that these amounts were not in the plaintiff's hands and were not under her control, and the plaintiff's hands are tied regarding these amounts, which prevents him from benefiting from them, the Circuit decided to accept the plaintiff's objection by discounting the outstanding contract balances and reserves that Company owes. From his Zakat base for the years 2005 AD through 2012 AD." the Circuit also upheld the Taxpayer's appeal regarding the resolution of receivables that were not in the Taxpayer's possession and control. For example, the reasons for the Circuit's decision No. (IR-2020-9) "Whereas, after hearing the statements of the parties to the case and reviewing the letters exchanged between the appellant (the creditor) and the General Authority of Civil Aviation (the debtor), it is clear that the company's debt to the third party, the General Authority of Civil Aviation, is a debt that cannot be collected, and therefore the reason for not receiving these amounts is not due to the Taxpayer's will, but was due to a reason attributable to the debtor, the Civil Aviation Authority, and since the amount of the debt was not in the possession of the Taxpayer, nor was it under his control, which results in its improper inclusion in the zakat base for the Taxpayer's company. This does not affect the claim of the General Authority for Zakat and Income (GAZT) that this debt is owed to a government entity that is full of money, as the consideration is the ability of the creditor to receive the amount of the debt after the debtor's claim, which was impossible to obtain for a reason not related to the Taxpayer's company. Therefore, the Circuit concluded to determine the impact of the appellant's defenses



on the result reached by the contested decision, which entails ruling to exclude the debtors of trade receivables from the Taxpayer's zakat base for the year 2011 AD, and not supporting the authority in its dealing with this clause by including it in the tax base of the Taxpayer's Taxpayer company." as for what was stated in the rulings of the Adjudication Circuit that the company did not provide the movement made on the end-of-term balance, we state that the Authority did not ask the company to provide it with a detailed movement of the long-term receivables clause, but rather refused to deduct the clause in principle on the grounds that the Zakat Collection Executive Regulations did not provide for its deduction. Therefore, the Taxpayer requests that his appeal be accepted and that the decision of the Dispute Resolution Circuit regarding the clauses under appeal be overturned.

On Sunday, 17/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Order No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

As for the Taxpayer's appeal regarding the clause (disallowing the deduction of the foreign investment clause for 2015 AD), the Taxpayer's appeal lies in the appeal against the dismissal of his objection regarding the disputed clause, as he claims that there is a contradiction in the Circuit's decision, as the Circuit stated that the required condition for deducting the foreign investment is to submit the financial statements of the investee companies audited by a certified public accountant, and the company provided this. Based on Ministerial Decision No. (1005) dated 28/04/1428 A.H: Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof of payment of zakat in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies, if they do not provide the above mentioned, these investments shall not be deducted from his zakat base." based on the above, and based



on the provisions of Ministerial Decision No. (1005) referred to above, the Taxpayer is entitled to deduct the foreign investment from his Zakat base, provided that he complies with the provisions of the decision, namely that he submits to the Authority audited accounts from a certified public accountant in the country of investment in order to calculate the Zakat due on these investments and deliver them to the Authority, or provide proof of payment of Zakat thereon in the country of investment if he does not provide what was referred to, these investments will not be deducted from his Zakat base, and by reviewing the case file, it became clear that the Taxpayer submitted the financial statements of the invested company, audited by a certified public accountant in the country of investment, and provided a copy of these lists in Arabic, the Taxpayer emphasized that he has no objection to paying the zakat that the authority will calculate on the investment, which led the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015 AD", the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the amounts he claims to deduct are amounts due from affiliates that are 100% owned by the company from the Zakat base. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What was used in trade offers and has passed the hawl." Based on Article (4) clause (II) paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on Article 20(3), which states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, loans provided to subsidiaries that submit their returns to the Authority require special zakat treatment to avoid the discouragement of zakat, as part of them (according to the percentage of investment) does not represent lending to another party, and therefore the Taxpayer (the lender) is entitled to deduct part of the loans provided to subsidiaries from his zakat base in an amount equal to his investment percentage in the subsidiary company to which he provided the loan, and with reference to the case file and what it contains, it is clear that the Taxpayer claims



to deduct the amounts due from 100%-owned Saudi companies, which are the following companies (.....) , ... , ... , ...). It turned out that the Authority refused to discount considering that the transactions with the related parties are expenses paid on behalf of the company and part of a financing activity, as the expenses paid on behalf were rejected as commercial transactions and not loans subject to Zakat in subsidiaries, therefore, upon reviewing the audited financial statements, it became clear that the transactions were classified as financing activities and expenses paid on behalf of the company, which leads to the correctness of the Authority's action in refusing to deduct the expenses paid on behalf of the company as commercial transactions, as for the financing activities, we believe that the Taxpayer is entitled to deduct them, as the loans provided to subsidiaries that submit their returns to the Authority require special zakat treatment to avoid discouraging zakat, as part of them (according to the investment percentage) does not represent lending to another party, and the Authority's argument that the Taxpayer did not prove that they are subject to the subsidiaries, as the subsidiaries are all Saudi companies and submit their returns to the Authority, and the Taxpayer provided the unique numbers of all subsidiaries, which leads the Circuit to partially accept the appeal and amend the decision of the Adjudication Circuit regarding this clause.

With respect to the Taxpayer's appeal regarding the "Disallowance of the 2015 Long-Term Reserves" clause, the Taxpayer's appeal is to appeal the Adjudication Circuit's rejection of his objection regarding the disputed clause, as he claims that the basis for the disputed long-term reserves represents amounts previously withheld by (.....) Until the completion of the contracted works, all revenues from the contract are subject to zakat. Based on the above, Zakat is not obligatory on the creditor in his due funds that he is unable to collect due to delays from customers and not as a result of his failure to comply with the standards and requirements specified by the authority, and with reference to the case file and what it contained, it was found through the financial statements that there are reserves in the amount of (29,779,160) Riyals, it turned out that the Taxpayer stated that he filed a lawsuit against the contracted company due to its failure to pay the amounts due, which amounted to (21,994,888) riyals, and by reviewing the documents, it became clear that the Taxpayer submitted a decision issued by the Commercial Court in Jeddah on 03/07/1439 AH obligating the contracted company "....." payment of SAR 21,994,888 to the Taxpayer therefore, we believe that the amounts owed to the Taxpayer in dispute and for which a court judgment has been issued are not subject to Zakat until the Taxpayer receives them, as the reason for the delay in the payment of the receivables is due to reasons beyond the Taxpayer's control and not as a result of his failure or non-compliance, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal regarding the clause "Issuing the Zakat assessment for the year 2015 AD without reasoning", wherein the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did



not find any objections to the decision that merit a response beyond what is contained in these reasons, and wherein it is established that the decision under appeal regarding the disputed clauses as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit with respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., commercial registration (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2562) issued in case number (Z-2021-78138) related to the zakat assessment for the year 2007 AD.

Secondly: On the merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (issuing the Zakat assessment for the year 2015 AD without reasoning).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not allowing the deduction of the foreign investments clause for the year 2015 AD).
- 3- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not deducting amounts due from affiliates for the year 2015 AD).
- 4- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not allowing the deduction of the long-term reserves clause for 2015 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170717

Case No. Z-2023-170717

Keywords:

Zakat – Deductions from the Zakat Base – Non-deduction of the value of investments in equity instruments – Partial acceptance of the Taxpayer's appeal – Acceptance of the authority's appeal.

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority's objection to the decision of the first division regarding violations and disputes of income tax in Jeddah Governorate number (IZJ-2022-2691), where the authority's appeal is on clause (discrepancy in the retained earnings amount) objecting to the division's decision that it added the retained earnings by an amount representing the opening balance after deducting actuarial losses, and on clause (addition of the carryover from the vacation provision) in objection to what the division decided regarding this clause; as the division amended the clause without stating the grounds for its amendment to the authority's decision and merely referred to the amendment of that clause, and the Taxpayer's appeal is on clause (not deducting the value of investments in equity instruments) in objection to what the division decided regarding this clause; as it claims that the authority did not deduct any of the financial investments in equity instruments. The appellate committee found regarding clause (discrepancy in retained earnings) that the authority subjected the retained earnings balance that has been due for a year, represented by the opening balance after deducting actuarial losses, and regarding clause (addition of the carryover from the vacation provision) the inaccuracy of what the division concluded by amending the authority's procedure, as it became clear that there was no amendment to the authority's procedure, and regarding clause (non-deduction of the value of investments in equity instruments) the committee found that there were no investment movements in some clauses of the declaration, which leads to; partial acceptance of the Taxpayer's appeal, and acceptance of the authority's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)



- Paragraph (5) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The appeal filed on 19/01/2023 AD from / (...), National ID No. (...), in his capacity as Chairman of the Board of Directors under the Memorandum of Association, and the appeal filed on 01/02/2023 AD from / Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2691) issued in Case No. (Z-2021-50222) related to the Zakat assessment for the year 2018, in the suit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

- 1- Amending the defendant's action on the end-of-service allowance clause; according to the merits of the decision.
- 2- Rejecting the plaintiff's objection to the travel tickets clause.
- 3- Rejecting the plaintiff's objection to the ticket allowance.
- 4- Modifying the Defendant's action on the clause of vacation allowance; according to the merits of the decision.
- 5- Rejecting the plaintiff's objection to the tax deductions.
- 6- Rejecting the plaintiff's objection to the late payment penalties clause.
- 7- Rejecting the plaintiff's objection to the VAT clause Reverse Assignment.
- 8- Rejecting the plaintiff's objection to the Zakat expenses clause.
- 9- Rejecting the plaintiff's objection to the car ticket expenses clause.
- 10- Rejecting the plaintiff's objection to the VAT clause.
- 11- Amending the defendant's action on the retained earnings clause, according to the merits of the decision.
- 12- Rejecting the plaintiff's objection to the end-of-service severance pay provision.
- 13- Rejecting the plaintiff's objection to the rounded clause from the allowance for doubtful debts.
14. Rejecting the plaintiff's objection to the statutory reserve clause.
15. Reject the plaintiff's objection to the additional capital clause.
16. Reject the plaintiff's objection to the related parties clause.
- 17- Rejected the plaintiff's objection to the advance rentals clause.



18- Rejecting the plaintiff's objection to the other credits clause.

19- Amending the Defendant's action on the real estate investments clause; according to the merits of the decision.

20- Rejecting the plaintiff's objection to the clause Investments in Equity Instruments.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal lies with regard to the clause (Failure to deduct the value of investments in equity instruments) The Taxpayer explains that the Authority did not deduct any of the financial investments in equity instruments, while the correct figure deducted according to the declaration is (117,655,612) SAR, according to the documents provided for these investments, they are all in the shares of local companies subject to the collection of Zakat, the company deliberated with the Authority during the discussion of this point before the Authority issued the final assessment , and the Authority stated that the clause could not be deducted because it contains a large value movement within the financial statements, which means that these investments are for speculation and not for the purpose of channeling, and we respond to the Authority in this regard that most of this movement is a movement of fair value adjustments in accordance with international accounting standards and not a movement of sale and purchase in addition, the Authority has added to the statutory text what is not in it, as the text of paragraph II/4/a is clear that the investment may be deducted if it is in a local enterprise subject to the collection of Zakat, and thus the regulation adopts the principle of non-zakat bending as the basis for deducting the investment, by deducting the investment representing part of the equity of another company that is subject to Sharia Zakat in the same year in the liability of the company issuing the investment, and therefore its deduction from the Zakat of the company owning the investment is mandatory, note that financial investments are mortgaged to a bank as a guarantee for financial facilities worth (SAR 50,000,000 from the Saudi Investment Bank. Accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (adding the roundabout from the vacation allowance). The Authority explains that the Circuit issuing the decision under appeal modified the clause and did not indicate the reasons for its modification of the Authority's decision, but only referred to the modification of that clause, and the Circuit's decision was severely flawed, which makes the decision flawed and must be reversed, as no appeal can be filed against a decision that does not include clear grounds that can be responded to and rebutted the



judicial body, after determining that the case has become ready for adjudication, must issue a decisive ruling on the dispute, which is categorical in its indication and not subject to jurisprudence or interpretation, and where the decision under appeal stipulates the amendment of the Authority's decision without clarifying what is meant by the amendment in order to ensure the rights of the parties to the case alike, which the Authority believes that the litigation is not concluded in its substance and the Adjudication Circuit has not exhausted its mandate in the adjudication, therefore, Authority requests that this clause be returned to the decision-making circuit to remove this ambiguity, and with regard to the clause (difference in the amount of retained earnings), Authority explains that it added retained earnings in the amount of (1,491,686) riyals, which represents the balance of the first period after deducting the actuarial losses, which is the current balance, however, the Taxpayer's claim of deducting the transfer to the statutory reserve amounting to SAR (14,592) is incorrect, as the transfer is from the profit of the year and not from the retained earnings, and therefore the Taxpayer's objection was rejected based on paragraph (8), of the first clause of Article (4) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, and that the decision of the Circuit of Appeals referred to the modification of the Authority's procedure but did not clarify what is the modification to the Authority's procedure and its value for the foregoing reasons, the decision of the Circuit of Determination of the clauses under appeal should be overturned.

On Sunday, on: 09/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal relates to the clause "Not deducting the value of investments in equity instruments." The Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the Authority did not deduct any of the financial investments in equity instruments, while the Defendant (the Authority) stated in its response that it did not deduct investments in equity instruments from the Zakat base that it did not deduct investments in equity instruments from the Zakat base, as the



movement of the clause is shown in Note No. (7) of the financial statements and the existence of movement, which indicates that the purpose of trading, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "Investments in establishments within the Kingdom – participation with others - if those investments are subject to zakat collection under this regulation, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and since there must be two essential conditions for considering investments as representing capital assets and may be deducted from the zakat base, which are the documented intention of the authorized person clarifying the intention of the investment, and the absence of sales transactions during the year on those investments, and upon reviewing the case file and what it contains of defenses and documents, it appears that the authority argues against the deduction of investments due to the existence of exclusion movements according to clarification number (7) in the financial statements, indicating that the purpose of the investments is trading and not for capital purposes, and since the Taxpayer argues that all investments are in shares of local companies subject to zakat collection, and that the majority of that movement is a movement for fair value adjustments and not a movement of buying and selling, and upon reviewing the attached documents in the case file, the Taxpayer attached the movement of investments in the portfolio (...) And the portfolio (...), and it became clear that there was no sale movement in investments (...) In the portfolio (...) In the amount of (584,000) riyals, and that the change in the value of the shares is due to fair value adjustments, which led the division to decide to deduct this investment from the zakat base. As for the portfolio (...) It became clear that there was no sale movement on the following investments: (... - ... - ...-...-...-...-...-...-...) With a total value of SAR (81,909,360). As the difference in the investment balance is due to additions to the investments, the Circuit decided to deduct these investments from the Zakat base. As for the shares of the company (...) In the portfolio (...) It became clear that there was a substantial exclusion movement on them during the year in question, and thus they are not deducted from the zakat base, and it also became clear from the analytical statement of investments included in the Taxpayer's appeal that there is an clause "cash" amounting to (23,585,223) riyals among the investments that the Taxpayer requests to deduct, and since this clause does not represent an investment and is not one of the deductible clauses, it follows that its deduction from the zakat base is not accepted, which leads the division to partially accept the Taxpayer's objection by deducting investments amounting to (82,493,360) riyals and amending the decision of the division regarding this clause.

Whereas, with regard to the Authority's appeal regarding the clause (adding the turnover from the vacation allowance), the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that the Circuit issuing the decision under appeal amended the clause and did not indicate the reasons for its amendment of the Authority's decision and merely referred to the amendment of that clause, while the Taxpayer argues that the Authority added the vacation expense to the profit and added the first period balance and subtracted the paid amount on the basis that it is the turnover, both procedures



are incorrect, and based on paragraph (1/5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:". 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." Based on the above, and upon reviewing the case file, it is clear that the authority argues that the division that issued the decision subject to the appeal amended the clause without stating the grounds for its amendment, and upon reviewing the case number (Z-2021-50222) it is clear that a modified decision was issued regarding the disputed clause on 30/05/2024 AD, however, upon reviewing the modified decision, it became clear that it concluded to amend the authority's procedure by "accepting vacation expenses from the adjusted net profit of 144,531 riyals and adding the carryover to the zakat base after deducting the amount used of 435,702 riyals", and upon reviewing the authority's response memorandum before the division, it is clear that the authority added the vacation provision by the same amount (435,702) riyals, thus it becomes clear to the division that the conclusion of the division's decision to amend the authority's procedure is incorrect as it became clear that there was no amendment to the authority's procedure, which leads the division to accept the authority's objection and annul the decision of the division regarding this clause.

Whereas, with regard to the Authority's appeal regarding the clause (Difference in the amount of retained earnings) and where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; it claims that it added retained earnings in the amount of 1,491,686 riyals, which represents the balance of the first period after deducting the actuarial losses, while the Taxpayer argues that the retained earnings were declared according to the audited financial statements. Therefore, the company requests the cancellation of the Authority's action for this clause, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- Balance of profits carried forward from previous years at the end of the year . "Based on the above, and with reference to the documents and defenses in the case file, it appears that the Authority argues that the decision of the Circuit under appeal referred to the amendment of the Authority's procedure and did not clarify what the amendment is and what its value is, and with reference to Chapter Case No. (Z-2021-50222), it is clear that an amended decision was issued on 30/05/2024 AD to "add the retained earnings to the first period balance after deducting the actuarial losses", with reference to the Authority's reply memorandum before the adjudication, it is clear that the Authority subjected the retained earnings balance that has come due, which is represented by the balance of the first period after deducting the actuarial losses." Thus, the text of the adjudication committee's decision ended up following the same treatment adopted by the Authority, which leads the Circuit to accept the Authority's objection and cancel the decision of the Adjudication Circuit in this clause.



Whereas, with regard to the Authority's appeal regarding the clause (difference in the amount of the component of the end-of-service allowance) and the clause (failure to deduct the full value of real estate investments), and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to leave the appeal as stated in the letter issued by the Authority in the supplementary memorandum, which includes the following: "The Authority wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically, and the consequent procedures for this clause as per the terms of the decision reached by the Adjudication Circuit, is left to its discretion." therefore, the Circuit must accept the abandonment of the litigation.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (...) Commercial registration (...) , unique number (...) , and the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first division regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2691) issued in case number (Z-2021-50222) related to the zakat assessment for the year 2018 AD.

Second: On the Merits:



- 1- Acceptance of the abandonment of the dispute regarding the authority's appeal on clause (discrepancy in the amount of the end-of-service provision).
- 2- Acceptance of the authority's appeal and cancellation of the decision of the division regarding clause (addition of the carryover from the leaves provision).
- 3- Acceptance of the authority's appeal and cancellation of the decision of the adjudication circuit regarding the clause (discrepancy in the amount of retained earnings).
- 4- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (non-settlement of the full value of real estate investments).
- 5- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the component from the travel ticket allocation).
- 6- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the rollover from the ticket allocation).
- 7- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of tax deduction expenses).
- 8- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of late payment tax penalties).
- 9- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of value-added tax reverse charge expenses).
- 10- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of Zakat expenses).
- 11- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of vehicle violation expenses).
- 12- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of differences in calculating value-added tax).
- 13- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (discrepancy in the amount rolled over from the end-of-service benefits allocation).
- 14- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of the rollover from the allocation for doubtful debts).
- 15- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (the statutory reserve).



- 16- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of additional capital).
- 17- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of amounts from related parties).
- 18- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of rents received in advance).
- 19- Rejection of the Taxpayer's appeal and affirmation of the decision of the adjudication circuit regarding the clause (addition of other credit balances).
- 20- Acceptance of the Taxpayer's appeal partially and modification of the decision of the adjudication circuit regarding the clause (non-settlement of the value of investments in equity instruments).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-181079

Case No. Z-2023-181079

Keywords:

Zakat - Deductions from the Zakat Base - Non-deduction of impairment allowance and sale of investment
- Acceptance of Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTA) appealed the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6912), where the ZTA's appeal lies on the clause (not deducting investments available for sale) and the Taxpayer's appeal lies on the clause (not deducting the impairment allowance and selling the investment) that the company does not agree with the ZTA's treatment of not allowing the impairment allowance of the investment. Whereas the Appellate Committee has established that the amount of the decrease must be deducted and taken into account when calculating the Zakat base that the investment appears in the financial statements at its market value, which is the cost reduced by any loss, or raised by any gain as a result of the valuation at market value. This means accepting the Taxpayer's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (4) of Article (4) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

the appeal was heard on 28/02/2023 AD, from/ (....) National ID number (....) As an agent for the appellant company under agency No. (.....), law license No. (.....), and the appeal filed on 05/03/2023 AD from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6912) issued in Case No. (Z-89700-2021) regarding the Zakat



fees for the years 2016 AD to 2018 AD, in the suit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: accepting the objection as a matter of form.

Secondly: On the merits:

1- Amending the Defendant's decision regarding the clause (non-discounting of available-for-sale investments).

2- Reject all other objections.

Whereas this decision was not acceptable to the Taxpayer (.....) The Taxpayer's appeal is based on the clause (not deducting the impairment provision and selling the investment for the years 2016 AD and 2018 AD). The Taxpayer explains that the company does not agree with the Authority's treatment after allowing the impairment deduction and that the company claimed in its 2016 AD return the final balance of the aforementioned investment (after deducting the impairment losses) as a deduction from the Zakat base for the aforementioned year. In other words, these losses reduced the value of the investments for the Zakat deduction. A copy of the 2016 AD Zakat Declaration is attached in Appendix 5. Also, if the company had not recorded any impairment loss, it would have deducted a higher amount for the investments equal to the amount of the investments according to the declaration plus the impairment loss. Furthermore, in the event that the Authority continues not to allow such losses on long-term investments as a deduction from the Zakatable Profit for 2016 AD on the basis that this loss is not an actual expense, the Authority should apply the same treatment in calculating the deduction of investments from the Zakatable Base, i.e. Adding these losses to the closing balance of the investment (deduction of SAR 196,388,502). The Authority will note that disallowing the deduction of loss on investments in a company (.....) It would lead to bending Zakat on the same funds once as part of the net profit and secondly as part of the amount of investments in the deductions from the company's Zakat base which of course is neither the intention of the regulator nor according to the provisions of Shari'ah. In addition, with regard to the Committee's decision that the Chartered Accountant relied on the management's decision to calculate an impairment of SAR 20,011,016 for 2016 AD and a provision was made for it without proving the existence of an opinion from a certified valuer, the company would like to state that if the Chartered Accountant was not satisfied with the value of the impairment in investments, he would have expressed a different opinion in his report, as an absolute opinion was given. He requests that his appeal be accepted and the decision of the Adjudication Circuit be reversed. This decision was not acceptable to the appellant (the Zakat, Tax and Customs Authority) the appellant (Zakat, Tax and Customs Authority) filed a list of appeals demanding that the Adjudication Circuit's decision be reversed and annulled.



