



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

Compendium of Defenses Raised in Tax Disputes and the Committees' Responses for the year 2024



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 honorable messengers and the Last Prophet, our Prophet Muhammad, and upon his family, companions and followers.

There is no doubt that the efforts made by the courts and judicial Committees and the Provisions and Decisions issued by them constitute a priceless jurisprudential and judicial heritage, and a result that should be given attention and care. Considering the commercial and industrial revolution that the Kingdom of Saudi Arabia is experiencing under Saudi Vision 2030, many questions on tax issues have arisen, confusing many people. As part of the social responsibility pursued by the General Secretariat of Zakat, Tax and Customs Committees, it sought to form a solid foundation and reference for members of tax committees, Taxpayers and interested parties by studying and analyzing the final decisions issued by the tax committees for the year 2024, by extracting the most prominent defenses raised before the tax committees and their opinion thereon, which effectively contributes to serving tax disputes. This limits the prolongation of the consideration of cases, as it contributes to clarifying the decisions settled by the committees, which will be reflected in shortening the litigation time for clients, reducing the effort on the judge, and realizing the principle of transparency adopted by the General Secretariat. Moreover, it helps making the applied aspects available to the parties concerned with sharia and legal research, especially academic and training entities 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

All praise is due to Allah alone, and thereafter:

Guided by the vision and values of the General Secretariat of the Zakat, Tax and Customs Committees, which has committed itself to excellence in resolving zakat, tax and customs disputes, adopting innovative and effective methods, promoting transparency and impartiality, and developing cooperation between the various parties involved in the zakat, tax and customs system, and playing an effective role in raising the efficiency of legal deliberations, thereby contributing to the achievement of the objectives of Saudi Vision 2030 by enabling swift justice and adopting the values of transparency and innovation, through 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, serving those responsible for clarifying regulations, decisions and judicial precedents, and updating them periodically.

The General Secretariat has given special importance to the defenses submitted by the parties to the case and the determination of the stance of the Adjudication Circuit and appeal committees, as they represent a knowledge enrichment for case studies that results in conclusions that contribute to achieving many of the Secretariat's goals, including reducing disagreements and disputes, strengthening the aspect of the Committees' stance on these defenses, and strengthening the grounds for the decisions issued by the Committees.

In conclusion, I would like to thank the Custodian of the Two Holy Mosques King Salman bin Abdul-Aziz and His Royal Highness Crown Prince Mohammed bin Salman bin Abdul-Aziz, 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 Abdelrahman Al-Suhaibani



Methodology

The General Secretariat has been careful to select judgements with a comprehensive nature of their subjects in order to achieve the desired benefit. In view of the importance of the characterization of the case before the adjudication and appeal committees and its impact on the reasoning and basis for the Decision, which is the result sought by the parties to the case, and because tax cases have different facts and circumstances; it was necessary to tabulate the final decisions issued by the Tax Committees to enable researchers to review the opinion of the Committees on these defenses.

Based on the role of the General Secretariat of 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 speedy resolution of these disputes, the Secretariat paid attention to identifying the tax decisions issued by the tax adjudication and appeal committees that the Secretariat considered important to analyze the defenses made by the parties to the case during their pleadings before the committees and the position of the committees on those defenses; therefore, the work required a solid plan to produce it in an easy and accessible manner, the work was divided into several stages as follows:

- The final decisions issued by the tax committees related to tax cases were inventoried during 2024.
- The name of the circuit issuing the decision, the number of the decision, and the date of issuance were listed.
- Keywords have been set to make it easier to search through them.
- A summary of the case, which summarizes the most important parts of the case, was developed.
- Listing the references that the circuit relied on when issuing the decision, with the presence of hyperlinks to those references.
- Listing the defenses of the parties in the lawsuit.
- Statement of the circuit's opinion on those defenses.
- The text of the circuit's decision.



- 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.
- Categorize decisions thematically as appropriate and place them under the most relevant category.



Before starting this project, it is advisable to define the defenses and their classifications:

First: Definition of the Term and Its Terminology:

The term “defense” (in Arabic: دفع) originates from the verb da-fa-‘a, which means “to push something away.” It is said, “I pushed the harm away; I defended myself.” (1)

Defense in jurisprudence: It is “a statement or equivalent made by the Defendant to counter the Claimant's claim”. (2)

In legal terms, a defense refers to the legal means used by either the judge or the defendant to resist a lawsuit filed by the plaintiff, with the intent to have the case dismissed, referred to another court, or halted altogether. (3)

Second: Types of Defenses:

Defenses are divided into two main categories based on subject matter:

First Procedural Defense: This refers to an objection raised by the defendant regarding the legal procedures of the claim, requesting that the court abstain from proceeding with the case. This is typically based on procedural flaws, such as lack of jurisdiction or filing errors. (4)

Second: Substantive Defense: This targets the core of the claim and challenges the plaintiff's right itself—arguing that the plaintiff has no valid or existing right upon which the lawsuit is based. (5)

Defenses can also be categorized based on timing into two types:

- **Time-bound defenses:** These must be raised before a specific point in time in the litigation process, whether in the statement of claim or in response. (6)
- **Unrestricted defenses:** These can be presented at any stage of litigation, whether early or late. (7)

(1) See: The Dictionary of Language Standards (2/288), Ahmad bin Faris Al-Razi.