On Wednesday, 22/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal on the clause (not deducting the provision for impairment and sale of investment for the years 2016 AD and 2018 AD), where the Taxpayer's appeal is that the company does not agree with the Authority's treatment of not allowing the deduction of impairment of the investment, and based on paragraph (A/4) of Article (4) of the Zakat Collection Regulation, which stipulates that: "Zakat is calculated for Taxpayers who keep regular books and records as follows: Secondly: The following shall be deducted from the Zakat base: A- "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on paragraph (h) thereof, which stipulates that: "For Zakat purposes, the results of revaluation of securities shall be taken into account as a gain or loss according to the market value." based on the above, and since the first clause of the Authority's appeal relates to this clause, and the Circuit's decision in the first clause ended in accepting the deduction of investments, i.e. Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit, and since the investments that were deducted from the Zakat base did not take into account the decrease in investment value by (20,011,016 SAR), therefore, based on the above statutory grounds, the amount of the decrease must be deducted and taken into account when calculating the Zakat base, and the investment must appear in the financial statements at its market value, which is the cost reduced by any loss, or raised by any gain as a result of the valuation at market value, which concludes that the Circuit accepts the Taxpayer's appeal and overturns the decision of the Dispute Resolution Circuit with regard to this clause.

With regard to the Taxpayer's and the Authority's appeal on the remaining clauses, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it determines that these



reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was contained in those reasons it is evident that the decision under appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based and sufficient to support its decision, as the issuing circuit scrutinized the dispute and reached the result it concluded

In light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's and the Authority's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses on the basis of its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial registration number (...), distinctive number (...), and the Zakat, Tax and Customs Authority, against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6912) issued in case number (Z-2021-89700) related to the Zakat assessment for the years from 2015 AD to 2018 AD.

Secondly: On the merits:

1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (non-discounting of available-for-sale investments for the year 2016 AD).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (non-discounting of investments for the year 2017 AD).

3- Regarding the Taxpayer's appeal on the clause (not deducting the provision for impairment and sale of investment for the years 2016 AD and 2018 AD):

A. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the provision for impairment and sale of investment for the years 2016 AD and 2018 AD).

B- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Loss on sale of investment amounting to SAR 3,122,000 in 2018 AD).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Accrued expenses and other liabilities).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



committee for adjudicating tax violations and disputes
The first division for adjudicating income tax violations and disputes
In Riyadh

Decision No. IFR-2024-231801

Case No. Z-2024-231801

Keywords:

Zakat - Deductions from the Zakat Base - Land Value Deduction - Cancellation of the Authority's Decision

Summary:

The Taxpayer's objection to the Zakat assessment for 2013 AD issued by the Zakat, Tax and Customs Authority, which consists of eight clauses, including (allowing the deduction of the value of lands within fixed assets), where the Taxpayer's appeal lies in his objection to the Authority's procedure of not allowing the value of lands within fixed assets to be deducted from the Zakat base, while the Authority argued that its procedure was consistent with the provisions of the executive regulations for the collection of Zakat, and where the committee proved the lands were registered in the name of one of the company's owners and its general manager, due to the impossibility of transferring their ownership directly to the company, and both the owner in the company and its general manager waived these lands in favor of the company and placed them at the disposal of its management, which is proven by the company's audited financial statements for the year in dispute, and where the plaintiff provided proof that the lands are registered in its books as indicated in the financial statements and that they are used for the activity. This means that the Authority's decision is overturned, and the rest of the orders are returned.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (First/5) of Article (4) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (1/A) of Article (5) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Article (22) of [The executive regulations for zakat collection issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The facts of this case are that (.....) National ID number (....) As the plaintiff's agent., Commercial Register No. (...) By proxy (.....) On 10/07/1445 AH, he submitted his client's objection to the 2013 AD Zakat assessment issued by the Zakat, Tax and Customs Authority, which is represented by eight clauses, as follows: first clause: accounts payable credit line clause: the plaintiff objects to the defendant's action of adding the balance of receivables in the amount of (11,506,504) riyals to the Zakat base, she pointed out that the defendant did not explain how to access the amounts added by assessment and did not refer to them in the assessment notice, and argued that the fact that the defendant did not provide a response to this objectionable clause is a presumption that the defendant tacitly accepts the plaintiff's objection, and cited in this regard paragraph (3) of Article (22) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, regarding the objection procedures. Therefore, the plaintiff demands that the receivables balances should not be subject to Zakat for 2013 AD and should be excluded from the calculation of Zakat when the amended assessment is issued. Second clause: related party addendum clause: the plaintiff objects to the defendant's action of adding the required amount of (1,000,000) riyals to related parties, the plaintiff indicated that the balances shown in the financial statements are due to the two companies invested by the plaintiff, namely (Company A) and (Company B), which reflect the capital balances of each of these two companies deposited with a bank, which were withdrawn for administrative reasons by one of the partners in the company at the request of the bank, and then these balances were deposited in the company's account, and thus they were recorded and recognized in the company's accounts as due to the invested companies the plaintiff also indicated that Zakat was calculated on all these amounts within the Zakat declarations of these invested companies, so if these amounts are added to the company's Zakat base, the same amount will be subjected to Zakat twice, which is legally impermissible, in addition to the fact that these balances are in the company's receivables and not in the hands of the company the company does not have the right to dispose of them or use them, as they belong to the investee companies, and therefore the company is not required to subject them to Zakat because the condition of full ownership of the company does not apply to these balances in order for it to zakat them, even if they are deposited in its accounts, as they are considered a trust and must be paid to their beneficiaries when they demand them, and the reality of the situation has imposed on the company



to keep the above amounts on trust as is the case with goods in trust for a third party, until the investee companies or their partners request to receive them, adding that according to the legal rules, amounts deposited with third parties as a trust must be refunded to them. Therefore, the company cannot zakat those amounts deposited with it as a trust, and one of the conditions for zakat is full ownership. Accordingly, the plaintiff demands that the related party balances should not be subject to Sharia zakat for 2013 AD and should be excluded from the zakat calculation when the revised assessment is issued. Third clause: loan addition clause: the plaintiff objects to the defendant's action of adding loan balances amounting to SAR 115,072,000 to the Zakat base. The plaintiff argued that during 2006 AD, a loan settlement was reached which provided for the payment of SAR (143) million (EUR 29 million) in full settlement of the loan including accrued financial expenses and penalties which at that time amounted to SAR (1,276,093) million, so the company paid (27) million riyals (5 million euros) in 2006 AD, and as a result of the terms of the settlement agreement, the company amortized the difference between the then existing loan balance of (1,356) million riyals and the settlement amount (143) million riyals, so the difference of (1,213) million riyals was charged to the income statement after excluding the expenses incurred as shown in the audited financial statements for the year 2006 AD, and the plaintiff indicated that during the year 2016 AD, a final agreement was reached between the bank and the company, according to which an amount of (4) million euros i.e. (17,280,000) SAR against the closing of the entire loan amount in spite of the Company's objection to the principle of subjecting these loans to Zakat, as explained above, the Company believes that the loan balance to be subject to Zakat is the actual final value of the loan that was repaid to the bank at the time of the final clearance, and not the entire loan balance that was not repaid - during each of the years 2008 through 2015 (including financial expenses, currency losses, and usurious profits). The plaintiff argued that according to the defendant's instructions, the loan balances are recognized as money that has passed the year in the company's possession and has been used in trading. And therefore the actual money in the company's possession that has come due represents the actual loan value of (17,280,000 riyals only, which the company repaid to the bank in 2006 AD. Thus, what needs to be recommended is this actual value of the loan paid to the bank, after eliminating the impact of financial expenses, foreign exchange losses, and usurious profits. Therefore, the plaintiff claims that the loan balances should not be subject to Sharia zakat for 2013 AD and should be excluded from the calculation of zakat when the revised assessment is issued. Fourth clause: a clause disallowing the deduction of the value of land within fixed assets: the plaintiff objects to the defendant's action of not allowing the value of the land to be deducted from the fixed assets in the amount of (14,200,000) riyals from the Zakat base, the plaintiff argued that the lands were purchased by the company but were registered in the name of one of the company's owners and its general manager, due to the impossibility of transferring their ownership directly to the company. The plaintiff argued that both the owner of the company and its general manager had assigned these lands in favor of the company and placed them at the disposal of the company's management, which is proven by the company's audited financial statements for the year in question, and therefore, since the value of these lands has been paid



during these years therefore, since the value of these lands has been paid during these years, the plaintiff believes that they should not be zakatable because they are considered funds that are not in the possession of the company, and their ownership was not officially or legally transferred to the company in accordance with the Sharia rules and provisions, especially since these lands are used in the company's activity (i.e. In both cases "in the name of the company or in the name of one of the partners" no zakat is due on them), the company demands that the value of these lands be approved for deduction from the zakat base for 2013 AD. V: non-deductibility clause for investments in local affiliates: the plaintiff objects to the defendant's action of not deducting investments in local subsidiaries in the amount of SAR 6,721,366 from the Zakat base. Sixth: a clause disallowing the deduction of a partner's debit clause and a partner's liability clause up to the retained earnings limit: the plaintiff objects to the defendant's action of not allowing the deduction of the debtor partner's current clause and the clause required from a partner to the extent of retained earnings in the amount of SAR 32,535,460 from the Zakat base, and argues that they are considered as dividends to the partners made from the profits of the year, and are therefore funds that left the company's liability before the turn of the year and are no longer in its possession to be liquidated, and the plaintiff bases her action on paragraph (II/5) of Article (4) of the Executive Regulations for the Collection of Zakat. Seventh clause: a clause disallowing the deduction of prepaid expenses: the plaintiff objects to the defendant's action of disallowing the deduction of prepaid expenses in the amount of (20,547,919) riyals from the Zakat base, the plaintiff argued that these submitted expenses relate to more than one fiscal year and are therefore considered deferred expenses and take the judgment of long-term capital expenses that may be deducted from the Zakat base in accordance with the provisions of paragraph (II/7) of Article 4 of the Executive Regulations of the Zakat Collection Law the plaintiff pointed out that these submitted expenses are funds paid by the company and therefore have been discharged before the turn of the year. The plaintiff argued that the defendant has already emphasized several times in several places that the deferred expenses are: it is no secret that these expenses relate to more than one fiscal year and therefore apply to the same nature and concept of deferred expenses, and accordingly, the plaintiff claims to deduct them from her Zakat base. Clause VIII: a clause disallowing the discounting of overdue government debts: the plaintiff objects to the defendant's action of not allowing the deduction of overdue government debts in the amount of SAR 70,452,041. The plaintiff indicated that she submitted the detailed movement of the balance of government debts for the year in question, and relies on Fatwa No. (23408) dated 18/11/1426 AH, which stipulates the following: amounts owed to a person by any government entity, if payment is delayed for any reason by that entity, even if the rights holder is aware of it, Zakat is not obligatory on him until he receives it and turns it over, and because Zakat is a consolation, it is not obligatory on someone who cannot receive it and has nothing in his hand. Accordingly, the plaintiff requests that these debts be allowed to be deducted from the company's Zakat base for the disputed year when the amended assessment is issued, in accordance with the text of the fatwa.



When the defendant was presented with the lawsuit, she answered first: regarding the objection to the five-year statute of limitations for the years 2008 AD, 2009 AD, 2011 AD, and 2012 AD: the Authority states that it has accepted the limitation clause and related clauses for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD, so the Authority requests your Honorable Committee to rule that the dispute is closed. Second: regarding the objection to the clause of foreign procurement differences for the years 2008 AD, 2009 AD, 2011 AD and 2012 AD: Authority states that it has accepted the statute of limitations clause and the associated clause of external procurement differences, so Authority requests a ruling to prove the end of the dispute. Third: regarding the objection to the clause of considering the adjusted profit as the company's Zakat base for 2008 AD: the Authority states that it has accepted the Taxpayer's objection to the above clause in accordance with clause I. The Authority requests your Honorable Committee to rule that the dispute is closed. Iv: regarding the objection to the clause of not deducting the user from the provisions on the net for the year 2008 AD: the Authority states that it has accepted the Taxpayer's objection to the above clause in accordance with clause I. The Authority requests your Honorable Committee to rule that the dispute is closed. V: regarding the objection to the clause of adding payables balances to the Zakat base for the years 2008 AD through 2015 AD, except for 2010 AD: first of all, the Authority informs the Honorable Circuit that it accepted the clause for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD to accept the limitation clause described in the first clause. With regard to the years (2013 AD-2015 AD), the Defendant explains that the Taxpayer did not provide any data or supporting documents, such as the detailed statement of receivables, in order to verify the movement during the year and the current year, and by referring to the financial statements, it was found that the balance of the last period was added due to being the lowest balance, so the Defendant rejected the clause for the years (2013 AD-2015 AD), based on paragraph 3 of Article (20) of the Executive Regulations for Zakat Collection. Sixth: regarding the objection to the clause of adding the required related parties to the Zakat bowl for the years 2008 AD through 2015 AD, excluding the year 2010 AD: first of all, the Authority informs the Honorable Circuit that it has accepted the clause for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD. With regard to 2013 AD, the Defendant explains that the Taxpayer did not provide any data or supporting documents such as the movement of the related party account. By referring to the financial statements, it was found that what was added to the Zakat base belonged to the subsidiary company (Company B), which the Taxpayer owns (90%). Due to the absence of a statement explaining the nature of these financial transactions and the movement made during the year, the Defendant rejected the Taxpayer's objection for 2013 AD on the basis of paragraph 3 of Article 20 of the Executive Regulations for the Collection of Zakat (Zakat Collection). With regard to 2014 AD, it turned out that the balance of the end of the period was added as the lowest balance required from the subsidiaries, and since the Taxpayer did not provide an explanation of the nature of these transactions and the movement that took place during the year, the Defendant rejected the Taxpayer's objection for 2014 AD, based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection (Zakat Collection). With regard to 2015 AD, since the defendant added SAR 7,691,808 to the



Zakat base, and since there was no balance for the first period, and by referring to the cash flow statement, the defendant found that the operating cash flow is negative (deficit) in addition to the lack of a source of financing for the added assets during the year except for financing provided by related parties, the Authority partially accepted the clause by adding the related parties clause for 2015 AD within the added assets in the amount of (1,244,000) SAR, based on paragraph (5) of Article (4) of the Zakat Collection Executive Regulations. Seventh: regarding the objection to the clause of adding loans to the Zakat base for the years 2008 AD through 2015 AD, except for the year 2010 AD: initially, the Authority informs the Honorable Circuit that it has accepted the clause for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD in accordance with the acceptance of the limitation clause described above. With regard to 2013 AD, the Defendant explains that the Taxpayer did not provide any data or supporting documents such as a detailed statement of the loans to verify the movement during the year and the amounts that have been financed. By referring to the financial statements, it is clear that the loans consist of two loans from a foreign bank and another from the Ministry of Finance, and it is noted that the balance of the Ministry of Finance loan did not change in 2012 AD and 2013 AD, and the bank loan was not repaid in 2013 AD, so the Defendant added the first balance of the year in the amount of (115.072.000 riyals) , based on paragraph (5) of Article 4 referred to above. With regard to the years 2014 AD and 2015 AD, and by reviewing the financial statements for 2015 AD, it was found that no loan payments were made during the years 2014 AD and 2015 AD, so the defendant added the first year's balance of SAR 107,880,000 and SAR 97,440,000 for the years 2014 AD and 2015 AD, respectively, based on paragraph (5) of Article (4) referred to above. Eighth: regarding the objection to the clause of not deducting the value of land within fixed assets from the Zakat base for the years 2008 AD through 2015 AD, with the exception of 2010 AD: initially, the Authority informs the Honorable Circuit that it has accepted the clause for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD in accordance with the acceptance of the limitation clause described above. With regard to the years (2013 AD – 2015 AD), the Defendant states that it deducted the value of land from the Zakat base in accordance with the financial statement disclosure, as it turned out to include land plots that are not registered in the name of the company, and by referring to Note No. (8) Property and Equipment, it became clear that there are land plots registered in the name of the partners and the general manager of the company and they transferred them in favor of the company, and since the Taxpayer did not provide any data or documents stating the existence of an obstacle to the transfer of land ownership in the name of the company, or explain what the value of the lands of the partner and general manager, the Defendant rejected the Taxpayer's objection by deducting the value of the land within the fixed assets from the Zakat base. Ix: regarding the objection to the provision of not deducting investments in local associates from the Zakat base for the years 2008 AD through 2015 AD, except for 2010 AD: for the years 2008 AD, 2009 AD, 2011 AD and 2012 AD: the Authority informs the Honorable Circuit that it has accepted the Taxpayer's objection to the acceptance of the limitation clause described above. For the years 2013 AD to 2015 AD: Authority informs the Honorable Circuit that it has accepted the Taxpayer's objection to deduct investments in local



subsidiaries from the Zakat base, so Authority requests your Honorable Committee to rule that the dispute has ended. Tenth: regarding the objection to the non-deduction of loss carryforwards for the years 2008 AD, 2009 AD, 2011 AD and 2012 AD: the Authority informs the Honorable Circuit that it has accepted the Taxpayer's objection and resolved the losses carried forward in accordance with the acceptance of the limitation clause, so the Authority requests your Honorable Committee to rule that the dispute is closed. Eleventh: regarding the objection to the clause of not deducting the partner's current debit clause and the clause required from a partner by the retained earnings limit for the years 2008 AD through 2015 AD, except for 2010 AD: first of all, the Authority informs the Honorable Circuit that it has accepted the clause for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD in accordance with the acceptance of the statute of limitations clause. For the years (2013 AD – 2015 AD): the Defendant states that it did not deduct the balance of the partner's debit current account and the balance of the partner's demand to the extent of the year's profits from the Zakat base; as the Taxpayer did not provide the supporting documents stating that the debit current is offset by profits for the same partner, so that the current is deducted not exceeding his share of the carried forward profits. Accordingly, the Defendant rejected the Taxpayer's objection for the years 2013 AD – 2015 AD, based on paragraph 3 of Article (20) referred to above. Xii: regarding the objection to the clause of not deducting prepaid expenses for the years 2008 AD through 2015 AD, with the exception of 2010 AD: first of all, the Authority informs the Honorable Circuit that it has accepted the clause for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD to accept the limitation clause described above. With regard to the years (2013 AD - 2015 AD), the Defendant explains that it did not deduct the prepaid expenses from the Zakat base, as it was found that the clause was categorized among the current assets, and since it is not considered a negative element to be deducted from the Zakat base, the Defendant rejected the clause, based on Clause (II) of Article (4) of the Executive Regulations for Zakat Collection issued in 1438 AH. Thirteenth: regarding the objection to the clause of not deducting late government debts for the years 2008 AD through 2015 AD, except for 2010 AD: initially, the Authority informs the Honorable Circuit that it has accepted the clause for the following years 2008 AD, 2009 AD, 2011 AD and 2012 AD in accordance with the acceptance of the limitation clause described above. Regarding the years (2013 AD – 2015 AD), the defendant explains that it did not deduct government debts, as they are not among the elements to be deducted from the Zakat base in accordance with Clause (II) of Article (4) of the Executive Regulations for Zakat Collection, and by reviewing the case documents, it became clear that the Taxpayer did not provide any data or supporting documents, such as analyzing the age of the debts, the government debtors, the final extracts, or the Taxpayer's request to the government agencies to pay the dues, so the defendant rejected the Taxpayer's objection. Accordingly, the defendant requests a ruling to establish the end of the dispute within the limits of what has been accepted above and to dismiss the case otherwise for the reasons explained above, and reserves the right to submit further responses and clarifications until before the closing of the pleadings.



On Monday, 25/12/1445 A.H., the Circuit held a remote session to hear the case, attended by National ID number (....) As the plaintiff's agent under power of attorney (.....) And the date 10/07/1445 AH, and I attended (...) National ID number (....) As a representative of the defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs (.....) On 19/03/1445 A.H., the plaintiff's agent was asked about his client's claim, and he replied that it does not deviate from what was stated in her list of claims filed with the General Secretariat of the Zakat, Tax and Customs Committees. When the defendant's representative was confronted with this, he replied that he confirms what was stated in the defendant's response list and that no new documents were accepted that were not submitted to the defendant during the examination and objection stage, and the request for an extension of time, and the Circuit dismissed the request for an extension of time because no justification was provided for this, especially since the case was registered on 13/02/2024 AD, which gives the defendant enough time to study it without waiting for the hearing date and prolonging the case. Therefore, the Circuit decided to close the argument.

Grounds:

Having reviewed the Zakat Law issued by Royal Decree No. (17/28/577) dated 14/03/1376 AH and its Executive Regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its amendments, and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its amendments, and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. And relevant laws and regulations.

In terms of form, since the plaintiff aims to cancel the decision of the Zakat, Tax and Customs Authority regarding the Zakat assessment for 2013 AD, and since this dispute is a zakat dispute, it is considered one of the disputes within the jurisdiction of the Income Tax Violations and Disputes Resolution Committee under Royal Order No. (25711) dated 08/04/1445 AH, and since it is proven from the documents of the lawsuit that the plaintiff was informed of the Zakat assessment on 19/02/2019 AD, and filed an objection before the defendant within the statutory period the plaintiff was informed of the Zakat assessment on 19/02/2019 AD and filed an objection before the defendant within the statutory period, therefore, the case was filed within the statutory period according to Article (22) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, and the case was filed by a person with standing, which requires the Circuit to accept the case procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests, defenses, and arguments of the parties, and found that the dispute lies in the defendant's issuance of the Zakat assessment for 2013 AD, which is represented by eight clauses, as follows:



First: accounts payable credit line clause:

Whereas the dispute lies in the plaintiff's objection to the defendant's action of adding the balance of receivables in the amount of (11,506,504) riyals to the Zakat base, while the defendant argued that its action was in accordance with the provisions of the Executive Regulations for Zakat Collection, and where paragraph (3) of Article (22) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, regarding the objection procedures, stipulates that: "The Authority shall study the objection, and if it is convinced of its validity according to the justifications and documents presented to it, it may accept the objection or part of it and notify the Taxpayer of the amendment on this basis. If the dispute between the Taxpayer and the Authority continues, the Authority shall refer the objection to the Committee of First Instance." Paragraph (5) of Article 4, Clause (1) of the same regulation also stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C based on the above, the plaintiff argued that the defendant did not explain how to access the amounts added in the assessment and did not refer to them in the assessment notice, and the Circuit reviewed the case file, it became clear that the defendant provided the plaintiff with details of the Zakat assessment for the year in question, explaining the details of the clauses and amounts that were modified in the Zakat assessment, which shows that the plaintiff was notified of the modifications in the Zakat assessment through the details available in the defendant's portal and the details of the Zakat assessment this is confirmed by the plaintiff's objection before the defendant, which shows that the plaintiff is aware of the details and reasons for the amendments made by the defendant when issuing the Zakat assessment, which indicates that the plaintiff was notified of the details and reasons for amending the disputed clauses, and given that the plaintiff's argument regarding the procedural aspect of the Zakat assessment for the disputed year proves incorrect, the Circuit must reject the plaintiff's objection in this regard. With regard to the disputed clause, where the credit balances represented in the payables clause are considered as one of the components of the Zakat base provided that they are turned over or used to finance the assets deducted from the base, and the Circuit's review of the case file showed that the defendant added the balance of the beginning of the period or the end of the period, whichever is less, due to the lack of availability of the detailed movement of the payables account to prove the validity of her claim regarding the lack of the turnover of these amounts in view of the unavailability of the detailed movement of the accounts payable account to prove the validity of her claim regarding the lack of turnover on these amounts, and given the unavailability of the detailed movement of the accounts payable account, what is added to the Zakat bowl is the balance of the first or last period, whichever is less, and where the Circuit has proven the validity of the defendant's action, which makes it necessary for the Circuit to dismiss the plaintiff's objection.



Second: related party addendum clause: whereas the dispute lies in the plaintiff's objection to the defendant's action of adding the required amount of (1,000,000) riyals to the Zakat base, while the defendant argued that its action was in accordance with the provisions of the Executive Regulations for Zakat Collection, and whereas paragraph (5) of clause (1) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. (c) What has been used in trade offers and has passed the hawl." Paragraph (3) of Article 20 of the same regulation also stipulates the following: Paragraph (3) of Article (20) of the same regulation: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make an estimated assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, the credits represented in the related parties clause as a component of the Zakat base are considered as a condition of turning over or being used to finance the assets deducted from the base the Circuit's review of the case file shows that the defendant added the balance of the first period or the last period, whichever is less, due to the unavailability of the detailed movement of the related parties account to prove the validity of her claim regarding the lack of turnover on these amounts, and due to the unavailability of the detailed movement, what is added to the Zakat base is the balance of the first period or the last period, whichever is less, and the Circuit has proven the validity of the defendant's action, which makes it necessary for the Circuit to reject the plaintiff's objection.

Third: loan addition clause: whereas the dispute lies in the plaintiff's objection to the defendant's action of adding the loan balances in the amount of (115,072,000) riyals to the Zakat base, while the defendant argued that its action was in accordance with the provisions of the Executive Regulations for Zakat Collection, and where paragraph (5) of Clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. (c) What has been used in trade offers and has passed the hawl." Paragraph (3) of Article 20 of the same regulation also stipulates the following: Paragraph (3) of Article (20) of the same regulation: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the correctness of what is contained in his declaration, the Authority may not authorize the clause whose



correctness is not proven by the Taxpayer or make an estimated assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, where the credit balances represented by the loans clause are considered as a component of the Zakat base, provided they are turned over or used to finance the assets that are deducted from the base the Circuit reviewed the case file and found that the defendant added the balance of the first or last period, whichever is less, due to the unavailability of the detailed movement of the loan account to prove the validity of her claim regarding the lack of turnover on these amounts, and given the unavailability of the detailed movement of the loan account, what is added to the Zakat base is the balance of the first or last period, whichever is less, and the Circuit has proven the validity of the defendant's action, which makes it necessary for the Circuit to dismiss the plaintiff's objection.

lv: a clause disallowing the deduction of the value of land within fixed assets: whereas the dispute lies in the plaintiff's objection to the defendant's action of not allowing the value of land within fixed assets to be deducted in the amount of (14,200,000) riyals from the Zakat base, while the defendant argued that its action was in accordance with the provisions of the Executive Regulations for the Collection of Zakat, and where paragraph (1) of clause (II) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. 2082 dated 01/06/1438 AH stipulates that: "The following shall be deducted from the zakat base: 1- Fixed assets, including the following: the net value of fixed assets (canal assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an impediment to the transfer of ownership - and are used in the activity." Article 20, paragraph (3) of the same regulation also stipulates the following: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case he is unable to prove the correctness of what is contained in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, assets in the name of partners may be deducted from the Zakat base provided that these assets are used in the activity with proof of the justifications that prevent the transfer of ownership to the company, and the Circuit reviewed the case file, where the plaintiff indicated that the impediment that prevented the transfer of ownership is that these lands were purchased by the company and registered in the name of one of the company's owners and its general manager, due to the impossibility of transferring their ownership directly to the company, and both the owner in the company and its general manager waived these lands in favor of the company and placed them at the disposal of its management, which is proven by the company's audited financial statements for the year in question, and where the plaintiff provided proof that the lands are registered in its books as indicated in the financial statements and are used in the activity, which requires the Circuit to cancel the defendant's decision.



V: non-deductibility clause for investments in local affiliates: Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the substance of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the substance of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, the Circuit has established that the dispute between the parties has ended by the defendant's acceptance of the claimant's requests in accordance with the reply note submitted by her, which includes the following statements: "The defendant accepts the claimant's requests: "For the years 2013 AD to 2015 AD: the Authority informs the Honorable Circuit that it has accepted the Taxpayer's objection to deduct investments in local subsidiaries from the Zakat base, so the Authority requests the Honorable Circuit to rule that the dispute has ended..."

Sixth: a clause disallowing the deduction of a partner's debit clause and a partner's liability clause up to the retained earnings limit: whereas, the dispute lies in the plaintiff's objection to the defendant's action of not allowing the deduction of the debtor partner's current clause and the clause required from a partner within the retained profits limits in the amount of (32,535,460) riyals from the Zakat base, while the defendant argued that its action was in accordance with the provisions of the Executive Regulations for Zakat Collection, and whereas paragraph (5) of clause (II) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2082 dated 01/06/1438H stipulates that: "Zakat collection shall be in accordance with the provisions of the Executive Regulations for Collecting Zakat. "The following shall be deducted from the zakat base:" 5. The current account owed to the owner or partner subject to Zakat not exceeding their share of the profits carried forward." Paragraph (3) of Article (20) of the same regulation also stipulates the following: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, the Circuit reviewed the case file and found that the plaintiff merely submitted a copy of the financial statements for the year under dispute and demanded that the balance of the partner's debit current account be deducted from the partner's profits of the year (32,535,460 riyals) from the Zakat base for the year 2013 AD; Whereas, the plaintiff did not provide supporting documents stating that the current debit is offset by the profits of the same partner, in order to deduct the current debit up to its share of the profits carried forward according to the financial statements and their notes, which are included in the balances of



other assets within non-current assets; Whereas, the burden of proof lies with the plaintiff according to the provisions of paragraph 3 of Article 20 of the Executive Regulations for Zakat Collection referred to above, therefore, the Circuit must reject the plaintiff's objection.

Seventh: a clause disallowing the deduction of prepaid expenses: whereas the dispute lies in the plaintiff's objection to the defendant's action of not allowing the deduction of prepaid expenses amounting to (20,547,919) riyals from the Zakat base, while the defendant argued that its action was in accordance with the provisions of the Executive Regulations for Zakat Collection, and where paragraph (1/a) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, concerning expenses that may be deducted, stipulates that: "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" a. It must be an actual expense supported by supporting documents or other evidence that enables the Authority to verify its authenticity, even if it relates to previous years." Based on paragraph (3) of Article 6, concerning the expenses that may not be deducted, which stipulates the following: "Expenses for which the Taxpayer is unable to substantiate the expenditure with supporting documents or other evidence." Article 20, paragraph 3, of the same regulation also stipulates the following: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the correctness of the clauses in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, the plaintiff claims that the prepaid expenses of (2,126.032) riyals should be deducted from the deductions of the Zakat base for the year 2013 AD as they are deferred expenses, as they are considered deferred expenses and are considered long-term capital expenditures, and as expenses that contribute to the realization of revenue for future years may be deducted and treated as establishment expenses, and the Circuit reviewed the case file and found that the plaintiff did not provide the detailed movement of the expenses the Circuit reviewed the case file and found that the plaintiff did not provide the detailed movement of the balances of prepaid expenses that prove that they are establishment expenses for more than one financial period and contribute to the realization of revenue for future years, such as journal entries and contracts to verify the validity of the plaintiff's claim, and since the burden of proof lies with the plaintiff, the Circuit must reject the plaintiff's objection.

Eighth: a clause disallowing the discounting of overdue government debts: the dispute lies in the plaintiff's objection to the defendant's action of not allowing the deduction of overdue government debts in the amount of (70,452,041) riyals from the Zakat base, while the defendant argued that its action was in accordance with the provisions of the executive regulations for the collection of Zakat, and wherein Fatwa No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Fatwa



on debts due from government agencies included the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Based on the above, it is clear that the dispute lies about the deduction of the balance of claims owed by government agencies, and based on the above, it is clear from the legal opinion that zakat is not obligatory on the creditor in the Taxpayer's money owed by government agencies that he cannot collect due to a delay by the government agencies the Circuit has reviewed the case file and the defenses and documents it contains, and found that the Taxpayer did not provide proof of his claim to the government agencies, and that the inability to collect the amounts owed is the result of the failure of that agency, and since the burden of proof lies with the plaintiff, the Circuit must reject the plaintiff's objection.

Decision:

First: proving that the plaintiff's dispute is over..... (.....) With the defendant/Zakat, Tax and Customs Authority, regarding the clause of not deducting investments in local associates in the amount of (6,721,366) six million seven hundred and twenty-one thousand three hundred and sixty-six riyals from the Zakat base for the year 2013 AD, by the defendant's acceptance of the plaintiff's requests in this regard.

Secondly: defendant/Zakat, Tax and Customs Authority's decision against the plaintiff is overturned/ (.....) Relating to the clause of allowing the value of land to be deducted from fixed assets in the amount of (14,200,000) fourteen million and two hundred thousand riyals from the Zakat base for the year 2013 AD.

Third: plaintiff's other objections dismissed. (.....) Related to the assessment in question.

The date of filing the decision in the electronic system of the General Secretariat of Zakat, Tax and Customs Committees shall be considered the date of receipt of the copy of the decision, and the parties to the lawsuit may request an appeal within (30) thirty days from the day following the date of receipt of the decision, which shall become final and enforceable after the expiration of this period, if no objection is filed.

O Allah, send blessings and peace upon our Prophet Muhammad and upon his family and companions altogether.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees..



committee for adjudicating tax violations and disputes

The first division for adjudicating income tax violations and disputes

In Riyadh

Decision No. ITR-2024-232949

Case No. Z-2024-232949

Keywords:

Zakat - Deductions from the Zakat Base - Non-deduction of the Zakatable Balance - Rejection of the Taxpayer's objection

Summary:

The Taxpayer's objection to the Authority's decision on the 2018 AD Zakat assessment: (The plaintiff states that the related companies are 100% owned by the same shareholders, meaning that the receivables are the same and that not deducting the receivables from the wafa is considered a duplication of zakat. In light of the failure to provide documents supporting the plaintiff's view that these amounts were subject to Zakat in the subsidiary, the loans and advances made to the subsidiary are not deducted from the Zakat base, as the committee found that the plaintiff did not provide a statement of account for the related parties, financial statements of the company and subsidiaries, and Zakat declarations. This means that the objection of the Taxpayer is rejected.

Document:

- Article (5) of [the rules of operation of the Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (4/A) of clause (Second) of article (4) of [The executive regulation for collecting zakat issued by the decision of His Excellency the Minister of Finance number \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The facts of this case are that the plaintiff, ..., Commercial Registration No. (.....), filed by, National ID No. (.....) As an agent under the proxy attached to the case file, it objects to the 2018 AD Zakat assessment, and limits its objection to one clause: (Not deducting the balance subject to Zakat): the plaintiff's objection to the defendant's decision is that the amount of (45,652,185) was not deducted, the plaintiff states that the related companies are 100% owned by the same shareholders, meaning that the financial receivables are one and the same, and that not deducting the receivables from the Zakat bowl is considered double Zakat, because these debit balances with the company are considered credit balances in the other company, and the Zakat on them is in the other company and that the financial receivables are one financial receivable for the same partners, the balance must be deducted from the Zakat bowl for the company, and that the amounts owed to related parties are for the companies of the same owners of the company, i.e. They are also their financial receivables. It requests the annulment of the defendant's decision that is the subject of the lawsuit.

The case was presented to the defendant: she answered that she refused to deduct the amounts due from related parties in the amount of (45,652,185) SAR, as the clause is not among the clauses eligible for deduction and does not apply to it as stated in Article (4) of the Executive Regulations for Zakat Collection, stating that through the plaintiff's financial statements, she found the details of the amounts due from related parties as follows: (attached), subsidiary financial statements (.....) From the financial statements of the subsidiary company, it became clear that the purpose of dealing with the plaintiff is commercial transactions and services, and therefore they are expenses paid on behalf and not a good loan or payments by way of investment, in addition to being classified as current liabilities in the investee company and in the plaintiff's statements they are classified as current assets, and it became clear to her that the balance shown in the subsidiary company's statements of (24,273,038) SAR is different from the balance shown in the plaintiff's statements of (41,953,309) SAR (attached) The financial statements of the subsidiary company (.....) From the financial statements of the subsidiary company, it became clear that the purpose of the dealings with the plaintiff is commercial transactions and services, and therefore they are purchases and not good loans or payments by way of investment. It also became clear that the balance shown in the subsidiary company's statements in the amount of SAR 3,665,691 differs from the balance shown in the plaintiff's statements in the amount of SAR 3,698,876 (attached). Therefore, she rejected the plaintiff's objection, and emphasized that the plaintiff's claim is invalid because there is no legal basis for her request because the Zakat Regulations restricted the deductions in the provisions of Article (4) thereof, and the plaintiff did not provide any legal text in support of her action. It asks for a judgment of dismissal.

On Tuesday, 25/06/2024 AD, the Circuit held its session remotely to hear the case., National ID No. (.....), attended as the plaintiff's agent under agency No. (.....) And a law license (.....). (National ID No.), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization



issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.....) When the plaintiff's agent was asked about the lawsuit, he answered in accordance with the regulations previously filed with the General Secretariat of the Zakat, Tax and Customs Committees. When the defendant's representative was confronted with this, he replied that he was adhering to the response previously filed by the General Secretariat of the Zakat, Tax and Customs Committees. Asked what they would like to add, both parties said no. Therefore, the case was closed and the case was adjourned for study and deliberation.

Grounds:

Having reviewed the Zakat Law issued by Royal Decree No. (17/28/577) dated 14/03/1376 AH and its Executive Regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its amendments, and having reviewed the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425H and its amendments, and its Executive Regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its amendments, and after reviewing the working rules of the zakat, tax and customs committees issued by Royal Decree No. (25711) dated 8/4/1445 AH. And relevant laws and regulations.

In terms of form: whereas the plaintiff aims to cancel the defendant's decision regarding the Zakat assessment for the year 2018 AD, and whereas this dispute is considered one of the disputes within the jurisdiction of the Zakat and Tax Determination Committee circles under the work rules of the Zakat, Tax and Customs Committees, and whereas the plaintiff was informed of the result of the settlement on 08/02/2024 AD, and she filed the lawsuit through the electronic portal on 06/03/2024 AD, so the lawsuit was submitted within the legally prescribed period in accordance with Article (5) of the Zakat, Tax and Customs Committees' working rules, and the lawsuit was submitted by a person with standing, which makes it necessary for the Circuit to accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests and defenses raised by the parties, and found that the dispute lies in the following:

Clause (Non-deduction of zakatable balance on subsidiary's return):

Whereas paragraph (4/a) of Article 4, Clause (II) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 1/6/1438 AH stipulates that "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is



not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." guided by decision No. (IR-2023-93248) issued in appeal No. (Z-2022-93248), which states: "Based on the above, with regard to the advances and loans provided to subsidiaries for the years 2005 AD to 2010 AD, and since the dispute over this clause is a based dispute, and upon reviewing the Taxpayer's financial statements, it is clear that these amounts represent loans (advances) provided to subsidiaries, but the Taxpayer did not submit the financial statements of the subsidiaries and their Zakat declarations, nor did he submit the contracts of incorporation to verify the percentage of ownership in these companies, and he only submitted a statement prepared manually, signed and sealed for these loans however, the Taxpayer did not submit the financial statements of the subsidiaries and zakat declarations, nor did he submit the contracts of incorporation to verify the ownership percentage in those companies. He only submitted a statement prepared manually and unsigned or sealed for these loans and attached a sample of (8) financing contracts, and since the financial statements of the Taxpayer included the ownership percentages of the subsidiaries, the Circuit decides to accept the deduction of these loans within the limits of the ownership percentages."

Whereas, it appears that the plaintiff's claim is to deduct the balance subject to Zakat in the subsidiaries, as she explained that the balance consists of companies that are 100% owned by the same shareholders and have been Zakated, and where it appears that these amounts represent a loan (advance) provided to the subsidiaries, and the plaintiff has the right to deduct them by the ownership percentage, whether direct or indirect (100%) in the event that she provides proof that they are Zakated in the subsidiaries to prevent Zakat bending whereas, the defendant indicated that these amounts represent commercial transactions and are classified as current assets, in addition to the defendant's submission of a "screenshot" of the financial statements of the subsidiaries, through which it became clear that the balances in the plaintiff's financial statements did not match the balances in the subsidiaries' financial statements, and the defendant provided a "screenshot" of the subsidiaries' financial statements the plaintiff did not justify the reasons for the different balances in her response to the defendant's reply to the defendant's answering memorandum, and with reference to the annexes to the case, it is clear that the plaintiff did not submit a statement of account for the related parties, the financial statements of the company and subsidiaries, and the Zakat declarations, and in light of the failure to submit documents supporting the plaintiff's view that these amounts were subject to Zakat in the subsidiary company's base, loans and advances to the subsidiary are not deducted from the Zakat base, which leads the Circuit to reject the plaintiff's objection and support the defendant's action with regard to the following

For these reasons and after deliberation, the Circuit unanimously decided as follows:



Decision:

First: Accepting the plaintiff's objection /, Commercial Registration No. (.....), to the decision of the defendant / Zakat, Tax and Customs Authority in terms of form, and rejecting it in terms of substance.

This decision was issued in the presence of both parties, and the date of depositing the decision in the electronic system of the General Secretariat of Zakat, Tax and Customs Committees shall be considered the date of delivery of the decision, and the parties to the lawsuit may request an appeal within (30) thirty days from the day following the date specified for its delivery, so that it becomes final and enforceable after the expiration of this period if no objection is lodged.

May Allah send blessings and peace upon our Prophet Muhammad and upon all of his family and companions.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees.



committee for adjudicating tax violations and disputes
The first division for adjudicating income tax violations and disputes
In Riyadh

Decision No. ITR-2024-178620

Case No. Z-2023-178620

Keywords:

Zakat - Deductions from the Zakat Base - Not Deducting the Entire Investment - Rejecting the Taxpayer's Objection

Summary:

The Taxpayer's objection to the zakat assessments for the years 2015 AD to 2018 AD. Where the Taxpayer's objection lies on several clauses including: The clause (addition of surplus distributions due for the years 2015 AD-2016 AD) and where the dispute between the Taxpayer and the authority is in adding the accumulated surplus from the distributable insurance operations to the zakat base for the aforementioned two years, and where the principle in allowing the deduction of the distributable surplus is to provide proof of its exit from the company's liability in a separate account that the company does not have authority over. In the clause (non-deduction of the full value of investments), the authority rejected the deduction of local investments, trading portfolios, and real estate of various values as they are for personal use. In the clause (non deduction of margin of solvency) it lies in the request of the Taxpayer to deduct the solvency margin from the zakat base as it is considered as reserved funds that cannot be disposed of. And since it has been established to the circuit regarding the clause (adding due surplus distributions) that the Taxpayer did not attach what proves his retention of the insurance surplus related to policyholders in a separate account, and regarding the clause (non-deduction of the full value of investments) that the Taxpayer did not provide the movement on the shares to prove the absence of sale movements during the year to prove that it is for personal use and that the investment in the funds invested is considered as commercial offerings and cannot be deducted from the zakat base, and regarding the clause (non-deduction of the solvency margin) that the solvency margin is an operational ratio that cannot in any case be classified as one of the clauses of financial statements but is an analytical ratio used to judge the company's solvency.



Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (1,4) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The facts of this lawsuit summarize that the plaintiff/company... Commercial Registration No. (...), filed her objection to the Zakat Taxes for the years 2015 AD to 2018 AD, limiting her objection to the following clauses: first clause: (2015 AD amortization difference), second clause: (Balance of Retained Earnings for 2017 AD), third clause: (Zakat Allowance): the plaintiff's objection lies in the defendant's decision to add the zakat provision to the zakat base for the years 2015 AD to 2017 AD in the amount of (9,7343,588) SAR, (12,312,752) SAR, (15,366,170) SAR, and (17,926,170) SAR, and the plaintiff believes that the component of the Zakat provision is not a deductible expense, in addition to the fact that the user cannot be deducted either, as it is not a deductible expense, and therefore the Zakat profit does not consist of charging the user of the provision, to subject the provision to Zakat within the Zakat profit, and that reintroducing it into the Zakat base will lead to a Zakat bend in the calculation of the base. Fourth clause: (Add the accrued surplus distributions for 2015 AD and 2016 AD): the plaintiff's objection lies in the defendant's decision to add the accrued surplus distributions for the years 2015 AD and 2016 AD to the Zakat base in an amount of SAR 2,984,395 and SAR 4,307,062, respectively. The plaintiff states that these amounts are not subject to Zakat as they belong to policyholders, and that they represent accrued amounts reserved for the benefit of policyholders

The policies are not disposable, as per the Authority's application to all insurance companies not to subject this clause to Zakat. Fifth clause: (Deducting the full value of investments for the years 2015 AD to 2018 AD): the plaintiff's objection to the defendant's decision lies in not allowing the full value of the investments to be deducted from the zakat base for the years 2015 to 2018 in the following amounts: (25,629,650) SAR, (23,747,119) SAR, (89,585,314) SAR and (108,841,206) SAR respectively, the plaintiff explains that the investments deducted in her declarations are local companies and investments in trading portfolios or real estate, relying on the provisions of paragraph (II/4/a) of Article (4) of the Zakat Collection Regulation of 1438 AH, as it allowed the deduction of investments subject to Zakat collection in the Kingdom, in addition to not deducting the investment in a company (...). Sixth clause: (Not deducting the solvency margin from



the Zakat base for the years 2015 AD-2017 AD): the plaintiff's objection to the defendant's decision lies in not allowing the deduction of the solvency margin for the years 2015 AD-2017 AD from the zakat base in the amounts of (87,000,000) Saudi riyals, (75,000,000) Saudi riyals and (75,000,000) Saudi riyals, respectively, the plaintiff believes that the Shari'ah aspects of Zakat must be addressed in relation to this clause because there is no decisive provision in the amended Zakat Regulation that addresses the solvency margin independently. She explained that with regard to the solvency margin deduction in cooperative insurance companies from the Zakat base in these companies, If Sharia rulings are the basis for dealing with the solvency margin, then the regulatory rulings decided by the Saudi Arabian Monetary Agency in the executive regulations for the cooperative insurance companies control law issued by Royal Decree No. (M/32) dated 2/6/1424 AH are the basis for determining the nature and characteristics of the margin and requirements upon which the ruling on the margin is based. It is considered in the judgment of the specific purpose funds that take the judgment of the tools of the craft or artistic offerings and thus applies to the solvency margin what is stated in Fatwa No. (12756) about funds that cannot be disposed of, and from the regulatory point of view, the solvency margin is considered in the judgment of the reserved amount that may not be disposed of the solvency margin is the guarantee for policyholders in case claims exceed the subscribed premiums and cover the reinsurers as well as in case one or more of the reinsurers go bankrupt. Therefore, the correct Shari'ah treatment of the solvency margin is that it must be deducted from the Zakat base because it is one of the tools of the craft (Acquisition) in the cooperative insurance activity, and it is a type of reserved money that is limited in width and in respect of which the above-mentioned applies.

Seventh clause: (Not deducting the user from the allowance for the year 2015 AD): the plaintiff's objection lies in the defendant's decision to add the first period allocations to the Zakat base for the year 2015 AD (SAR 120,231), and states that not deducting the user from the profit despite the addition of the component violates the calculation of the Zakat base, and if the component is added, the user must be deducted under the same clause from the profit, and deducting the user from the profit is to determine what remains of the allocation and consider it as financing. It requests the annulment of the defendant's decision that is the subject of the lawsuit.

The case was presented to the defendant: she replied; First: (2015 AD amortization difference), II: (Balance of retained earnings for 2017 AD): defendant has indicated its acceptance of Plaintiff's requests in these clauses. Third: (Zakat Allowance): she explains that she added the Zakat provision to the beginning balance of the period after deducting its utilization for the years 2015 AD to 2018 AD as follows: (A table showing the calculation is attached.) With regard to what the plaintiff indicated in her claim that there is a bend in the submission, she answers that the component is not added to the net profit, because the net profit was adjusted before the zakat expense and the addition of the allowance to the balance of the first period after deducting the user, due to the turn of the year, and her procedure is based on paragraph (9/I) of Article (IV) of the Executive Regulations of the Zakat Law issued by Ministerial Resolution No. 2082 for 1438 AH.



Fourth: (Add the accrued surplus distributions for 2015 AD and 2016 AD): the defendant states that it added the policyholders' share of the insurance surplus to the Zakat base due to the turn of the year on the added balance, in accordance with paragraph (2-e) of Article (70) of the Executive Regulations of the Cooperative Insurance Companies Control Law issued by Royal Decree No. (M/32) dated 2/6/1424 AH, which stipulates: "The distribution of the net surplus, either by distributing 10% to the insured directly or by reducing their premiums for the following year (the percentage of the surplus that the Taxpayer is required not to add to the Zakat base) and then transferring 90% to the shareholders' income statement." because insurance companies are obligated to distribute 10% of the net insurance surplus to customers, while it became clear that the plaintiff did not distribute this surplus and the insured's premiums were not reduced in the following year, as evidenced by the presence of the amount in the financial statements for more than one year and the turning of the year. The defendant explains that during the hearing held with the plaintiff, these profits are in a special account that the company cannot dispose of. In light of this, she asked the plaintiff to provide her with a certificate from the bank stating that they are in a special account and the documents that support this, so the plaintiff attached a statement from ... Showing a balance of (638,924.14) SAR, and the type of account is current, and did not provide documents and a certificate from the bank supporting what was stated in her objection. In response to the plaintiff's claim that the money is seized and there is no full ownership, this is not true, as the plaintiff has full access to the existing bank accounts

These amounts are accessible and can be utilized (funds utilized and available for use). Fifth: (Not deducting the full value of investments for the years 2015 AD to 2018 AD): the Authority responds that it did not accept the deduction of investments for the fiscal years 2015 AD to 2018 AD, based on paragraph (4c) of clause (II) of Article (4) of the Executive Regulations of the Zakat Collection Law issued by Ministerial Resolution No. (2082) for the year 1438 AH, as follows (Table attached) At the objection stage, the Authority requested the plaintiff to submit the supporting documents as follows:

- Analysis of the investments clause showing the company name - beginning balance - additions - deductions - distributions - profits and losses - and the ending balance.
- Reconcile the investments with the financial statements, indicating the type of shares, bonds and sukuk, investment funds and real estate.

The plaintiff provided an Excel file showing only the balance of the last period and the name of the company invested in, and through the analysis document and financial statements, it turned out that the investments are (local stock portfolios - units of investment funds - real estate - investment in ... Company) therefore, the Defendant partially accepted the deduction of investments worth SAR 1,923,078 for the disputed years, because they are investments in ... Company as for investments in stock portfolios or real estate funds the investor intends to invest in these funds or portfolios that are managed by an intermediary and is aware of the nature of the business and activities of these funds or portfolios, and that it is based on flipping and trading money (buying and selling) and not acquiring, and therefore investing in the portfolios of these



funds is considered to be in the category of offers of trade, which may not be deducted from the Zakat base, and this does not change the duration of the investment in the fund or its classification in the financial statements this does not change the duration of the investment in the fund or its classification in the financial statements, but rather the nature of the investment, and based on the fact that the purpose of these funds or portfolios is trading, the investment in them is considered a current asset that is classified as an offer of trade, therefore, it affirms that the plaintiff is not entitled to deduct it from the Zakat base for the years in question. Vi: (Not deducting the solvency margin from the Zakat base for the years 2015 AD-2017 AD): stating that it did not deduct the solvency margin because it is not a deductible element according to Article (IV) Clause (II) of the Zakat Collection Regulation issued by Ministerial Decision (2082) dated 01/06/1438 AH. The solvency margin is an operational ratio that measures the company's financial solvency and is not an element of the financial statements, as stipulated in Article 66 of the Executive Regulations of the Law on the Control of Companies ... Issued by Ministerial Decision No. (596/1) dated 1/3/1425 AH, stipulates that a company practicing general and health insurance must maintain a solvency margin by adopting the highest of the following three methods: the solvency margin is essentially an operational ratio that cannot in any way be categorized as a financial statement clause and does not appear in the company's financial statements, nor is it a restricted part of the capital. As for the plaintiff's statement that the company's hand is tied to the development of the solvency margin, it is not true. The matter does not exceed the fact that the Central Bank has determined for insurance companies more secure investment channels and instruments in order to preserve the rights of shareholders and insurers, and the solvency margin is one of the controls of the work in the field of cooperative insurance in the Kingdom and known to the company before it applied for a license to practice the activity in the Kingdom, and there is no provision in the executive regulations for collecting zakat to deduct the solvency margin from the zakat base, and since no addition or deduction except by text, it rejected the plaintiff's objection. Seventh: (Not deducting the user from the allowance for the year 2015 AD): it clarifies that the user is deducted from the first period allowance and the difference is added to the Zakat base, because this is the correct treatment, which is mentioned in paragraph (9/1) of Article (IV) of the Executive Regulations of the Zakat Law issued by Ministerial Decision No. (2082) of 1438 AH, which states: "The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." whereas the component of the allocations during the year is added to the net profit as a non-deductible expense, as this is the correct treatment, which is in accordance with Article (6) paragraph (6) of the aforementioned Executive Regulations, which stipulates "non-deductible expenses, including (6) all allocations with the exception of: A- Provision for doubtful debts to banks provided that the bank submits a certificate from its board of directors specifying the amount of doubtful debts and that the Saudi Arabian Monetary Authority approves that. (b) Unearned premiums reserve and existing risk reserves in insurance (and/or reinsurance) companies (technical reserves)



provided that they are returned to the Zakat base in the following Zakat year and that their determination is in accordance with the professional standards followed in this activity." it asks for a judgment of dismissal.

On Wednesday, 14/06/2023 AD, the Circuit held its session remotely to hear the case, and by calling on the litigants, the ... National ID No. (...), as agent for the plaintiff under agency No. (...), as representative of the defendant/Zakat, Tax and Customs Authority, ... National ID number (...) Under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1443) dated 15/10/1443 A.H. At the hearing, the plaintiff's representative requested that the proceedings be suspended due to the existence of a settlement request with the Authority, and by presenting it to the defendant's representative, he responded: my client has no objection to suspending the proceedings, so the Circuit decided to suspend the proceedings for (one hundred and eighty) days in accordance with Article 31 of the Rules of Procedure of the Tax Disputes and Violations Adjudication Committees

On 17/12/2023 AD, the case was initiated, and on Wednesday, 03/01/2024 AD, the Circuit held its session remotely to hear the case, and by calling on the litigants, ... Identity number (...) As agent for the plaintiff under agency number (...) He attended/... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs, no: under authorization No. (.../.../.../1445), dated 19/03/1445 AH. When the plaintiff's agent was asked about the lawsuit, he answered in accordance with the regulations previously filed with the General Secretariat of the Tax Committees. When the defendant's representative was confronted with this, he replied that he was sticking to the response previously filed with the General Secretariat of the Tax Committees. Asked what they would like to add, both parties said no. Therefore, the Circuit decided to close the argument.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Decree No. (.../.../...) Dated 14/03/1376 AH and its executive regulations issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH and its amendments, and after reviewing the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH and its amendments, and its executive regulations issued by Minister of Finance Decision No. (1535) dated 11/6/1425 AH and its amendments and its Executive Regulations issued by Minister of Finance, and after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated 8/4/1445 AH. And relevant laws and regulations.

In terms of form: since the plaintiff aims to cancel the defendant's decision regarding the Zakat assessments for the years 2015 AD to 2018 AD, and since the plaintiff filed Case No. (Z-2021-41128) on 10/03/2021 AD, which was closed for incomplete documents on 01/04/2021 AD, and since the date of filing the case is considered as the date of filing the grievance before the Secretariat, while she was informed of the partial rejection notice on 24/02/2021 AD, the grievance was filed within the statutory period stipulated in Article



(2) of the working rules of the Tax Disputes and Violations Resolution Committees: "The Authority shall decide on the objection within ninety days from the date of its submission. If the decision to reject the objection is issued or the ninety-day period elapses without a decision, the Taxpayer may, within thirty days from the date on which he is informed of the rejection of his objection before the Authority or the expiration of the ninety-day period without a decision, do any of the following: Within thirty days from the date on which he is informed of the rejection of his objection before the Authority or the expiration of the ninety-day period without a decision:

1-Request to refer the objection to the internal committee for settlement if the Taxpayer rejects the internal committee's decision on settlement or if the period specified in the settlement rules expires without reaching a settlement, the Taxpayer may file a grievance case against the Authority's decision before the adjudication committee within thirty days from the date on which he was informed of the internal committee's decision or the period specified in the settlement rules expired without reaching a settlement, and his case shall not include what may have been settled with the internal committee.

(2) File a grievance directly with the dismissal committee." therefore, the Circuit must accept the case procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests and defenses raised by the parties, and found that the dispute lies in the following:

First: (2015 AD amortization difference) and (2017 AD retained earnings balance):

Article (33) of the working rules of the Tax Disputes and Violations Adjudication Committees stipulates that: "The decisions of the adjudication Circuits shall acquire final status in the following cases:

3- The parties to the case agree to reconciliation or acknowledge reconciliation before the adjudication Circuits."

The Circuit has established that the dispute ended with the defendant's acceptance of the plaintiff's requests as stated in the letter issued by the defendant in the reply memorandum attached to the case file, which leads the Circuit to conclude that the dispute has ended with regard to this clause.

Secondly: (Zakat Allowance):

Paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 H, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year."

Whereas, allocations by their accounting nature mean that the company has a future obligation that it did not pay during the fiscal year in which the obligation is due, so they are added to the base as an offset against



the Taxpayer's funds, as the Taxpayer's obligation means that the money is still in his hand, and there is no difference in this matter between what has been allocated to pay Zakat or otherwise, and whereas, those allocated amounts have passed the hawl and are in the plaintiff's possession, and therefore the fact that these amounts remain with the company for another year should result in the duty of Zakat on them for that year, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

Third: clause (Adding accrued surplus distributions for 2015 AD and 2016 AD):

Whereas paragraph (2-e) of Article (70) of the Executive Regulations of the Cooperative Insurance Companies Control Law issued by Royal Decree No. (M/32) dated 2/6/1424 AH stipulates that "Distribution of the net surplus, either by distributing 10% directly to the insured or by reducing their premiums for the following year and then transferring 90% to the shareholders' income statement." paragraph (9) of the policy on distribution of surplus insurance operations issued by the Central Bank of Saudi Arabia stipulates that: "9- The insurance company must deposit the amounts of surplus insurance operations in a bank account separate from the rest of the company's bank accounts." based on Article 35 of the Surplus Distribution Policy, which states: "The amount of unclaimed surplus for more than 5 years is returned to the insurance operations income statement. If the customer claims the amount after 5 years, the amount is paid and deducted from the insurance income statement. The insurance company must keep records of the accrued surplus for 10 years and after 10 years, the company must seek approval from the Saudi Central Bank to dispose of any amounts accrued in the insurance operations income statement." whereas the dispute between the parties is about adding the accumulated surplus of the insurance operations that is distributable to the policyholders to the Zakat base for the years 2015 AD and 2016 AD, and where the basis for the permissibility of deducting the distributable surplus is to provide proof of its exit from the company's liability in an independent account over which the company has no authority like profits under distribution, and referring to the case file and the defenses and documents it contains shows that the plaintiff did not submit the Central Bank policy regarding the accumulated surplus, and a bank statement was submitted to This was confirmed by the defendant in its reply memorandum, and with reference to the financial statements available on the Tadawul website (the lists for 2018 AD and 2019 AD were examined because the years in dispute were not available on the basis of verification), it appears that the net insurance surplus appears in the statement of income from insurance operations separately, but the notes to the financial statements did not clarify whether the company keeps the surplus of policyholders in a separate bank account, and although the policy of the Saudi Central Bank in the surplus of insurance operations makes it clear that the company cannot dispose of the surplus in any way despite the fact that the Saudi Central Bank's policy on surplus insurance operations makes it categorically clear that the company cannot dispose of the surplus in any form whatsoever, the dispute over this clause is a documentary dispute and the fact that the plaintiff did not attach proof that it keeps the insurance surplus



related to policyholders in a separate account, which leads the Circuit to reject the plaintiff's objection and support the defendant's action with regard to this clause.

Fourth: the clause (not deducting the full value of investments for the years 2015 AD to 2018 AD):

Based on paragraph (4/A) of Article (4) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 1/6/1438 AH on: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base."

Article 20, paragraph 3, of the Act states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."

A: investments in Tadawul shares (local companies):

Two basic conditions must be met for investments to be considered as Acquisition offerings and may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on those investments. A review of the documents attached to the case file reveals that the plaintiff did not submit the movement on the shares to prove that there were no sales transactions during the year, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

B: investments in funds:

Whereas, two basic conditions must be met for investments to be considered as offers of trade and may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on those investments, and whereas investment funds are characterized by the collection of different amounts issued for investment in various fields, and the fund has a financial liability independent of the issuing investment entity consequently, the investment in these funds is considered a trade offer and may not be deducted from the zakat base. This does not change the duration of the investment in the fund, but rather the nature of the investment, as they are funds for trading and not for reading, which leads the Circuit to reject the plaintiff's objection and uphold the defendant's action with regard to this clause.

C: investing in a company... :

Article (33) of the working rules of the Tax Disputes and Violations Adjudication Committees stipulates that: "The decisions of the adjudication Circuits shall acquire final status in the following cases:



3- The parties to the case agree to reconciliation or acknowledge reconciliation before the adjudication Circuits."

The Circuit has established that the dispute ended with the defendant's acceptance of the plaintiff's requests as stated in the letter issued by the defendant in the reply memorandum attached to the case file, which leads the Circuit to conclude that the dispute has ended with regard to this clause.

Fifth: clause (not deducting the solvency margin from the Zakat base for the years 2015 AD-2017 AD):

Whereas, the dispute lies in the plaintiff's claim to deduct the solvency margin from the Zakat base, as it is a reserved money that may not be disposed of, in accordance with the Monetary Authority's regulations and in accordance with Fatwa No. (12756) regarding funds that cannot be disposed of and that reserved funds are not subject to Zakat, and whereas the basis for the obligation of Zakat is the general rules of collection and the Sharia fatwas issued in this regard, as well as Zakat collection regulations, trade offers and explanatory circulars. Regarding the claim that the company's hand is tied regarding the solvency margin, this claim is incorrect, as it does not exceed the fact that the Saudi Central Bank has specified certain investment channels and tools for these companies for the purpose of preserving the rights of shareholders, and building reserves to support the company's financial position and achieve the required solvency margin according to the Cooperative Insurance Companies Control Law and its executive regulations, and it is known that the solvency margin is an operational ratio that cannot in any case be classified as one of the clauses of financial statements but is an analytical ratio used to judge the company's solvency, which leads the circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

Vi: clause (Non-deductibility of the user from the allocations for 2015):

Whereas paragraph (I) of Article (4) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year."

The Zakat treatment of provisions consists of deducting the user from the balance of the provisions at the beginning of the year and adding the result to the Zakat base with the addition of the component to the net profits. A review of the Zakat assessment shows that the defendant has deducted the user from the provisions during the year from the balance of the first period and added the remainder to the turnover, thus the Zakat treatment of the disputed clause is correct, and the plaintiff's reference to subjecting the balance of the provision twice is incorrect, which leads the Circuit to reject the plaintiff's objection and support the defendant's action regarding this clause.

For these reasons and after deliberation, the Circuit unanimously decided as follows:



Decision:

First: Acceptance of the plaintiff's objection/ Company ... , Commercial Registration No. (...), against the decision of the defendant/ Zakat, Tax and Customs Authority from a procedural perspective.

Second: On the Merits:

- 1- Proving the end of the dispute regarding the clause (consumption difference for the year 2015 AD).
- 2- Proving the end of the dispute regarding the clause (retained earnings balance for the year 2017 AD).
- 3- Rejection of the plaintiff's objection regarding the clause (adding the zakat provision for the years from 2015 AD to 2017 AD).
- 4- Rejection of the plaintiff's objection regarding the clause (adding due surplus distributions for the years 2015 AD-2016 AD).
- 5- Regarding the clause (non-deduction of the full value of investments for the years from 2015 AD to 2018 AD):
 - A - Rejection of the plaintiff's objection regarding the clause (investments in trading shares (local companies)).
 - B - Rejection of the plaintiff's objection regarding the clause (investments in funds).
 - C - Proving the end of the dispute regarding the clause investment in (Company ... For insurance services - valued at 1,923,078 Riyals).
- 6 - Rejection of the plaintiff's objection regarding the clause (non-deduction of the solvency margin from the zakat base for the years 2015 AD-2017 AD).
- 7 - The plaintiff's objection regarding the clause (the user not being deducted from the allocations for the year 2015 AD) is rejected.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178239

Case No. Z-2023-178239

Keywords:

Zakat – Deductions from the Zakat Base – accumulated losses - acceptance of the Taxpayer's appeal

Summary:

Objection of the Taxpayer to the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6700), where the Taxpayer's appeal on the clause (losses accumulated) is that the authority's procedure is incorrect due to the lack of issuance of assessments by the authority for previous years. The appellate committee established that the assessment issued by the authority for the year in dispute has no basis in truth, as the authority did not issue previous assessments for the Taxpayer. This means accepting the Taxpayer's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (Second/9) of Article (4) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

the appeal was heard on 14/02/2023 AD, from/ (.....) National ID number (....) In his capacity as an agent under Agency No. (.....) And Lawyer's License No. (.....), on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6700) issued in Case No. (Z-2021-89702) related to the 2017 AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



First: acceptance of the plaintiff's objection/ (.....) , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority in terms of procedurality.

Second: On the merits:

1- Annulment of the defendant's decision with respect to (trade receivables).

2. Reject the plaintiff's objection with respect to the "Accumulated Losses" clause.

As this decision was not accepted by the Taxpayer (....), he submitted a list of appeals reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (accumulated losses), the Taxpayer explains that there are no previous assessment s issued by the Authority for the years prior to the year of the dispute and the Authority did not provide any evidence that it was related to the Taxpayer for previous years as the basis of the dispute is that the Authority did not issue assessment s to the company as there is no basis for the validity of the Authority and no basis for the validity of the decision issued by the Circuit, as he explains the position of the company's assessment s from the beginning of activity until the year in dispute as follows: from 2011 AD to 2014 AD, as well as 2016 AD, the Authority did not issue the assessment , and in 2015 AD, the Authority issued its assessment (Annex 2), which was objected to and the objection was fully accepted by the Authority and therefore there are no adjustments to the losses (Annex 3), and for the disputed year 2017 AD, the Authority issued its assessment . It also clarifies that in the case of not issuing the CRA assessment , as is the case for the years 2011 AD to 2014 AD and 2016 AD, or the CRA issuing a letter accepting the company's full objection to the CRA assessment , as is the case in 2015 AD, and therefore in both cases the company's declaration is considered final, and therefore it is clear to Your Excellency from the above table, that the company's declarations for the years since the start of the company's activity until 2016 AD are considered final declarations, and therefore the claims of the Authority are only an interpretation and repetition of its objections from other cases and are not based on any evidence as the dispute lies in the method of addressing the accumulated loss deduction, as the Authority did not allow the accumulated loss deduction of (432,254,000) SAR, which represents the first period balance of accumulated losses included in the company's audited financial statements for 2017 AD. The company's statement of changes in equity for 2017 AD shows that the beginning-of-period balance for accumulated losses is SAR (432,254,000), while the end-of-period balance for accumulated losses is SAR (432,254,000). He requests that his appeal be accepted and that the decision of the Adjudication Circuit on the clauses under appeal be reversed.

On Monday, 25/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Article XV, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and



documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Taxpayer's appeal is based on the fact that the Authority's action is invalid due to the failure to issue bonds by the Authority for previous years, and based on clause (II/9) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision (2082) dated 1/06/1438 AH, which stipulates that: "The following shall be deducted from the zakat base:" 9- The adjusted net loss carried forward according to the authority's assessments after adding only the provisions or reserves to it, which previously reduced the loss in the year of its formation." And based on paragraph (3) of Article (20) thereof, which stated that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may conduct an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it," based on the above and where it is clear that the basis of the dispute in the Taxpayer's claim that the authority did not issue assessments for previous years, as the Taxpayer argues that the authority's action is incorrect due to the lack of issuance of assessments by the authority for previous years, as well as arguing that in 2015 AD the authority issued its assessment in addition to fully accepting the objection, as the assessment issued for 2015 AD is attached (2) and the notice of acceptance of the objection is attached (3). Upon reviewing the authority's response memorandum, which argues for its assessment according to its amended assessments, and after reviewing and studying the case file, it became clear to the committee that the assessment issued by the authority for the year in dispute has no basis in truth, as the authority did not issue previous assessments for the Taxpayer, and the authority did not provide credible evidence in response to what the Taxpayer mentioned in his defenses outlined above, which is evident upon reviewing its assessment for 2015 AD, in which the authority accepted the Taxpayer's objection. Therefore, the burden of proof lies with the authority, as it did not provide its response to what the Taxpayer argued and credible evidence for the validity of its action, and this does not detract from what the authority argues about not accepting any new documents, which leads the committee to accept the Taxpayer's appeal and annul the decision of the division regarding this clause.



On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial registration number (.....), unique number (.....), against the decision of the third division for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6700) issued in case number (Z-2021-89702) related to the Zakat assessment for the year 2017 AD.

Second: On the merits:

Accepting the Taxpayer's appeal and annulling the decision of the division regarding clause (accumulated losses).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-194322

Case No. Z-2023-194322

Keywords:

Zakat - Deductions from the Zakat Base - Rounded losses - Acceptance of Authority's appeal

Summary:

The Zakat and Tax Authority appeal against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh (IFR-2023-152831), where the Zakat and Tax Authority's appeal lies on the clause (Carried Forward Losses), where the Authority requests the annulment of the Resolution Circuit's decision on this clause on the basis that the Authority deducted the carried forward losses from the elements of the Zakat base, and on the clause (Dividends), as it was not accepted that the dividend income was deducted from the net result of the year, as it represents shares listed in the Saudi market, and therefore was not accepted to be deducted. The Appellate Committee has determined that what is considered in the losses carried forward for Zakat purposes is what has been adjusted as required by the Zakat Law and not the losses carried forward included in the financial statements. The effect of this is to accept the partial abandonment of the litigation and accept the Authority's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [The Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (II/9) of Article (4) of [The Executive Regulations for Zakat Collection issued by Decision No. \(2082\) of the Minister of Finance dated 01/06/1438H.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal filed on 03/05/2023 AD from (...), National ID No. (...), as the statutory representative of the appellant company according to the Board of Directors' decision, and from the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2023-152831) issued in Case No. (Z-2022-152831) regarding the Zakat assessment for the years 2016 AD and 2017 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: defendant/Zakat, Tax and Customs Authority's action against the plaintiff/ (.....) (.....) The claim relates to the clause of realized losses for the years 2016 AD and 2017 AD, as explained in the reasons.

Secondly: defendant/Zakat, Tax and Customs Authority (Zakat, Tax and Customs Authority) vs. Plaintiff/ (.....) Related to the provision for losses in the investee company (equity) for the year 2016 AD, as explained in the reasons.

Third: plaintiff's objection rejected. (.....) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the clause of investments in Saudi joint stock companies for the years 2016 AD and 2017 AD that are the subject of the lawsuit.

Fourth: plaintiff's objection rejected. (.....) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the deduction of prepaid expenses for the years 2016 AD and 2017 AD that are the subject of the lawsuit.

Fifth: plaintiff's objection rejected. (.....) On the decision of the defendant/Zakat, Tax and Customs Authority (ZTA) regarding the provision for losses in the investee company (equity) for the year 2017 AD, which is the subject of the lawsuit.

Vi: canceling the other decisions of the defendant/Zakat, Tax and Customs Authority against the plaintiff. (.....) Related to the assessment in question.

This decision was not accepted by both parties both parties filed a list of appeals, which included the following:

This decision was not accepted by the Taxpayer (.....) he submitted an appeal list, which was reviewed by the Circuit and included the following: the Taxpayer appeals against the decision of the Adjudication Circuit regarding the clause (Investments in Saudi joint stock companies), the appellant demands the annulment of the Circuit's decision regarding this clause, and the Taxpayer asserts his right to deduct the value of the investments from the Zakat base amounting respectively to (15,249,588) riyals and (8,716,727) riyals, that



the legal basis for accepting the deduction of these investments from the Zakat base is in accordance with the Sharia fatwa and judicial rulings issued that support the right to accept the deduction of the company's investments in shares available for sale from the Zakat base, including Sharia Fatwa No. (22665) of 1424 AH on the necessity of deducting investments in shares of companies with the intention of acquisition even if there is a movement on them, and the Taxpayer indicates by submitting a table and annexes he indicated that there is no movement on many of the investments, and that the shares have been held without any disposal by the company, and that the movement shown in the tables provided also confirms that the investments are long-term and have been held from the time they were purchased, as the majority of the invested shares have not undergone any sale or purchase except for some shares that the company was forced to sell due to a critical decline in value or the company's need to monetize them, and this is in accordance with Sharia Fatwa No. (22665), and with regard to investments in shares available for sale for 2017 AD, the Taxpayer reports that most of the shares were held from the time of purchase and extended for more than 3 years, and that the process of decrease or increase in the number of shares is taken into account as for what the Adjudication Circuit indicated in its decision that the minutes of the Executive Committee meeting dated 6/3/2017 AD indicate that there was approval to sell some shares, this has no effect on the company's intention to acquire, and it is not valid to rely on it to infer the company's intention, because its effect was taken into account when the value of the investments was deducted from the Zakat base.

The decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary:

With regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority requests the annulment of the Circuit's decision on this clause on the basis that the Authority deducted the carried forward losses from the Zakat base, as the loss was deducted in 2016 AD according to the 2015 AD assessment as acknowledged by the Taxpayer, while in 2017 AD, the loss was deducted according to the 2016 AD assessment after refunding the allocations as for the Taxpayer's reference to the existence of a case filed with the committees for the year 2015 AD that has not been decided and relates to the deduction of the net rounded loss, the Authority responds that the clause of the rounded loss according to the 2015 AD assessment turned out to be a material error in the treatment of the rollover of the rounded loss to 2016 AD, and this error was based on this error was based on the carry forward of the rounded loss for 2017 AD, and by amending the material error of the rounded loss clause according to the approved assessments for the years 2016 AD and 2017 AD, and since the result of processing the correctness of the rounded loss will



result in a larger base, which indicates the incorrectness of the Taxpayer's claim, and therefore the losses received by the Authority for the two mentioned years were approved based on Article 21 of the Zakat Regulations, and the treatment of the discount of the rounded loss came based on Article 4 of the same Regulations, and the result of the 2015 AD escalation is still pending before the committees and the Authority maintains its viewpoint according to the note attached to the year referred to which did not reach the decision of the committees, and the result of the escalation of the year 2015 AD is still pending in front of the committees and the Authority maintains its viewpoint according to the note attached to the year referred to the Circuit issuing the decision under appeal modified this clause, reasoning that the previous 2015 AD case accepted some clauses affecting the net profit and ended up modifying the Authority's action based on the final decision, Authority responds that the 2015 AD case, which ended up accepting some clauses, was appealed by Authority and to date no appellate decision has been issued. Moreover, Authority states that even if the decision was issued in favor of the Taxpayer, there is still a net profit for 2015 AD, and when recalculating the losses carried forward during the appeal phase, it turns out that the losses carried forward for 2016 AD will be reduced by (3,712,586) riyals instead of (11,375,303) SAR, and in 2017 AD an amount of (492,548) SAR was deducted instead of (7,170,169) riyals from the elements of the Zakat base, as the loss in 2016 AD was deducted according to the 2015 AD assessment as acknowledged by the Taxpayer, while in 2017 AD the rounded loss was deducted according to the 2016 AD assessment after processing the return of provisions, and the amendment was not made during the objection, as the effect of the amendment would result in a higher Zakat than the Zakat, and the treatment of the rounded loss is based on paragraph (II/9) of Article 4 of the regulation issued in 1438 AH, so the Authority confirms the correctness and regularity of its procedure. With regard to the clause (Partner's salary expense), in case the Circuit overrides the procedural, the Authority would like to inform the Honorable Circuit of the abandonment of its appeal with regard to the above-mentioned clause in particular and the consequences of the Authority's appeal for this clause, in accordance with the reasoning of the Decision of the Adjudication Circuit. With regard to the clause (Dividends), the Authority requests the annulment of the Circuit's decision on this clause on the basis that the Authority does not accept the deduction of dividend income in the amount of (551,176) riyals from the net result of the year, as it is represented by shares listed in the Saudi market (available-for-sale investments), and therefore, because it does not apply to the text of Article 4 (II-4/c) of the Zakat Regulations it should also be noted that it was previously met with the Taxpayer and the Authority requested to provide proof of the dividends resulting from the investment and that they were made from the profits of the year and not from the profits of previous years, and the Taxpayer's response



came on 21/08/2022 AD about the inability to obtain copies of dividend decisions for the required years from the Tadawul website because more than five years have passed since these decisions were issued, so that the Tadawul system does not show any decisions related to dividends, so the Authority referred to the data provided during the examination phase since the Authority did not originally approve the deduction of available-for-sale investments from the elements of the Zakat base due to the presence of buying and selling during the year, as they are traded investments for the purpose of trading and are not subject to deduction, the effect of dividends resulting from these investments was not accepted from the income of the result and must be subject to Zakat, based on paragraph (1) of Article 1 of the Zakat Regulation, and based on paragraph (3) of Article (Twenty) of the same Executive Regulations, the Authority did not accept the effect of dividends resulting from these investments from the income of the result. In response to what is stated in the Taxpayer's list regarding Zakat bending, the Authority clarifies the incorrectness of what the Taxpayer referred to in his list, as the Authority's action does not result in Zakat bending, so that it is clear to the Circuit that there is no validity to the Taxpayer's request to deduct the clause because it violates the legal requirement explained by the Authority in the above paragraph, nor is there a valid basis for what he addressed in his list, as it is not based on any legal evidence that can be relied upon as for what the Taxpayer relied on with regard to fatwas, the Authority responds that this clause is governed by a clear statutory provision, and anything else is a procedure contrary to the correct statutory requirement, whether from decisions or otherwise, because the statutory text is clear and explicit and prevents any diligence to the contrary. The Circuit issuing the decision under appeal overturned the Authority's decision due to the fact that the investments are long-term and for the purposes of channeling, and that the companies invested in are large Saudi companies that distribute profits to shareholders periodically. Authority responds that by referring to clause three of the decision (the clause of investments in Saudi joint stock companies for the years 2016 AD and 2017 AD), which rejected the claimant's objection, where it stated that the Circuit found that there were buying and selling operations during the years in question, which indicates that they are not for channeling purposes, and that the Circuit's decision in the clause of investments supported the Authority's action and that the Authority did not originally approve H...

On Sunday, 21/07/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and



documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, as it relates to the Authority's appeal regarding the clause "Carried Forward Losses for 2016 AD and 2017 AD" and where the Authority is requesting the annulment of the Adjudication Circuit's decision regarding this clause on the basis that the Authority deducted the carried forward losses from the Zakat base elements. Based on paragraph (Second/9) of Article (4) of the executive regulation for zakat collection issued by ministerial decision number (2082) dated 1/6/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 9. The net loss carryforward adjusted according to the Authority's profitability after adding only provisions or reserves to it, with which the loss was previously reduced in the year of its formation." Based on the above, and the Circuit's review of the case file, it appears that the Authority partially leaves its appeal by amending the loss carryforward based on the appeal decision issued (IR-2024-171656) in Case No. Z-2023-171656 of 2015 AD to (6,047,477) riyals and (1,842,343) riyals for the years 2016 AD and 2017 AD, and with regard to the Taxpayer's claim to deduct the losses carried forward according to the Zakat declarations submitted and confirmed by the audited financial statements, the losses carried forward from the elements that may be deducted from the Zakat base are the losses adjusted according to the assessments issued by the Authority after adding provisions to them and the loss was previously reduced therefore, what is considered in the losses carried forward for Zakat purposes is what has been adjusted as required by the Zakat Law and not the losses carried forward included in the financial statements, which leads the Circuit to partially accept the abandonment of the dispute regarding the Authority's appeal on the clause (adjusting losses in the amount of (6, 047,477) SAR and (1,842,343) SAR for the years 2016 AD and 2017 AD, accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with regard to the clause (carried forward losses for the years 2016 AD and 2017 AD).

With regard to the Authority's appeal regarding the clause "Partner Salary Expense for 2016 AD", and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates



that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the subject matter of the case or some of it is among those agreed upon." Based on the above, and where the Circuit has established the Authority's request to leave the litigation as stipulated in the letter it issued, which includes the following: "In the event that the Circuit bypasses the procedural, the Authority wishes to inform the Honorable Circuit that it has left its appeal regarding the above clause in particular, as well as the procedures resulting from the appeal of the Authority for this clause, and this is in accordance with what the Adjudication Circuit's decision concluded in its reasoning "Accordingly, it is incumbent upon the Circuit to accept the discontinuation of litigation regarding the Authority's appeal on the clause (partner salary expense for the year 2016 AD).

With regard to the Authority's appeal regarding the clause (Dividends for 2016 AD), the Authority requests the annulment of the decision of the Adjudication Circuit regarding this clause because the deduction of dividend income from the net result of the year was not accepted because it is represented by shares listed in the Saudi market, and therefore the deduction was not accepted. Where paragraph (4/A) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "Investments in establishments inside the Kingdom - in partnership with others - if these investments are subject to the collection of Zakat under this regulation, if the investment in these establishments is not subject to collection, it shall not be deducted from the base." Based on the above, it is clear that the subject of the appeal lies in the Authority's objection to the conclusion of the Resolution Circuit's decision regarding this clause and its support of the Taxpayer's request to deduct the profit distributions of (551,176 riyals) from the net result of the year, while the Authority appeals the contested decision, which stated in its reasoning that distributions are mostly made from the year's profits, the Authority argues that the profit distributions were for previous years and not from the current year's profit, and the Authority provided in its supplementary memorandum copies of the list of changes in partners' rights of investee companies which confirm that the distribution was not made from the year's profits but from retained earnings, and where the Taxpayer did not provide proof to the contrary nor did he provide



proof that the amounts distributed were subject to Zakat in the investee companies, This necessitates the correctness of the Authority's procedure regarding the disputed clause based on paragraph (10) of Article (4) of the Executive Regulations for Zakat Collection issued in the year 1438 AH. Accordingly, it is incumbent upon the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding the clause (profit distributions for the year 2016 AD).

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Appeals Circuit in its conclusion on the remaining clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: procedurally:

Accepting the appeal procedurally submitted by , commercial registration (...), unique number (...) The Zakat, Tax and Customs Authority (ZTCA) appealed the decision of the First Circuit of Income Tax Violations and Disputes in Riyadh (IFR-2023-152831) issued in Case No.Z-2022-152831 regarding the Zakat assessment for 2016 AD and 2017 AD.

Secondly: On the merits:

1- Regarding the Authority's appeal on the clause (2016 AD and 2017 AD realized losses):

A. Accepting the partial abandonment of litigation with regard to the Authority's appeal on the clause (adjusting losses by (6,047,477) riyals and (1,842,343) riyals for the years 2016 AD and 2017 AD).

B- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (2016 AD and 2017 AD realized losses).

2- Accepting the abandonment of litigation in relation to the Authority's appeal on the clause (2016 AD Partner Salary Expense).



3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Dividends for the year 2016 AD).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (investments in Saudi joint stock companies).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



committee for adjudicating tax violations and disputes

The first division for adjudicating income tax violations and disputes

In Jeddah Governorate

Decision No. IZD-2024-220520

Case No. Z-2023-220520

Keywords:

Zakat – Deductions from the Zakat Base – Financing assets from the net general profit – Rejection of the Taxpayer's objection

Summary:

The Taxpayer's objection to the Zakat assessment for the year 2017 AD issued by the Zakat, Tax and Customs Authority, and his objection is represented in clause (Financing assets from the net general profit) regarding the authority's action of not accepting the deduction used in financing assets from the net general profit for the year in dispute, as he deducted fixed assets from the net profit and not the zakat base, as part of the annual profit was used to finance fixed assets, and clause (reopening the assessment after the authority's approval to end the zakat position) in that the authority reopened the assessment after its approval to end the zakat position for the year in dispute, and in clause (commercial accounts payable and outstanding liabilities) regarding the authority's action of not accepting the deduction as these expenses represent amounts owed to other parties and relate to ordinary commercial transactions and are classified as current liabilities in the audited financial statements of the company. And where it has been established to the committee regarding the clause of financing assets from the net general profit that adding assets from the annual profits cannot be deducted from the zakat base as these assets are not considered expenses to be deducted. This means that the objection of the Taxpayer is rejected.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (191) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (10) of Article (4) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (10) of Article (21) of [The executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:



The facts of this case are summarized as follows:, National Identity No as the statutory representative of the plaintiff (...) Commercial no: (.....) Pursuant to the Memorandum of Association, the plaintiff filed its objection to the 2017 AD Zakat assessment issued by the Zakat, Tax and Customs Authority, where the plaintiff's objection is limited to three clauses, with respect to the first clause: the plaintiff objects to the defendant's action of reopening the assessment after the Authority agreed to terminate the zakat position for the year 2017 AD, as the plaintiff referred to the Authority's letter No. (4270/167/1441) dated 23/06/1441 AH corresponding to February 17, 2020 AD, in which the Authority confirmed the termination of the zakat position for 2017 AD within the initiative it launched, and therefore reopening the assessment for the same year is not justified and unfair, and she explained that the reasons for the Authority's right to reopen the assessment are in the event that new information, decisions, or zakat regulations apply to the same year the reasons why the Authority reserves its right to reopen the assessment are in the event that new information, decisions or zakat regulations are issued that apply to the same year, but the Authority in this case had all the relevant information available at the time of finalizing the assessment under the disclosure initiative and no new decisions or zakat regulations were issued that apply to the same year, and therefore the plaintiff requests to cancel the 2017 AD Zakat assessment and take the self-assessment previously submitted by the company based on the Authority's initiative and approval. Regarding the second clause: used to finance assets from the net profit for 2017 DA. The plaintiff objects to the defendant's action of not accepting the deduction of the use of financing assets from the net profit for the year in dispute, as the plaintiff stated that she deducted the fixed assets from the net profit and not the Zakat base because part of the profit for the year was used to finance fixed assets, and since Zakat was calculated in the declaration on the adjusted net profit, the company deducted the amount (48,979,783) riyals related to the purchase of fixed assets from the adjusted profit for the year in dispute, and relied on Fatwa No. (23408) and the decision of the Appellate Committee No. (1270) of 1434 AH issued to the same plaintiff and the decision of the Appellate Committee No. (655) of 1427 AH and the decisions of the Tax Violations and Disputes Resolution Committee No. (IZJ-2023-137194), No. (IZJ-2021-1299) (IZD-2022-2364) (ITR-2022-136326) (IZJ-2022-1179) and the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2208 did not stipulate or address the revocation of the fatwas issued by the Permanent Committee for Scientific Research and Fatwa, so the plaintiff requests that the amounts used to finance the fixed assets be deducted from the general profit. Regarding the third clause: trade payables and accrued liabilities for 2017 AD. The plaintiff objects to the defendant's action of adding trade payables and accrued expenses for the disputed year, as the plaintiff stated that these expenses represent money owed to other parties and relate to normal commercial transactions and are classified as current liabilities in the company's audited financial



statements, and therefore should not be added to the Zakat base even if they remain unpaid for a period of 12 months, and that the opening or closing balance of the above liabilities was added without considering their nature, purpose and classification in the financial statements in addition, the opening or closing balance of the above liabilities was added without considering their nature, purpose and classification in the financial statements, and that most of these balances were not used to finance tangible assets and therefore are not subject to Zakat, therefore the plaintiff requests that these amounts not be added to the Zakat base for the year in question.

When the defendant was presented with the lawsuit, it responded with a memorandum that stated that with regard to the first clause: reopening the assessment after the Authority approved the termination of the Zakat position for the year 2017 AD, that it related the plaintiff and issued the assessment notice on 19/04/2023 AD, i.e. Before the expiration of the statutory period (five years from the end of the return period), and since the Authority launched an initiative for Taxpayers to amend their returns, the plaintiff amended her returns and they were not amended by the Authority according to what the plaintiff stated in the letter, in addition to that the Authority stated in its letter that it reserves the right to re-assessment on any return or any clause in accordance with the statutory procedures as for what the plaintiff indicated that the letter confirms that the Authority has accepted and terminated the assessment for the disputed year, the Authority responds that the plaintiff's disclosure by submitting the declaration and additional information, disclosing all elements of the Zakat base and paying the Zakat due thereon are among the statutory requirements based on paragraph (2) of Article (20) of the Zakat Collection Regulation, on the other hand, the Authority's right to examine and assessment in accordance with the provisions of the Zakat Regulation and in accordance with the provisions of paragraph (10) of Article (21) of the Zakat Collection Executive Regulations issued in 1438 AH. In addition to the above, the Authority emphasized in its letter that: "The Authority reserves the right to reopen the assessment on any declaration or clause in accordance with the statutory procedures." Thus, the Authority's action in assessment the claimant's declaration was carried out within the statutory framework and within the statutory periods, which shows that what is stated in its regulation is nothing but a mere rhetoric contrary to the explicit articles above, so the Authority emphasizes the validity and soundness of its procedure in rejecting the objection. Regarding the second clause: Used to finance assets from net profit for 2017AD, it argued that it did not accept the deduction of the profit clause used to finance fixed assets in the amount of (48,979,783) riyals from the adjusted net profit based on paragraph (10) of Article (4) of the aforementioned regulation, and since the plaintiff claims to deduct the source of financing the assets, namely the net profit for the year (48,979,783 riyals), it is clear that the Appellate Circuit accepted the plaintiff's objection, 783 riyals, and since an appeal decision No. (1270) was previously issued to the plaintiff for the year 2006 AD, it is clear that the Appellate Circuit accepted the plaintiff's objection by deducting the assets from the Zakat base and not from the adjusted profit, since the assessment for 2006 AD did not deduct the entire fixed assets as in the lists, but rather they were deducted within the limits of the equity accordingly, the Circuit accepted the deduction of fixed assets in the financial



statements from the zakat base, since the year 2006 AD, i.e. Before the issuance of the executive regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH corresponding to 28/02/2017 AD, and since the year under objection (2017 AD), and therefore it is applicable to the provisions of the executive regulation governing the collection of zakat the executive regulations governing the collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, and with reference to the regulation, it is clear that there is no text indicating that the assets added during the year may be deducted from the net profit, and as a result of the aforementioned, the Authority rejected the plaintiff's objection, as the appeal decision on which it was based stipulated that the assets added during the year may be deducted from the net profit, and as a result of the aforementioned which was relied upon provided for the deduction of assets from the base, and since the Executive Regulation No. (2082) did not provide for the deduction of assets financed from the net profit from the adjusted profit, and since the year in dispute is 2017 AD, to which the provisions of Executive Regulation No. (2082) apply, and based on paragraph (10) of Article (4) referred to above, the Authority rejected the plaintiff's objection. As the decisions referred to by the plaintiff do not apply to this clause due to the different facts and reasons, which confirms the validity and soundness of the Authority's action in rejecting this clause. Regarding the third clause: trade payables and accrued liabilities for the year 2017 AD, it argued that it added trade payables in the amount of (2,079,248) riyals and accrued expenses in the amount of (142,461) riyals, which is what has already passed, according to the movement provided by the plaintiff in accordance with the financial statements, and based on the fourth article of the Executive Regulation for Zakat Collection (2082), and as a result of the above mentioned, the Authority rejected the plaintiff's objection, and the Authority confirms the correctness and integrity of its procedure.

On Sunday, corresponding to: 11/02/2024 AD, the Circuit held its session remotely to hear the case, and the plaintiff's representative attended (...) National ID (...) Under agency no. (...), and attended/ (...) National ID No: (...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under the authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No: (.../1444) and dated: 11/05/1444 AH. Asked what they would like to add, both parties were satisfied with what they had previously submitted. The Circuit decided to adjourn the hearing to deliberate.

Grounds:

Having reviewed the Zakat Law promulgated by Royal Decree no: (17/28/577) and date: 14/03/1376 AH, and its executive regulations issued by the Minister of Finance Decision no: (2082) on: 01/06/1438 AH and its amendments, and after reviewing the Income Tax Law promulgated by Royal Decree No: (M/1) and date: 15/1/1425 AH and its amendments, and its executive regulations issued by the Minister of Finance's decision no: (1535) and date: 11/6/1425 AH after reviewing the working rules of the Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and date: 08/04/1445 AH. And relevant laws and regulations.



From a procedural standpoint; whereas the plaintiff aims through his lawsuit to annul the decision of the Zakat, Tax and Customs Authority regarding the zakat assessment for the year 2017 AD, and whereas this dispute is considered among the disputes falling within the jurisdiction of the Zakat and Tax Adjudication Committee circuits pursuant to the rules of work of the Zakat, Tax and Customs Committees, and whereas the plaintiff was notified of the objection result on 06/09/2023 AD, and submitted the lawsuit through the electronic portal on 03/10/2023 AD, so the lawsuit was submitted within the legally prescribed period according to Article (5) of the Zakat, Tax and Customs Committees' working rules, and where the lawsuit was submitted by a person with standing, which requires the Circuit to accept the lawsuit procedurally.

On the merits, the Circuit examined the papers and documents included in the case file, and the requests and defenses expressed by the parties, and found that the dispute lies in the defendant's issuance of the Zakat assessment for 2017 AD, where the plaintiff's objection is limited to three clauses, which are described below:

Regarding the first clause: the plaintiff objects to the defendant's action of reopening the assessment after the Authority agreed to terminate the Zakat position for the year 2017 AD, explaining that the Authority confirmed in its letter No. (4270/167/1441) dated 23/06/1441 AH corresponding to February 17, 2020 AD to terminate the Zakat position for the year 2017 AD as part of the initiative it launched, and therefore the plaintiff requests to cancel the Zakat assessment for 2017 AD and take the self-assessment previously submitted by it. The defendant argued that it related the plaintiff and issued the assessment notice on 19/04/2023 AD, i.e. Before the expiration of the statutory period (five years from the end of the declaration period), and that it emphasized in its letter that: "The Authority reserves the right to reopen the assessment on any declaration or clause in accordance with the statutory procedures." Thus, the Authority's action in assessment the claimant's declaration was done within the statutory framework and within the statutory periods. Accordingly, and based on paragraph (10) of Article (21) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 01/06/1438 AH, which stated that: "10. The Authority may correct an error in the application of the Law and Instructions within five years from the end of the deadline for submitting the Zakat return for the Zakat year upon the request of the Taxpayer, or if the error is discovered by the Authority or the supervisory authorities." based on the above, it appears that the dispute between the parties lies in the reopening of the assessment after the Authority approved the termination of the Zakat position, as the plaintiff stated that the defendant agreed to terminate the Zakat position for 2017 in the Authority's letter No. (4270/167/1441) dated 23/06/1441 AH, and therefore requested to cancel the Zakat assessment, while the defendant argued that it had made the assessment on the plaintiff on 19/04/2023 AD (within the statutory period of 5 years) the defendant argued that it related the plaintiff on 19/04/2023 AD (within the statutory period of 5 years) and that it previously reserved its right to reopen the assessment in the letter on which the plaintiff relies. A review of the documents submitted in the case file and the defendant's letter dated 23/06/1441 AH shows that it stipulated the



following: "Based on your initiative to amend your declarations for previous years in accordance with the disclosure initiative launched by the Authority, and your disclosure of the impact on your declarations for the years 2007 AD to 2018 AD, and your payment of the dues due as a result of these amendments, we inform you of the Authority's approval to end your approval for the aforementioned years, with the Authority reserving its right to reopen the assessment on any declaration or clause in accordance with the regular procedures. "Accordingly, it is clear that the defendant's statement that it has reserved its right to reopen the assessment in accordance with the statutory procedures is correct, and as it is proven that the defendant performed the Zakat assessment for the year (2017 AD) on (19/04/2023 AD) while the statutory period expires on (30/04/2023 AD); therefore, it is clear that the defendant performed the assessment before the expiration of the specified statutory period, and therefore its right to perform the Zakat assessment for this year is not valid Zakat assessment for this year has not lapsed according to the above-mentioned statutory provisions, therefore, the defendant is entitled to conduct this assessment as the specified period (5) years from the final date set for filing the declaration has not expired, which concludes with the Circuit rejecting the plaintiff's objection to the clause of reopening the assessment after the Authority approved the termination of the Zakat position for the year 2017 AD.

Regarding the second clause: Used to finance assets from net profit for 2017 AD, the plaintiff objects to the defendant's action in disallowing the deduction of the use of asset financing from the net profit for the year in question, as the plaintiff stated that she deducted the fixed assets from the net profit and not the Zakat base because part of the year's profit was used to finance fixed assets. Meanwhile, the defendant argued that the deduction of the profit clause used to finance fixed assets in the amount of (48,979,783) riyals from the adjusted net profit was not accepted based on paragraph (10) of Article (4) of the regulation. Accordingly, and based on paragraph (Second/I) of Article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 01/06/1438 AH, which stated that: "When calculating the Zakat base for the Taxpayer, the base should not be less than the adjusted net profit for Zakat purposes as a minimum." Based on the above, it is clear that the dispute between the two parties lies in the non-acceptance of the deduction used to finance assets from the net profit of the year, as the plaintiff demands the acceptance of the deduction of fixed asset additions from the total net profit due to financing these additions from the annual profit, while the defendant did not accept the deduction of asset additions from the net profit, and since the addition of assets from annual profits cannot be deducted from the Zakat base as these assets are not considered expenses to be deducted, the committee concludes to reject the plaintiff's objection to the clause used to finance assets from the total net profit for the year 2017 AD.

Regarding the third clause: the plaintiff objects to the defendant's action of adding trade payables and accrued expenses for the year 2017 AD, where the plaintiff stated that these expenses represent money owed to other parties and relate to normal commercial transactions and are classified as current liabilities in addition, the opening or closing balance of the above liabilities was added without considering their



nature, purpose and classification in the financial statements, and that most of them were not used to finance liquidated assets, while the defendant argued that it added trade payables in the amount of (2,079,248 riyals and accrued expenses in the amount of 142,461 riyals, which is the amount that has already passed, according to the movement provided by the plaintiff in accordance with the financial statements. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the ministerial decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What is used in trade and a year has passed on it." based on the foregoing, it appears that the dispute between the parties lies in the addition of trade payables and accrued expenses, and where payables and accrued expenses are considered one of the components of the Zakat base, regardless of their type, source or classification, subject to the condition of turning over or using them to finance the assets deducted from the Zakat base without requiring them to turn over rather, she argued that these amounts are related to commercial transactions and funds owed to other entities, and therefore do not qualify as zakatable amounts. The plaintiff did not challenge the detailed movement attached in the defendant's reply memorandum, which shows that the defendant's calculation of what has already passed, which leads the Circuit to reject the plaintiff's objection to the clause of commercial payables and accrued liabilities for the year 2017 AD.

For these reasons and after deliberation, the Circuit unanimously decided as follows:

Decision:

First: The plaintiff's objection to the clause of reopening the assessment after the authority approved the termination of the Zakat position for the year 2017 AD is rejected.

Second: The plaintiff's objection to the clause used to finance assets from the total net profit for the year 2017 AD is rejected.

Third: The plaintiff's objection to the clause of commercial accounts payable and liabilities due for the year 2017 AD is rejected.

This decision was issued in the presence of both parties, and the committee set a period of thirty days to receive a copy of the decision through the website of the General Secretariat for Zakat, Tax, and Customs Committees, and both parties to the case have the right to appeal according to the law within (30) days from the day following the specified date for receiving it, so that it becomes final and enforceable after the expiration of this period if no objection is submitted.



May Allah send blessings and peace upon our Prophet Muhammad and upon all of his family and companions.

The judgment has become final due to the expiration of the objection period in accordance with paragraph (2) of Article (33) of the rules of operation of the Zakat and Tax Committees..



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-171679

Case No. Z-2023-171679

Keywords:

Zakat - Deductions from the Zakat Base - Withheld insurance - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appealed the decision of the Second Circuit of Income Tax Violations and Disputes in Riyadh (ISR-2022-1846), where the Authority's appeal on the clause (Retained Insurance) is that it did not deduct the clause from the Zakat base because it is not a deductible clause, and on the clause (Accrued Revenues) by not deducting the clause from the Zakat base because it is not a deductible clause, and where the Appellate Committee proved that Zakat is not obligatory on a creditor on his money owed by the government agencies that he is unable to collect due to a delay and not as a result of his own negligence the Taxpayer did not provide proof of his claim for these funds from the contracted entities, which shows that he failed to claim them, and that the Taxpayer did not provide proof of his claim for these funds from the contracted entities, which shows that he failed to claim them. This means accepting the Taxpayer's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (First/5) of Article (4) of [the executive regulation for the collection of zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [the executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:

the appeal was heard on 26/01/2023 AD, from/ (.....) National ID number (.....) As an agent under Agency No. (.....) And Lawyer's License No. (.....) (Zakat, Tax and Customs Authority), on the decision of the Second Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (ISR-2022-1846) issued in Case No. (Z-2021-42810) related to the 2017 AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority:

First: plaintiff's claim accepted/ (.....) Closed Joint Stock Company, Commercial Registration No. (.....), against the defendant/Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits:

- 1- Dismiss the claim with respect to depreciation and net fixed assets.
- 2.a. Evidence that the dispute ended with the defendant's acceptance of the salaries and wages expense clause
- 2 / b - Dismissal of the case with regard to the clause of salaries and wages of foreign workers.
- 3- Annulment of the defendant's action regarding the clause of gratuities within the salaries and wages clause
4. Annul the defendant's action in relation to an accrued revenue clause.
5. Annulment of the defendant's action with respect to a withheld insurance clause
- 6- Dismissal of the claim with respect to the material inventory clause.
- 7- Cancel the Defendant's action with respect to the provision for baseential fines (accrued expenses) for the year 2017 AD, according to the reasons stated.

Unhappy with this decision, the Taxpayer (.....) Filed a notice of appeal demanding that the decision of the Adjudication Circuit be reversed and annulled. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list that I have seen, where the Authority's appeal lies on an clause (accrued revenues). The Authority explains that when assessment , it did not deduct the clause from the Zakat base because it is not one of the deductible clauses listed in Article 4.2 of the Zakat Collection Regulation, which specified in detail what is deducted from the Zakat base and did not include the deduction of such an clause claimed by the Taxpayer, The Authority maintains the correctness and validity of its procedure. We also inform that the Authority did not deduct from the zakat base because it is not permissible to deduct, in addition to it not being among the clauses required to be deducted according to Article (5) of the Executive Regulation for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH. During the objection stage, the Authority reviewed the amended assessment and financial statements, where it became clear that the Taxpayer demands deduction of the clause. However, since this



clause is owed by a solvent non-procrastinating party (government entities) and the creditor (Taxpayer) is able to collect his dues, these receivables are debts owed by government entities that are neither procrastinating, bankrupt, nor insolvent. The Authority's procedure was upheld by Appeal Decision No. 1769 of 1438 AH, so the Authority maintains the validity and integrity of its action. The Circuit did not request from the Taxpayer any detailed explanation to prove the validity of what the Taxpayer argued, and the Authority did not find any documents attached in this regard in any case, this makes the decision worthy of annulment, and the Authority affirms that the Taxpayer's argument before the Circuit is not valid because it is not based on evidence that can be relied upon. The Defendant did not submit these documents that relate to the clause under appeal, and the Authority is not clear on what basis the Circuit relied on the fact that these documents are related to the clause under appeal and not others and whether what the Taxpayer submitted to the Circuit is related to the year under appeal or not, as this is not clear from it, and whether the Circuit reviewed the certification of the chartered accountant or not, and the Circuit did not clarify how this clause was reached in a detailed accounting and legal manner, which must be noted. Since the Defendant's initial objection lacked documentary proof of the clause under appeal and an explanation of how it was addressed to the Authority

Based on the above, the Authority rejected the appellant's objection based on Article (Twentieth) Paragraph (3) of the Zakat Collection Regulation, which makes the Circuit's decision flawed.

With regard to the clause (Retained Insurance), the Authority explains that it did not deduct the clause from the Zakat base because it is not one of the deductible clauses listed in Article 4.2 of the Zakat Collection Regulation, which specified in detail what is deducted from the Zakat base and did not include the deduction of such a clause claimed by the Taxpayer, Furthermore, the Authority did not deduct from the zakat base because it is not permissible to deduct, in addition to it not being among the clauses required to be deducted according to Article (5) of the Executive Regulation for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH. During the objection stage, the Authority reviewed the amended assessment and financial statements, where it became clear that the Taxpayer demands deduction of the clause. However, since this clause is owed by a solvent non-procrastinating party (government entities) and the creditor (Taxpayer) is able to collect his dues, these receivables are debts owed by government entities that are neither procrastinating, bankrupt, nor insolvent. The Authority's procedure was upheld by Appeal Decision No. 1769 of 1438 AH, that the Circuit did not ask the Taxpayer for any detailed explanation the Authority does not find any documents attached in this regard in any case, which makes the decision worthy of annulment, and the Authority emphasizes that what the Taxpayer argued before the Circuit is not valid and is not based on evidence that can be relied upon in fact, The appellant did not submit these documents that relate to the clause under appeal, and the Authority is not clear on what the Circuit based on the fact that these documents relate to the clause under appeal and not others, and it is not clear to the Authority on what basis the Circuit relied on the fact that these documents relate to the clause under appeal and not



others the Circuit did not clarify whether or not what the Taxpayer submitted to the Circuit is related to the year under appeal, as this was not clear from it, and whether the Circuit reviewed the legal accountant's certification of it or not, and the Circuit did not clarify how this clause was reached in a detailed accounting and legal manner, which should be noted. Since the Defendant's objection initially lacked documentary proof of the clause under appeal and an explanation of how it was processed by the Authority initially and the proof of this clause in a correct accounting form and the legal accountant's certification of it in a detailed manner, based on the above, the Authority rejected the Defendant's objection on the basis of Article (Twentieth) Paragraph (3) of the Zakat Collection Regulation, which makes the Circuit's decision flawed. With regard to the clause (material error in the decision of the Second Circuit regarding the inventory of materials), the Authority clarifies that the basis for the decision is the operative part of the decision and not what is stated in its reasoning, and the Authority emphasizes that it did not accept the deduction of the above clause from the Zakat base because it is not one of the deductible clauses listed in Article (4) of the Zakat Collection Regulations issued in 1438 A.H as for what the Circuit stated in the reasoning of its issued decision that these materials were purchased for the purpose of use and not for sale, we respond that the nature of the inventory is that it is operational inventory related to projects, which appears within the cost of sales, and therefore is not treated as deductible inventory. Accordingly, the Authority maintains the validity and integrity of its procedure, and requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed and canceled.

On Wednesday, 15/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:



Whereas, with regard to the Taxpayer's appeal, after examining the case file, and whereas ascertaining the status of the parties to the case is one of the preliminary matters to be decided before entering into the merits of the case, and whereas the Circuit reviewed the appeal list submitted, and found that the applicant is a licensed lawyer who submitted and signed the appeal request on other than his own printed materials, while he was required to submit requests and regulations on his own printed materials, based on Article (13/01) of the Executive Regulations of the Lawyers Law, which stipulates that, which stipulates that: "A lawyer must take his own papers to submit his writings to the authorities, including his name, the name of the headquarters, branch office, license number and date, telephone numbers, post office box and zip code, and he may not submit any writing to the authorities on papers that do not include this, or papers that do



not belong to him." based on Article 7 of the Rules of Procedure of the Tax Disputes and Violations Adjudication Committees, which stipulates that "the representation of the parties to the case shall be in accordance with the provisions of the Lawyers Law and its Executive Regulations." Since the appellant did not comply with the necessary conditions for valid representation, the Circuit concludes that the appeal is inadmissible because it was filed by a person without standing.

Whereas, with regard to the Authority's appeal, upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal is procedurally accepted because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Authority's appeal is based on the fact that it did not deduct the clause from the Zakat base because it is not a deductible clause, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:...5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" a. What's left in cash when it's overdue

Squint. B- What has been used to finance what is intended for acquisition. Paragraph (4) of clause (1) of Article (IV) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 4. The income that has already passed its due date", and based on Sharia Fatwa No. (19643) dated 23/5/1418 AH, which states: "the debts that the company has on its debtors, whether postponed or postponed, regardless of their terms, Zakat is obligatory on them if they are in the hands of a debtor who is not procrastinating and the creditor is able to recover his money." Based on the legal opinion No. (23408) dated 18/11/1426 AH issued by the Standing Committee for Scientific Research and Fatwa on debts due from government agencies, which stipulates the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran: " (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." . Based on the above, and the Circuit's review of the case file and the papers contained therein, and since Zakat is not obligatory on the creditor in his funds owed to the government entities that he is unable to collect due to a delay by the government entities and not as a result of his failure to comply with the standard and requirements specified by the government entity, and since the Taxpayer did not provide proof of his claim for these funds from the contracted entities, which shows his failure to claim, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.



With regard to the Authority's appeal on the clause (withheld insurance), the Authority's appeal lies in the fact that it did not deduct the clause from the Zakat base because it is not a deductible clause, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. Paragraph (4) of clause (I) of Article (IV) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 4- The income provided that has already passed the hawl", based on Sharia Fatwa No. (19643) dated 23/5/1418 AH, which states: "the debts that the company has on its debtors, whether postponed or postponed, regardless of their terms, Zakat is obligatory on them if they are in the hands of a debtor who is not procrastinating and the creditor is able to recover his money." Based on the legal opinion No. (23408) dated 18/11/1426 AH issued by the Standing Committee for Scientific Research and Fatwa on debts due from government agencies, which stipulates the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." based on the above, and the Circuit's review of the case file and the papers contained therein, and since Zakat is not obligatory on the creditor in his funds owed to the government entities that he is unable to collect due to a delay by the government entities and not as a result of his failure to comply with the standard and requirements specified by the government entity, and since the Taxpayer did not provide proof of his claim for these funds from the contracted entities, which shows his failure to claim, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

Regarding the Authority's appeal on the clause (material error in the Second Circuit's decision regarding material inventory), since the adjudication decision upheld the Authority's action, the claim has no merit, and the Circuit concludes that this clause should be dismissed.

With regard to the Authority's appeal on the clause (gratuities within salaries and wages) and the clause (provision for baseential fines), and where Article 70 of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated



19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the subject matter of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Circuit that the Authority requested to withdraw its appeal in accordance with what was stated in the letter issued by the Authority in the supplementary note, which included: "The Authority wishes to inform the Honorable Circuit that it has withdrawn its appeal with regard to the above clause specifically, and the procedures resulting from this clause's appeal, as per the decision reached by the Dispute Resolution Circuit on the grounds thereof." therefore, the Circuit must accept the abandonment of the litigation.

Decision:

First: Procedurally:

1. Inadmissibility of the appeal procedurally by the Taxpayer/(.....) Commercial Registration No. (.....), distinctive number (.....), against the decision of the Second Circuit for the adjudication of income tax violations and disputes in Riyadh, No. (ISR-2022-1846) issued in Case No. (Z -2021-42810) related to the Zakat assessment for the year 2017 AD, because it was filed without status.

2- Acceptance of the appeal procedurally from the Zakat, Tax, and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (ISR-2022-1846) issued in case number (Z-2021-42810) related to the zakat assessment for the year 2018.

Secondly: On the merits:

1- Accepting the abandonment of the litigation regarding the Authority's appeal on the clause (tips within salaries and wages).

2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (accrued revenues).

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Retained Insurance).

4- Accepting the abandonment of litigation in relation to the Authority's appeal on the clause (provision for baseential fines formed).

5- Dismissing the Authority's appeal on the clause (material error in the Second Circuit's decision regarding material inventory).

This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-178354

Case No. Z-2023-178354

Keywords:

Zakat - Deductions from the Zakat Base - Construction in progress - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority (ZTA) appealed the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (No. Z-2021-86485), as its appeal is based on the clause "Construction under implementation for the years 2014 AD and 2015 AD", claiming that the Taxpayer did not provide supporting documents to verify the validity of the balances of the disputed projects under implementation. Upon reviewing the documents attached to the case file, the Appellate Committee found that the Taxpayer attached documents related to the Al-Marjanah project (Parts I, II and III) and documents related to the administrative offices project of the King's Road building (Al-Hamra), but they are not sufficient to verify the value of the projects, as he did not attach a detailed statement and contractors' contracts that prove the validity of the amounts in dispute. The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- Paragraph (1) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 15/02/2023 AD from ..., (National ID No. ...) In his capacity as the statutory representative of the appellant company according to its articles of association, and the appeal filed by the Zakat, Tax and Customs Authority on 19/02/2023 AD against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (ISR-2022-1971) issued in Case No. (Z-2021-86485) related to the Zakat assessment for the years 2014 AD, 2015 AD and 2016 AD, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:



- 1- Cancel the Defendant's action regarding construction in progress for the years 2014 AD and 2015 AD.
- 2- Rejecting the claim regarding the clause of discretionary profits for 2016 AD.
- 3- Rejecting the claim regarding the clause of investment in public shareholding companies for the years 2014 AD and 2015 AD.
- 4- Dismissing the claim regarding the clause of payments under the investment account for the years 2014 AD and 2015 AD.
- 5- Amend the Defendant's procedure with respect to the cost method investment clause for the years 2014 AD and 2015 AD as follows:
 - A. Annulment of the Defendant's action with respect to the foreign investments of Sira Investment Bank for the years 2014 AD and 2015 AD and ... For the years 2014 AD and 2015 AD for a total amount of (22,265,375) SAR.
 - B. Cancel the Defendant's action with respect to local investments (... Company for the year 2015 AD for a total amount of (25,000,000) riyals.
 - C. Dismissing the claimant's objection with respect to the local investments of ... 2014 AD and 2015 AD in the amount of (2,528,000) SAR.
 - D. Rejecting the claimant's objection regarding the clause of deducting the financing corresponding to the investments at cost.
- 6- Dismissing the case with regard to the payables clause for the years 2014 AD, 2015 AD, and 2016 AD.

This decision was not accepted by the Taxpayer (Company ...).he submitted a list of appeals, which was reviewed by the Circuit and included the following: The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit on the clauses subject to his appeal. This decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (Construction in progress for the years 2014 AD and 2015 AD), where the Authority did not deduct the clause from the Zakat base in the amount of (62,274,297 riyals for 2014 AD and (70,234,504) riyals for 2015 AD, after requesting additional data on 08/11/2020 AD to submit: an analytical statement of the constructions under implementation, stating the sources of financing and their purpose, along with the decision of the Board of Directors regarding these constructions." The Taxpayer provided the data where it appears from the data provided by the Taxpayer that the value of the contract concluded (15,345,000) riyals and then its value was reduced to (7,104,000) riyals on 26/06/2010 AD, as the duration of the contract is (10 months) to receive the site, whereas the contract period is (10) months from the receipt of the site and the Taxpayer did not provide an extract of the movement of the projects under implementation to be able to trace the amounts that the Taxpayer reported paying to the contractor and the company in 2016 AD waived those projects and as one of the activities of the Taxpayer



is the purchase of land and real estate and the construction of buildings on them and selling or leasing them for the benefit of the company and therefore the Authority did not accept the deduction of the clause from the Zakat base and upon reviewing the Taxpayer's objection it appears that he claims the clause from the Zakat base as shown in the financial statements at (62,274,297) SAR (70,234,504 SAR) for the years 2014 AD and 2015 AD respectively, and through the audited financial statements for the successor years, it is clear that the balance of the first period for the new office building project does not match the statement submitted by the Taxpayer during the audit phase with the audited financial statements, and by reviewing the data submitted during the objection phase and comparing it with the data submitted during the audit phase, the Taxpayer changed the details of the amounts, and by reviewing the contracts submitted during the objection phase, it appears that the value of the contract concluded was worth (15,345,000) SAR. Then its value was reduced to (7,104,000) riyals in the contract annex dated 26/06/2010 AD, and the Taxpayer submitted a contractor's contract to complete the project dated 01/02/2017 AD, and since the years of the dispute are 2014 AD and 2015 AD, it is clear that the contract submitted during the objection phase does not relate to the years of the dispute, and the Taxpayer did not provide any documentary evidence regarding the payment of (70,234,504) riyals. Whereas the company waived projects in progress during 2016 AD .therefore, in light of the above, the Authority was unable to verify the validity of the balances of projects under implementation, and since one of the Taxpayer's activities is to purchase land and real estate, erect buildings on them and sell or lease them for the benefit of the company, the Taxpayer's objection was rejected based on paragraphs (1 and 2) of the second clause of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, which stipulates: The following shall be deducted from the Zakat base: 1- Fixed assets, including the following: the net value of fixed assets (cannabis assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale. These assets must be owned by the Taxpayer - unless there is an impediment to the transfer of ownership - and must be used in the activity." As stipulated in paragraph (2), "2. Capital construction in progress that is constructed for use in the activity and not for the purpose of selling it." based on paragraph (3) of Article 20 of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2082 dated 01/06/1438 AH, which states that (The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary assessment according to the Authority's view in light of the circumstances and facts related to the case and the information available to it).

On Tuesday, on: on 26/03/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated



21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal regarding the clause (Construction in progress for 2014 AD and 2015 AD), the Authority's appeal is to challenge the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, claiming that the Taxpayer did not submit the supporting documents. Based on paragraph number (1) of clause (2) of article four of the executive regulation for collecting zakat issued by ministerial decision number (2082) dated 1/6/1438 AH which stated: "The following shall be deducted from the zakat base:" 2- The Taxpayer's capital constructions under execution are being constructed for the purpose of using them in the activity and not for the purpose of selling them.". Based on the above, it is clear that the Authority's appeal to not deduct the clause of construction under implementation from the Zakat base in the amount of (62,274,297) riyals and (70,234,504) riyals for the years 2014 AD and 2015 AD, respectively, the Authority argued that the Taxpayer did not provide supporting documents to verify the validity of the balances of the disputed under-execution projects, and by reviewing the documents attached to the case file, it is clear that the Taxpayer attached documents related to the Al Marjanah project Part I, II and III and documents related to the administrative offices project for the King's Road building (Al Hamra), but they are not sufficient to verify the value of the projects, as he did not attach a detailed statement and contractors' contracts that prove the validity of the amounts in dispute, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit.

With regard to the Taxpayer's and the Authority's appeal regarding the remaining clauses at issue in the case, the Circuit has no fault in adopting the reasons for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, since in upholding the decision with the contents of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this



Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the adjudication Circuit in its conclusion on the remaining clauses in the case, bearing in mind its reasons for doing so.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...) , Unique Number (...) And the appeal filed by the Zakat, Tax and Customs Authority, against

The decision of the Second Circuit of Income Tax Violations and Disputes in Riyadh (ISR-2022-1971) issued in Case No. Z-2021-86485 related to the Zakat assessment for the years 2014 AD, 2015 AD, and 2016 AD.

Secondly: On the merits:

1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Construction in progress for the years 2014 AD and 2015 AD).

2- Regarding the Authority's appeal on the clause (Cost Method Investment for 2014 AD and 2015 AD):

A. Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding (Sira Investment Bank for the years 2014 AD and 2015 AD, and ... For the years 2014 AD and 2015 AD, with the right of the Authority to calculate Zakat from these lists and include in the assessment the Taxpayer's share of the Zakat of these companies).

B. Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the ... Allocated for recruitment and labor services, with the operative part of the decision amended to make the year at issue 2014 AD instead of 2015 AD).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (estimated profits for the year 2016 AD).

3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (investment in public shareholding companies for the years 2014 AD and 2015 AD).

4- Regarding the Taxpayer's appeal on the clause (Payments under the investment account for the years 2014 AD and 2015 AD):

Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (transfers to the partners' account for the purpose of subscribing and investing in Al Ahli Bank).

B- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (investing in ... Company).



- C. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (investing in ... Company for 2015 AD).
- D. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (installment payments for the purchase of an apartment in Damac Properties in 2014 AD).
- E. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (investing in a new villa in Medina (...)) For 2014 AD and 2015 AD).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Accounts payable for the years 2014 AD to 2016 AD).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-196568

Case No. Z-2023-196568

Keywords:

Zakat – Deduction elements from the Zakat base – Projects under implementation – Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's objection to the decision of the first circuit regarding violations and disputes of income tax in Riyadh No. (IFR-2023-115741), where his appeal lies on clause (Second/B: Guarantees with others / Advance revenues / Customers with advance payments / D: (Accrued expenses) because they have been used to finance current assets that are not deducted from the Zakat base and that these amounts have actually been included in the financing of the non-deductible commercial activity from the base, and clause (Projects under implementation) to clarify that the financial statements No. (9) related to projects under implementation do not include any exclusions mentioned. The committee found, by referring to clarification number (9) regarding projects under execution, that the Taxpayer's defenses regarding the absence of exclusions during the year were valid. The Taxpayer also indicated that the projects under execution were intended for use in the corporation's activities as real estate investments after they were completed and prepared for conversion, and not for the purpose of sale. Therefore, since the authority did not provide any credible evidence to support its decision to reject the deduction of projects under execution. Consequently; the Taxpayer's appeal is accepted and the decision of the division is canceled.

Document:

- Paragraph (5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



Facts:



The appeal was heard on: 08/05/2023 AD from/... National ID number (...) In his capacity as the owner of the appellant organization on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2023-115741) issued in Case No. (Z-2022-115741) regarding the 2016 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Plaintiff's objection is denied..... (unique number...) On the decision of the defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

Since this decision was not accepted by the Taxpayer (... Foundation), he filed a list of appeals, which included the following:

Challenging the decision of the Adjudication Circuit, the Taxpayer claims that with regard to clause (II.B.): insurance receivables/revenue advances/customer advances) and clause (II.D.: accrued expenses) the Taxpayer requests that the Circuit's decision be amended and that the amounts actually be included in the amounts he received from the financing of the undiscounted business activity, and requests that the Circuit's decision be amended to add what has already passed the hawl. With regard to the clause (projects under implementation), with regard to what was stated in the decision under appeal that the projects were excluded in favor of the partner and were not used in the activity; this is not true, as Note 9 of the financial statements related to projects under implementation does not include any exclusions referred to, and the Taxpayer stated that the Foundation's intention is to construct and equip a residential building and a farm on land owned by the owner of the Foundation for use in the Foundation's activity as real estate investments after completion of their preparation and equipping and then convert them into real estate investments not intended for sale. The Taxpayer also objects to the clause (Amounts due to related parties) and the clause (II.a: accounts Payable), and (II.C: accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit for the above reasons.

On Wednesday, 17/07/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, as it relates to the Taxpayer's appeal on II.B: his appeal is that the clause was used to finance current assets not deducted from the Zakat base and that these amounts were actually claimed as part of the financing of the business activity not deducted from the Zakat base. Whereas paragraph (5) of clause (FIRST) of article (fourth) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 01/06/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. C- What has been used in commercial transactions and has passed a year on it. Based on the above, and since the clause is a component of the Zakat base provided that it is turned over or used to finance the assets deducted from the Zakat base, and by reviewing the documents attached to the case file, it turns out that the Taxpayer submitted the detailed movement of receivables and other credit balances, The Taxpayer submitted the detailed movement of other receivables and payables, which was found to be consistent with the audited financial statements for the year 2016 AD. Upon analyzing the submitted movement, it was determined that the Taxpayer paid the amount of (24,450) riyals related to insurance with third parties. With regard to the submitted revenues and payments, it was determined that a year has not passed for these balances. Therefore, the Circuit concludes to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

Whereas, with regard to the Taxpayer's appeal regarding clause (II.d.): his appeal is that the clause was used to finance current assets not deducted from the Zakat base and that these amounts were in fact included in the financing of the business activity that was not deducted from the Zakat base. Paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. J- What has been used in commercial transactions and has passed a year on it. Based on the above, and since the clause is considered one of the components of the Zakat base provided that it is turned around or used to finance the assets deducted from the Zakat base, and by reviewing the documents attached to the case



file, it turns out that the Taxpayer submitted the detailed movement of the accrued expenses, which turned out to be identical to the audited financial statements for 2016 AD, and by analyzing the submitted movement, the Taxpayer's argument that the accrued expense balances were not turned around is correct, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

With regard to the Taxpayer's appeal regarding the clause (Projects under implementation), the Taxpayer's appeal lies in the fact that Note 9 of the financial statements related to projects under implementation does not include any exclusions referred to, and the Taxpayer stated that the Foundation's intention is to construct and equip a residential building and a farm on land owned by the owner of the Foundation for use in the Foundation's activity as real estate investments after completion of their preparation and equipping and then convert them into real estate investments not intended for sale. Whereas paragraph (1) of clause (Second) of article (fourth) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 01/06/1438 AH states that: "The following shall be deducted from the zakat base:" ... 2- The Taxpayer's capital constructions under execution are being constructed for the purpose of using them in the activity and not for the purpose of selling them.". Based on the above, and since it is necessary to meet two essential conditions for considering projects under execution as permissible deductions from the zakat base, which are the documented intention from the authorized person clarifying the intention of the investment, and the absence of any sales transactions that occurred during the year on those investments. Regarding what the Taxpayer mentioned that the related parties are the source of funding for these projects, a claim was made regarding a receivable from related parties in clause (First), which concluded with the rejection of the Taxpayer's appeal and its addition to the year-end in support of the authority's procedure; since the Taxpayer did not prove that the projects under execution were funded by related parties. Concerning the projects under execution, it was found from the documents submitted in the case file that the authority's response referred to the company's activity in the financial statements for the year 2017 AD, which cannot be taken into account since the year of dispute in the current case is 2016 AD. The company's activity in 2016 AD according to the financial statements was as per clarification number (1) as follows: "The activities of the corporation include general contracting for buildings (construction - demolition - restoration - repair), electrical and mechanical works, road works, and carrying out water and sewage works and their networks, as well as maintenance and operation of electrical and mechanical facilities, maintenance and landscaping, and cleaning of buildings, hospitals, and medical centers." Accordingly, it is clear from the text of the above clarification that the Taxpayer's activity does not revolve around the sale of real estate and properties. Moreover, by referring to clarification number (9) regarding projects under execution, it was confirmed that the Taxpayer's defenses regarding the absence of exclusions during the year were valid. The Taxpayer also indicated that the projects under execution were intended for use in the corporation's activities as real estate investments after they were completed and prepared for conversion, and not for the purpose of sale. Therefore, since the authority did not provide any credible



evidence to support its decision to reject the deduction of projects under execution, the circuit concludes by accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit in this clause.

Whereas, with regard to the remaining clauses at issue in the lawsuit, the Circuit is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that it did not find any objections to the decision that merit a response beyond what was contained in these reasons since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the adjudication Circuit with respect to the remaining clauses in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from the Taxpayer/ corporation ..., commercial registration number (...), distinctive number (...) Against the decision of the first authority for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2023-115741) issued in case number (Z-2022-115741) related to the Zakat assessment for the year 2017 AD.

Secondly: On the merits:

1- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding clause (Amounts due to related parties).

2- Regarding the Taxpayer's appeal on clause (Accounts payable and other payable balances and accrued expenses):

A- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding clause (Accounts payable).

B- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding clause (Deposits with others/ Advance revenues/ Customers with advance payments).

C- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding clause (Creditors for the purchase of fixed assets).

D- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding clause (Accrued expenses).

3- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding clause (Real estate investments).



- 4- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appellate Committee regarding clause (Projects under implementation).
- 5- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (Provision for doubtful debts).
- 6- Rejection of the Taxpayer's appeal and upholding the decision of the Appellate Committee regarding clause (End of service bonus).



Appeals Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. IR-2024-171679

Case No. Z-2023-171679

Keywords:

Zakat - Deductions from the Zakat Base - Accrued revenue - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority's appeal against the decision of the Second Circuit of Income Tax Violations and Disputes in Riyadh (ISR-2022-1846), where its appeal is based on the clause (withheld insurance) and the clause (accrued revenues) for not being deducted from the zakat base because it is not a deductible clause. Whereas, the Appellate Committee found that Zakat is not obligatory on the creditor's funds owed to government agencies, which he is unable to collect due to a delay by the government agencies and not as a result of his own negligence or failure to comply with the standards and requirements set by the government agency, and where the Taxpayer did not provide proof of his claim for these funds from the contracted agencies, thus demonstrating his negligence in claiming them. Consequently, the authority's appeal is accepted, and the decision of the adjudication committee is canceled.

Document:

- Paragraph (1,5) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 26/01/2023 AD, from/... National ID number (...) In his capacity as agent under Agency No. (...) And Lawyer's License No. (...), and from the Zakat, Tax and Customs Authority, on the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1846) issued in Case No. (Z -2021-42810) regarding the 2017 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:



First: accepting the claim filed by the plaintiff/company ... Company ..., Commercial Registration No. (...), against the defendant/Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits:

1- Dismiss the claim with respect to depreciation and net fixed assets.

2.a. Evidence that the dispute ended with the defendant's acceptance of the salaries and wages expense clause

2 / b - Dismissal of the case with regard to the clause of salaries and wages of foreign workers.

3- Annulment of the defendant's action regarding the clause of gratuities within the salaries and wages clause

4. Annul the defendant's action in relation to an accrued revenue clause.

5. Annulment of the defendant's action with respect to a withheld insurance clause

6- Dismissal of the claim with respect to the material inventory clause.

7- Cancel the Defendant's action with respect to the provision for baseential fines (accrued expenses) for the year 2017 AD, according to the reasons stated.

Since this decision was not accepted by the Taxpayer (Company ...), he filed an appeal list in which he demanded the reversal and annulment of the decision of the Adjudication Circuit. This decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list that I have seen, where the Authority's appeal lies on an clause (accrued revenues). The Authority explains that when assessment , it did not deduct the clause from the Zakat base because it is not one of the deductible clauses listed in Article 4.2 of the Zakat Collection Regulation, which specified in detail what is deducted from the Zakat base and did not include the deduction of such an clause claimed by the Taxpayer, and the Authority maintains the validity and integrity of its procedure. We also inform that the Authority did not deduct from the zakat base because it is not permissible to deduct, in addition to it not being among the clauses required to be deducted according to Article (5) of the Executive Regulation for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH. During the objection stage, the Authority reviewed the amended assessment and financial statements, where it became clear that the Taxpayer demands deduction of the clause. However, since this clause is owed by a solvent non-procrastinating party (government entities) and the creditor (Taxpayer) is able to collect his dues, these receivables are debts owed by government entities that are neither procrastinating, bankrupt, nor insolvent. The Authority's procedure was upheld by Appeal Decision No. 1769 of 1438 AH. So the Authority maintains the validity and integrity of its action. The Circuit did not ask the Taxpayer for any detailed explanation to prove the validity of what the Taxpayer claimed, and the Authority did not find any documents attached in this regard in any case, which makes the decision worthy of cancellation, and the Authority affirms the Authority affirms that the Taxpayer's argument before



the Circuit has no validity because it is not based on evidence that can be relied upon. The appellant did not submit these documents that relate to the clause under appeal, and the Authority does not know on what basis the Circuit relied on the fact that these documents relate to the clause under appeal and not others, and whether what the Taxpayer submitted to the Circuit is related to the year under appeal or not, as it is not clear from it the Circuit did not clarify how this clause was arrived at in a detailed accounting and regulatory manner, which must be noted. Since the Defendant's objection initially lacked documentary proof of the clause under appeal and an explanation of how it was initially processed by the Authority and the proof of this clause in a correct accounting form and the certification of the legal accountant in a detailed manner, based on the above, the Authority rejected the Defendant's objection on the basis of Article (Twentieth) Paragraph (3) of the Zakat Collection Regulation, which makes the Circuit's decision flawed. With regard to the clause (Retained Insurance), the Authority explains that it did not deduct the clause from the Zakat base because it is not one of the deductible clauses listed in Article 4.2 of the Zakat Collection Regulation, which specified in detail what is deducted from the Zakat base and did not include the deduction of such a clause claimed by the Taxpayer, We also inform that the Authority did not deduct from the zakat base because it is not permissible to deduct, in addition to it not being among the clauses required to be deducted according to Article (5) of the Executive Regulation for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH. During the objection stage, the Authority reviewed the amended assessment and financial statements, where it became clear that the Taxpayer demands deduction of the clause. However, since this clause is owed by a solvent non-procrastinating party (government entities) and the creditor (Taxpayer) is able to collect his dues, these receivables are debts owed by government entities that are neither procrastinating, bankrupt, nor insolvent. The Authority's procedure was upheld by Appeal Decision No. 1769 of 1438 AH. That the Circuit did not ask the Taxpayer for any detailed explanation the Authority does not find any documents attached in this regard in any case, which makes the decision worthy of annulment, and the Authority emphasizes that what the Taxpayer argued before the Circuit is not valid and is not based on evidence that can be relied upon in fact, The appellant did not submit these documents that relate to the clause under appeal, and the Authority is not clear on what the Circuit based on the fact that these documents relate to the clause under appeal and not others, and it is not clear to the Authority on what basis the Circuit relied on the fact that these documents relate to the clause under appeal and not others the Circuit did not clarify whether or not what the Taxpayer submitted to the Circuit is related to the year under appeal, as this was not clear from it, and whether the Circuit reviewed the legal accountant's certification of it or not, and the Circuit did not clarify how this clause was reached in a detailed accounting and legal manner, which should be noted. Since the Defendant's objection initially lacked documentary proof of the clause under appeal and an explanation of how it was processed by the Authority initially and the proof of this clause in a correct accounting form and the legal accountant's certification of it in a detailed manner, based on the above, the Authority rejected the Defendant's objection on the basis of Article (Twentieth) Paragraph (3) of the Zakat Collection Regulation, which makes the Circuit's decision flawed.



With regard to the clause (material error in the decision of the Second Circuit regarding the inventory of materials), the Authority clarifies that the basis for the decision is the operative part of the decision and not what is stated in its reasoning, and the Authority emphasizes that it did not accept the deduction of the above clause from the Zakat base because it is not one of the deductible clauses listed in Article (4) of the Zakat Collection Regulations issued in 1438 A.H as for what the Circuit stated in the reasoning of its issued decision that these materials were purchased for the purpose of use and not for sale, we respond that the nature of the inventory is that it is operational inventory related to projects, which appears within the cost of sales, and therefore is not treated as deductible inventory. Accordingly, the Authority maintains the validity and integrity of its procedure, and requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed and canceled.

On Wednesday, 15/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds:

Whereas, with regard to the Taxpayer's appeal, after examining the case file, and whereas ascertaining the status of the parties to the case is one of the preliminary matters to be decided before entering into the merits of the case, and whereas the Circuit reviewed the appeal list submitted, and found that the applicant is a licensed lawyer who submitted and signed the appeal request on other than his own printed materials, while he was required to submit requests and regulations on his own printed materials, based on Article (13/01) of the Executive Regulations of the Lawyers Law, which stipulates that article (13/01) of the Executive Regulations of the Lawyers Law, which stipulates that: "A lawyer must take his own papers to submit his writings to the authorities, including his name, the name of the headquarters, branch office, license number and date, telephone numbers, post office box and zip code, and he may not submit any writing to the authorities on papers that do not include this, or papers that do not belong to him." based on Article 7 of the Rules of Procedure of the Tax Disputes and Violations Adjudication Committees, which stipulates that "the representation of the parties to the case shall be in accordance with the provisions of the Lawyers Law and its Executive Regulations." Since the appellant did not comply with the necessary conditions for valid representation, the Circuit concludes that the appeal is inadmissible because it was filed by a person without standing.



Whereas, with regard to the Authority's appeal, upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal is procedurally accepted because it was submitted by a competent person and within the statutory period prescribed for conducting it.

The Authority's appeal is based on the fact that it did not deduct the clause from the Zakat base because it is not a deductible clause, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. Paragraph (4) of clause (I) of Article (IV) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 4. The income that has already passed its due date", and based on Sharia Fatwa No. (19643) dated 23/5/1418 AH, which states: "the debts that the company has on its debtors, whether postponed or postponed, regardless of their terms, Zakat is obligatory if they are in the hands of a debtor who is not procrastinating and the creditor is able to recover his money." Based on the legal opinion No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Iftaa on debts owed by government agencies, which states the following: "The debt owed by the company is due from government agencies: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." . Based on the above, and the Circuit's review of the case file and the papers contained therein, and since Zakat is not obligatory on the creditor in his funds owed to the government entities that he is unable to collect due to a delay by the government entities and not as a result of his failure to comply with the standard and requirements specified by the government entity, and since the Taxpayer did not provide proof of his claim for these funds from the contracted entities, which shows his failure to claim, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

With regard to the Authority's appeal on the clause (withheld insurance), the Authority's appeal lies in the fact that it did not deduct the clause from the Zakat base because it is not a deductible clause, and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets



subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. Paragraph (4) of clause (I) of Article (IV) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 4- The income provided that has already passed the hawl", based on Sharia Fatwa No. (19643) dated 23/5/1418 AH, which states:" the debts that the company has on its debtors, whether postponed or postponed, regardless of their terms, Zakat is obligatory on them if they are in the hands of a debtor who is not procrastinating and the creditor is able to recover his money." Based on the legal opinion No. (23408) dated 18/11/1426 AH issued by the Standing Committee for Scientific Research and Fatwa on debts due from government agencies, which stipulates the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." based on the above, and the Circuit's review of the case file and the papers contained therein, and since Zakat is not obligatory on the creditor in his funds owed to the government entities that he is unable to collect due to a delay by the government entities and not as a result of his failure to comply with the standard and requirements specified by the government entity, and since the Taxpayer did not provide proof of his claim for these funds from the contracted entities, which shows his failure to claim, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

Regarding the Authority's appeal on the clause (material error in the Second Circuit's decision regarding material inventory), since the adjudication decision upheld the Authority's action, the claim has no merit, and the Circuit concludes that this clause should be dismissed.

With regard to the Authority's appeal on the clause (gratuities within salaries and wages) and the clause (provision for baseential fines), and where Article 70 of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the subject matter of the case or some of it is among those agreed upon." Based on



the foregoing, and where it was proven to this Circuit that the Authority requested to withdraw its appeal in accordance with what was stated in the letter issued by the Authority in the supplementary note, which included: "The Authority wishes to inform the Honorable Circuit that it has withdrawn its appeal with regard to the above clause specifically, and the procedures resulting from this clause's appeal, as per the decision reached by the Dispute Resolution Circuit on the grounds thereof." therefore, the Circuit must accept the abandonment of the litigation.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Procedurally:

1- Inadmissibility of the appeal procedurally by the Taxpayer/company ... Commercial Register No. (...), distinctive number (...), against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1846) issued in Case No. (Z -2021-42810) regarding the Zakat assessment for the year 2017 AD, because it was filed without status.

Acceptance of the appeal procedurally from the Zakat, Tax, and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (ISR-2022-1846) issued in case number (Z -2021-42810) related to the zakat assessment for the year 2018.

Secondly: On the merits:

1- Accepting the abandonment of the litigation regarding the Authority's appeal on the clause (tips within salaries and wages).

2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (accrued revenues).

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Retained Insurance).

4- Accepting the abandonment of litigation in relation to the Authority's appeal on the clause (provision for baseential fines formed).

5- Dismissing the Authority's appeal on the clause (material error in the Second Circuit's decision regarding material inventory).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-156597

Case No. Z-2022-156597

Keywords:

Zakat - Deductions from the Zakat Base - Underwriting costs of insurance policies - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority appeal against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-1962), where its appeal is based on the clause (underwriting costs of insurance policies for the years 2019 AD and 2020 AD), as it disagrees with the outcome of the contested decision regarding the deduction of deferred underwriting costs. The Appellate Committee found that the Taxpayer did not add the amounts financed for these costs to the Zakat base, which means that the balance of the deferred costs is not fully deducted from the Zakat base, but the realized expense is deducted periodically as the clause is not considered among the clauses or clauses that are deducted from the base according to Article 5 of the Executive Regulations for the Collection of Zakat (Zakat). The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- Paragraph (4/6) of Article (5) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)
- Paragraph (10) of Article (4) of [The executive regulation for Zakat collection issued by the decision of His Excellency the Minister of Finance number \(2216\) dated 07/07/1440 AH.](#)

Facts:

The appeal filed on 30/10/2022 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City (IZD-2022-1962) issued



in Case No. (Z-2022-112708) related to the Zakat assessment for the years 2019 AD-2020 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

1.rescinding the defendant's decision regarding the non-discounting of the costs of underwriting deferred insurance policies for the years 2019 AD and 2020 AD.

2.dismissed plaintiff's objection with respect to the Saudi partner's adjusted loss carryforward for 2020 AD.

As this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it filed a list of appeals, which included the following:

As the Authority objects to the decision of the Appeals Circuit, it claims that with regard to the clause "Underwriting costs of insurance policies for the years 2019 AD and 2020 AD," the Authority appeals the decision of the Appeals Circuit and requests the annulment of the Circuit's decision, explaining that it did not accept the deduction of the clause from the Zakat base due to the fact that the nature of the clause is similar to prepaid expenses

The Zakat Regulation does not provide for the deduction of the clause from the Zakat base, and the Authority explained that the nature of this clause in insurance companies in general is a variety of costs incurred by the company in order to complete the sale of insurance policies and the recognition of these costs is deferred in accordance with the principle of matching income with expenses, and then amortized in proportion to the acquisition of insurance premiums related to these costs, and the Authority confirms that it approved the amortization expenses as stated in the Taxpayer's declaration in the amount of (17,622,031) riyals and (20,812,671) riyals for the years 2019 AD and 2020 AD, and that what the Taxpayer claims to deduct are deferred costs, and since the accounting treatment according to the accrual basis and the income-expense basis requires that expenses that are paid in advance and for which income is not realized be recognized as an clause of assets and then periodically amortized and charged to income with the amortization expense that relates to the year, which means therefore, the entire balance of deferred costs cannot be fully deducted from the Zakat base, but the realized expense is deducted periodically, and the clause is not considered one of the elements or clauses that are deducted from the base according to Article (5) of the Executive Regulations governing the collection of Zakat.

Whereas it is clear that the Defendant's (the Taxpayer) view is that the underwriting of insurance policies covers more than one year, i.e. They are long-term assets and these deferred costs are amortized in the statement of insurance operations and the accumulated surplus over the period of the related insurance coverage, i.e. These costs are long-term assets because the insurance activity requires such costs to generate profit and therefore are considered long-term assets, which are from the Acquisition offerings and should be treated as fixed assets and deducted from the Zakat base and this is the practice applied by the the Authority also explained that deferred costs represent the total costs incurred directly and indirectly related



to the purchase or renewal of insurance contracts that are allowed to be deferred over the period of the insurance contract as defined by the accounting standards and are therefore capitalized, and deferred policy underwriting costs include both commissions and other costs directly related to the underwriting of insurance policies, so the nature of deferred policy underwriting costs also takes the rule of deferred expenses because they relate to expenses for more than one fiscal year.

On Tuesday, 09/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated: 21 / 04 / 1441 AH; and by calling on the opponents, I attended / ... (National ID No. ...), in her capacity as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) And the date is 19/03/1445 AH. Mr. (...), National ID No. (...), appeared as an agent for the appellant under agency No. (...).when the representative of the appellant was asked about the case, she replied that she does not deviate from what was mentioned in the objection memorandum filed with the General Secretariat of Zakat, Tax and Customs Committees, and that she is satisfied with it, and upholds the grounds, defenses and requests contained therein, and when this was presented to the agent of the appellant against her, he replied that he does not deviate from what was mentioned in the reply memorandum, and is satisfied with the memorandums filed on the General Secretariat of Zakat, Tax and Customs Committees, and upholds the grounds, defenses and requests contained therein. When the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the arguments and reserve the case for adjudication.

Grounds:



Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits of the appeal, and based on paragraph (6) of Article (5) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2216) dated 07/07/1440 AH, which stipulates that "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 6- Net start-up, pre-operating and similar capital expenditures", and based on the General Authority of Zakat and Income Circular No. (2714/16/1433) dated 15/1/1425 AH regarding the deduction of deferred voluntary expenses, which states that "Deferred voluntary expenses are a real cost



that must be allowed to be deducted for zakat purposes, but because these expenses contribute to the realization of revenue for a number of years, they take the ruling of establishment expenses and fixed assets in terms of allowing their annual amortization premium to be deducted among the deductible costs, and the net balance at the end of the year is deducted from the zakat able funds, just like other legally deductible offers of Acquisition."

Based on the above, the Authority's appeal lies in its disagreement with the outcome of the contested decision regarding the deduction of deferred underwriting costs. A review of the financial statements and Note (8) of the movement in the calculation of the disputed clause shows that the initial balance of the period is fully amortized during the year, and the balance that appears at the end of the year is what was created during the year, which shows that the disputed clause does not represent long-term assets and does not take the rule of capital costs that can be deducted from the Zakat base, and the Defendant's claim that these costs relate to new insurance contracts, which represent unearned insurance premiums that appear within the liabilities in the statement of financial position which represent unearned insurance premiums shown as liabilities in the company's statement of financial position, this would entail adding a portion of those premiums to the Zakat base to the extent of the acquisition costs of deferred insurance policies deducted from the Zakat base, as they are among the clauses that financed what was deducted from the Zakat base in accordance with paragraph (10) of Article (4) of the Executive Regulations for the Collection of Zakat, and with reference to the Zakat return for the two years in dispute, it appears that the Taxpayer did not add the amounts financed for these costs to the Zakat base, which means that the balance of the deferred costs was not fully deducted from the Zakat base, rather, the realized expense will be deducted periodically as the clause is not considered among the elements or clauses that are deducted from the Zakat base according to Article (5) of the Executive Regulations for Zakat Collection, which means that the Circuit must accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause (Insurance Policy Underwriting Costs for the years 2019 AD and 2020 AD).

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Accepting the appeal procedurally from its submitter/ Zakat, Tax and Customs Authority, against the decision of the first circuit to rule on violations and disputes regarding income tax in Dammam with the number (IZD-2022-1962) issued in case number (Z-2022-112708) related to the zakat assessment for the year 2015.

Secondly: On the merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (underwriting costs of insurance policies for the years 2019 and 2020).



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-156136

Case No. Z-2023-156136

Keywords:

Zakat - Deductions from the Zakat base - Amounts due from related parties - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer's appeal against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-5685), where his appeal is based on the clause (receivables from related parties), claiming that the shareholders of the holding company are the same shareholders of the subsidiary company and that to prevent Zakat dissuasion, the funds provided to the subsidiary company have been recorded in its accounts in equity. The Appellate Committee, upon reviewing the Zakat declarations and financial statements, found that the shareholders of the holding company are the same as those of the subsidiaries, as the Taxpayer submitted the articles of incorporation of the subsidiaries (... Ltd. Ltd, Company ..., and Company ...) Accordingly, the Taxpayer proved the validity of his objection, and since these amounts were subject to zakat in the subsidiary's base, the Taxpayer proved the validity of his objection. This means; accepting the Taxpayer's appeal and canceling the decision of the adjudicating circuit.

Document:

- Paragraph (5) of Article (5) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)
- Paragraph (3) of Article (20) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)

Facts:

The appeal filed on 20/10/2022 AD from ... Company, and the appeal filed on 23/10/2022 AD from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-5685) issued in Case No. (Z-2021-50579) related to the Zakat assessment for the years 2015 AD to 2018 AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax



and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: Procedurally:

Acceptance of the plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

- 1- Annulment of the defendant's decision with respect to the clause (Dues to Partner).
- 2- Annulment of the defendant's decision regarding the clause (salaries and wages).
3. Annulment of the Defendant's decision with respect to the "Donations" clause
- 4- Reject all other objections.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (receivables from related parties) that the shareholders of the holding company are the same shareholders of the subsidiary company, and in order to prevent Zakat dissuasion, this financing provided to the subsidiary company has been recorded in its accounts in equity. During 2014 AD and 2015 AD in the amount of SAR 14,896,500, it was received from the company's shareholder in order to absorb the losses reported by ... The Taxpayer also objects to the clause (due to ... - (Payment of Dividends), (Foreign Investments), (Advance Project Payment that was written off), and (Payments not taken into account by the Authority). Therefore, the Taxpayer requests that the decision of the Adjudication Circuit on the clauses under appeal be overturned for the above reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, it submitted a list of appeals, which was reviewed by the Circuit and included the following: The Authority requests that its appeal be accepted and that the decision of the Adjudication Circuit regarding the clause "Donations" be reversed.

On Monday, on: 03/10/2022 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.



Grounds:



upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

The Taxpayer's appeal regarding the clause (Receivables from Related Parties), and where his appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; as he claims that the shareholders of the holding company are the same shareholders of the subsidiary company, and in order to prevent Zakat dissuasion, this financing provided to the subsidiary company has been recorded in its accounts in equity. During 2014 AD and 2015 AD, the amount of (14,896,500) SAR was received from the company's shareholder for the purpose of absorbing the losses reported by (...). Whereas paragraph (5) of clause (FIRST) of article (5) of the executive regulation for the collection of zakat issued by ministerial decision number (2082) dated 01/06/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for acquisition. (c) What is used in trade offers and has passed the hawl." Article 20(3) of the Tax Law also stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the above, and where the dispute lies in the Authority's procedure of deducting the funding provided by the holding companies to the subsidiaries according to the percentage of ownership, and by reviewing the case file; and whereas, regarding the deduction of the funding provided by the holding company, it turns out that the Taxpayer claims to deduct the total amounts due from the related parties from the Zakat base for the years 2015 AD to 2018 AD, and by reviewing the Zakat declarations and financial statements of the years in question; it turns out that the shareholders of the holding company are the same as those of the subsidiaries, as the Taxpayer submitted the Articles of Association of the subsidiaries (the company ... Ltd. Ltd, Company ..., and Company ...) Therefore, since the Taxpayer has proven the validity of his objection, and since these amounts are subject to Zakat in the subsidiary's base, the loans and advances to the subsidiary are deducted from the Zakat base, which leads the Circuit to accept the Taxpayer's objection and overturn the decision of the Adjudication Circuit in this clause.



Whereas, with regard to the Taxpayer's appeal regarding the clause (payment of dividends) and the clause (advance project payment that was written off), and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, it is necessary to monitor the content of the case and the answer before recording the agreement, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the subject matter of the case or some of it is among those agreed upon." Based on the above, and where it is proven that the dispute ended with the Authority's acceptance of the Taxpayer's objection as stated in the letter issued by it in the supplementary appeal note submitted on 06/12/2023 AD, containing the following statements: "The Authority accepts the Taxpayer's objection as stipulated in the supplementary appeal note: "3- Regarding the Taxpayer's appeal on the dividend clause for the years 2015 AD to 2018 AD: the Authority informs you that the Taxpayer's objection to this particular clause is accepted. 4- Regarding the Taxpayer's appeal on the project advance payment clause that was written off for 2018 AD: the Authority informs you that the Taxpayer's objection to this particular clause is accepted."

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision



of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-5685) issued in case number (Z-2021-50579) related to the tax assessment for the years from 2008 AD to 2016 AD.

Secondly: On the merits:

- 1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the (Donations) clause.
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Receivables from related parties).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (due to ... - owed to a partner).
- 4- Proof of the end of the dispute regarding the Taxpayer's appeal on the clause (payment of dividends).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (foreign investments).
- 6- Proof of the end of the dispute regarding the Taxpayer's appeal on the clause (project advance payment that was written off).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (payments not taken into account by the Authority).



Appeals Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. Z-2023-169213

Case No. Z-2023-169213

Keywords:

Zakat - Deductions from the Zakat Base - Expenses paid - Acceptance of the Authority's appeal - Acceptance of the Taxpayer's appeal

Summary:

The Taxpayer and the Zakat, Tax and Customs Authority (ZTCA) appealed the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (ITR-2022-6012), related to the Zakat assessment for the years 2015 AD to 2018 AD. The Authority's appeal lies in the fact that it did not accept the deduction of the clause (paid expenses) in advance from the Zakat base because they are not considered capital expenses, and the Taxpayer demands that these expenses provided by customers be considered as deferred expenses representing receivables to be charged to income with amortization expenses annually the Taxpayer's appeal on the clause (Investments for 2018 AD) lies in the fact that he provided proof of the intention to invest, and that the purpose of the fund is to buy 19 properties and rent them out, which is an activity that does not depend on flipping and trading, and he does not mind paying Zakat on his share in these funds. Whereas the Appellate Committee found that what the Taxpayer claims to deduct are deferred costs, and whereas the accounting treatment according to the accrual and matching basis requires that expenses that are paid in advance and for which income has not been realized be recognized as an asset clause and then periodically amortized and charged to income with the amortization expense for the year, which means that this expense was taken into account when calculating the Zakat base. This means; accepting the Authority's appeal in the clause of expenses paid and rejecting it in the rest of the clauses, and accepting the Taxpayer's appeal in the clause (for investments) and rejecting it in the rest of the clauses.

Document:

- Paragraph (7) of clause (II) of Article (4) of [The executive regulation for the collection of Zakat issued by the decision of His Excellency the Minister of Finance No. \(2082\) dated 01/06/1438 AH.](#)



- Paragraph (4/A) of Article (4) of [the Executive Regulations for the Collection of Zakat issued by Decision No. \(2082\) of the Minister of Finance dated 01/06/1438H.](#)

Facts:

The appeal filed on 12/01/2023 AD from /... National ID number (...) As an agent for the appellant company under agency No. (...), and the appeal filed on 15/01/2023 AD from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2022-6012) issued in Case No. (Z-2021-47441) related to the Zakat assessment for the years 2015 AD to 2018, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: Procedurally:

Acceptance of the plaintiff's objection/ Company ... – ... (Commercial Register No. ...), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

- 1- Annul the defendant's decision regarding the (distributable surplus to policyholders) clause.
2. Demonstrate that the controversy regarding the clause (Investments in ... Company 2017 AD and 2018 AD).
- 3- Annul the defendant's decision with respect to the prepaid expenses clause.
- 4- Reject all other objections.

Since this decision was not accepted by the parties, each of them filed a list of appeals, which included the following:

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal is with respect to the clause (Investments (a) Investments in ... The Taxpayer adds that he does not mind paying Zakat on his share in these funds, and this is in line with the decision of the Appellate Committee No. (IR-2021-153) and with the rules issued by the Authority regarding investments in funds. Accordingly, the Taxpayer requests that the deduction of these investments in the funds from the base be accepted and that his request to pay zakat on his share in the fund be supported. The Taxpayer also objects to the clause (Investments (b) Investments in shares) and the clause (Calculation of Zakat on the base and not on the adjusted profit), therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies in relation to the clause (Prepaid Expenses for 2016 AD) that it did not accept the deduction of the prepaid



expenses clause from the Zakat base because they are not considered capital expenses, and the Taxpayer demands that these expenses provided by customers be considered as deferred expenses, as they represent receivables that are periodically amortized as income is charged with amortization expenses annually, which means taking this expense into account when calculating the Zakat base as net income is a component of the Zakat base, so the balance may not be deducted from the Zakat base, but the amortization expense is deducted periodically whereas, the Zakat Executive Regulations issued by Royal Decree No. (M/40) dated 02/07/1405 AH issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH did not authorize the deduction of any clause from the Zakat base except by a statutory provision therefore, the objection was rejected, as the year's profits must be subject to Zakat in full according to Article IV/I (Paragraph 10) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. Accordingly, the Authority maintains the validity and integrity of its procedure and requests that the decision of the Adjudication Circuit on the clauses under appeal be reversed for the above reasons.

On Monday, 29/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, regarding the Authority's appeal regarding the clause (Prepaid Expenses for 2016 AD), and where its appeal lies in the fact that it did not accept the deduction of the prepaid expenses clause from the Zakat base because they are not considered capital expenses, and the Taxpayer demands that these expenses provided by customers be considered as deferred expenses as they represent receivables that are periodically amortized, as the income is charged with the amortization expense annually, which means that this expense is taken into account when calculating the Zakat base because net income is one of the components of the Zakat base, so the balance of the prepaid expenses cannot be deducted from the Zakat



base, but the periodically realized expense is deducted. Whereas paragraph (7) of clause (II) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH stipulates that "The following shall be deducted from the zakat base:" 7. Net start-up and pre-operational expenses and similar capital expenditures, such as advertising campaigns." The General Authority of Zakat and Income Circular No. (2714/16/1433) dated 15/1/1425 AH regarding the deduction of deferred revenue expenses stipulates that: "Deferred revenue expenses are a real cost that must be allowed to be deducted for zakat purposes, but because these expenses contribute to the realization of revenue for a number of years, they take the ruling of establishment expenses and fixed assets in terms of allowing their annual amortization premium to be deducted as a deductible cost, and the net balance at the end of the year to be deducted from the zakatable funds like other legally deductible Acquisition offerings." based on the above, since what the Taxpayer claims to deduct are deferred costs, and since the accounting treatment according to the accrual basis and the matching basis requires that expenses that are paid in advance and for which income is not realized are recognized as an clause of assets and then periodically amortized and income is charged with the amortization expense for the year, this means that this expense was taken into account when calculating the Zakat base, since net income is one of the components of the Zakat base. Therefore, the entire balance of deferred costs cannot be fully deducted from the Zakat base, but only the periodically realized expenses included in the income statement, and the clause is not considered one of the elements or clauses to be deducted from the base, and there is no clause within the deductions of this name or of the same nature, in addition to the Taxpayer's failure to present the movement of the account in the financial statements, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit on this clause.

Whereas, regarding the Taxpayer's appeal regarding the clause (Investments (a) Investments in the Fund ... For 2018 AD) the Taxpayer's appeal is that he provided proof of his intention to invest, that there is no movement on the funds' units and that the purpose of the fund is to buy 19 real estate properties and rent them out, which is an activity that does not depend on flipping and trading, and that he does not mind paying Zakat on his share in these funds. Where paragraph (4/A) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "Investments in establishments within the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, and if the investment in those establishments is not subject to the collection of zakat it doesn't come out of the bowl." "Whereas the core of the dispute lies in the non-acceptance of deducting investments in the ... Fund for the year 2018 AD, and upon reviewing the documents submitted in the case file, it is evident that the Taxpayer submitted documents consisting of (the terms and conditions of the Fund, the financial statements of the ... Fund for 2018 AD and zakat calculation on the Fund, Board of Directors' declaration of investment in the Fund for 2018 AD, Fund units movement). It became clear through these documents that the Fund's activity consists of real estate leasing and that it is not available for trading, which excludes it from the scope of trading goods. Since the Taxpayer submitted



supporting documents for his viewpoint, the Circuit concludes by accepting the Taxpayer's appeal and canceling the Adjudication Circuit's decision regarding this clause."

Regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. Whereas, there is no fault on the part of the Circuit in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit with respect to the rest of the clauses at issue in the case, bearing in mind its reasons.

Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... , commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (ITR-2022-6012) issued in case number (Z-2021-47441) related to the tax assessment for the years from 2008 AD to 2016 AD.

Secondly: On the merits:

1 - Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (distributable surplus to policyholders).

2 - Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Prepaid Expenses for 2016 AD).

3 - Regarding the Taxpayer's appeal on the clause (Investments)

A. Accepting the Taxpayer's appeal and canceling the dismissal decision regarding the clause (Investments in ... For 2018 AD).

B - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Investments in shares).

5 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (calculating zakat on the base and not on the adjusted profit).



This decision is considered final according to the provisions of Articles 47 and 48 of the rules of operation of the committees for adjudicating tax violations and disputes.



Appeals Committee for Tax Violations and Disputes
First Appellate Circuit for Income Tax Violations and Disputes
In Riyadh

Decision No. IR-2024-170753

Case No. Z-2023-170753

Keywords:

Zakat - Deductions from the Zakat Base - Deduction of the net balance due - Acceptance of the Authority's appeal

Summary:

The Zakat, Tax and Customs Authority's objection to the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (ITR-2022-6459), as its appeal is based on the clause (discounting the net balance due), as the Taxpayer collects from the government entity and the collection process did not stop during the previous and subsequent years, and therefore it is a debt on a hopeful collector, not a defaulting entity that cannot pay. The Appellate Committee found that the Taxpayer did not provide proof of his claim to the government agencies, and that the inability to collect the amounts due was due to the negligence of that agency. The implication of this; acceptance of the authority's appeal and cancellation of the decision of the adjudicating circuit.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)

Facts:

The appeal filed on 19/01/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (ITR-2022-6459) issued in Case No. (Z-2021-45851) related to the Zakat assessment for the year 2018, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: acceptance of the plaintiff's objection/ (.....) , Commercial Registration No. (...), against the decision of the defendant/ Zakat, Tax and Customs Authority from a procedural perspective.



Second: On the merits:

Demonstrate that the disagreement regarding the Board of Directors' remuneration clause has been resolved.

The Defendant's decision regarding the clause (deducting the net balance due from ...) Is annulled.

Deny subsequent requests.

This decision was not acceptable to the appellant (Zakat, Tax and Customs Authority) she submitted a list of appeals, which included the following:

Challenging the decision of the Adjudication Circuit, the Authority claims that with regard to the clause "Deduction of the net balance due from .. The Authority did not deduct the clause from the Zakat base as it is not one of the elements of deduction stipulated in Clause II of Article 4 of the Zakat Regulations governing the collection of Zakat. - government) (185,585,387) riyals, as it was noted through the account balance in the financial statements that the Taxpayer is collecting from the mentioned entity and the collection process did not stop during the previous and subsequent years, and therefore it is a debt on a baseential collector and not on a defaulting entity that cannot pay, as well as (.....) It owns 50% of (the Taxpayer) and the public corporation ... Located at (.....) (52.5%), which shows that accordingly, the Authority's action is valid based on Sharia Fatwa No. (19643) dated 23/5/1418 AH, and the Authority provided a copy of Note No. (15) and Note No. (9) of the 2018 AD financial statements of the Taxpayer, as well as a copy of the Tadawul website showing the percentage of ownership of the General Establishment ... (....), the Authority requests that the decision of the Adjudication Circuit on the clauses under appeal be overturned for the above reasons.

On Wednesday, 14/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.



The Authority's appeal regarding the clause "Deduction of the net balance due from ..." is based on the fact that the Taxpayer is collecting from the mentioned entity and the collection process did not stop during the previous and subsequent years, and therefore it is a debt on a baseential collector and not on a defaulting entity that cannot pay, and (.....) It owns 50% of (the Taxpayer) and the public corporation... (.....) By 52.5%, which shows that ... It is indirectly related to the (Taxpayer's) company. Whereas Fatwa No. 23408 (18/11/1426 AH) issued by the Permanent Committee for Scientific Research and Fatwa on debts owed by government agencies stipulates that "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." based on the above, and since the dispute lies over the deduction of the balance of claims owed by government agencies, whereas, it is clear from the legal opinion that Zakat is not obligatory on the creditor of the Taxpayer's money owed to the government agencies, which he is unable to collect due to a delay by the government agencies and not as a result of his failure to comply with the standards and requirements set by the government agency, and upon reviewing the case file and the defenses and documents it contains; it is clear that the Taxpayer did not submit proof of his claim to the government agencies, and that the inability to collect the amounts owed is due to the failure of that agency the Taxpayer did not provide proof of his claim to the government agencies, and that the inability to collect the amounts due is the result of the failure of that agency. This does not affect the Taxpayer's defenses in his response to the Authority's appeal, as he did not provide the documents supporting his objection, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit in this clause.

On the basis of the above and for the reasons stated, the Circuit unanimously decided as follows:

Decision:

First: Acceptance of the appeal procedurally from its submitter, the Zakat, Tax and Customs Authority against the decision of the third division regarding violations and disputes of income tax in Riyadh with number (ITR-2022-6459) issued in case number (Z-2021-45851) related to the Zakat assessment for the year 2018AD.

Secondly: On the merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (deducting the net balance due from ...), in accordance with the reasons and reasons contained in this decision.

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