(2) See: Ibn Abdeen's Footnote (2/457), Muin al-Hakam al-Tarabulsi (p. 129), Al-Kashif in Explaining the Law of Legal Proceedings (1/29), Abdullah Muhammad Al-Khaneen.

(3) Research titled: Defenses in the Shari'a Pleadings Law, Fahd bin Abdulaziz Al-Yahya, published in the Journal of the Saudi Judicial Scientific Society, the ninth issue for the year 1437 AH, (p. 16).

(4) The theory of lawsuits between Islamic law and the Civil and Commercial Procedures Law (576), Mohamed Naim Yassin.

(5) See: The previous reference.

(6) Al-Kashif in Explaining the Law of Legal Proceedings (1/401).

(7) See: The previous reference (1/401).



Defenses Raised in Income Tax Disputes and Committees' Response (Taxable Income)



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

Decision No. IR-2024-170641

Case No. I-2023-170641

Keywords:

Income Tax - Taxable Income - Recharged Expenses - 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 (IFR-2022-2273) for 2015, where its appeal lies on the item (Recharged Expenses) that it added the item to the net profit represented by an estimated profit of (40%) of recharged expenses on unaffiliated entities charged to general and administrative expenses (labor rental for external and internal associated entities) since these associated entities are outside the Kingdom and included in other revenues by the same amount. WHEREAS, the Appellate Committee's review of the Authority's appeal memorandum shows that it bases its action on Article 63(c) of the Tax Law, which gives the Authority the right to reallocate revenue in transactions between related parties to reflect the revenue that would be realized in a transaction with independent parties, and whereas the expenses recharged to cost represent the rental of labor to external and internal related parties, from which no profits were realized, and therefore are not in accordance with the prices made between independent parties the expenses recharged to cost represent the leasing of labor to external and internal related parties, from which no profits have been realized, and therefore are not in accordance with the prices made between independent parties, and therefore, the Authority is entitled to calculate the revenue that will be realized from the leasing of labor in accordance with paragraph (c) of Article (63) of the Tax Law mentioned above. Consequently; accepting the authority's appeal and annulment of the decision of the Adjudication Circuit on this item.

Document

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (b,c) of Article (36) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (a) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (1) of Article (68) of [the the Executive Regulations of the Income Tax Law issued by Decision No. \(1535\) of the Minister of Finance dated 11/06/1425H](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- The Authority argued that its procedure is correct as the service provided to non-resident related parties in the Kingdom is at cost without making any profit and not according to the prices used between independent parties based on Article (63/C) of the Income Tax Law.

The Committee's response to the defenses:

Paragraph (c) of Article 63 of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/1/1435 AH stipulates: "Anti-avoidance measures: c. The Circuit may reallocate income and expenses in transactions between related parties or parties belonging to the same entity to reflect the income that would have been realized if the parties were independent and unrelated." based on the foregoing, and whereas the contested decision concluded to cancel the Authority's action on the grounds that paragraph (b) of Article 63 of the Tax Law does not apply to the Taxpayer's case and that the Authority did not prove the existence of any material evidence or presumption that the Plaintiff tried to avoid or minimize the tax, but upon reviewing the Authority's appeal memorandum, it is clear that it bases its action on paragraph (c) of Article 63 of the Tax Law, which gives the Authority the right to redistribute income in transactions between related parties to reflect the income that would be realized in a transaction with independent parties since the expenses recharged to cost represent the leasing of labor to external and internal related parties, from which no profits were realized, and therefore are not in accordance with the prices that take place between independent parties, the Authority is entitled to calculate the revenue that will be realized from the leasing of labor in accordance with paragraph (c) of Article (63) of the Tax Law mentioned above, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit on this item.

Decision:

- 1- 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 circuit regarding violations and disputes of income tax in the city of Dammam with number (IFR-2022-2273) issued in case number (I-2021-74097) related to the zakat assessment for the year 2015.



2- On the merits:

- a- Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit with regard to the item (Recharged Dividends).
- b- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (import profits).
- c- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (social insurance) clause.
- d. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (subcontractors and support services that are not documented).
- e. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (unrealized currency exchange gains).
- f. accepting the Authority's appeal in part, amending the decision of the Adjudication Circuit, and rejecting the Taxpayer's appeal with regard to the delay penalty clause.



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

Decision No. IR-2024-193982
Case No. IW-2023-193982

Keywords:

Income Tax - Taxable Income - Estimated Profit Margin on Revenue - Acceptance of 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-2023-93544) regarding the tax assessment for 2016 and 2017 and the withholding tax for 2017 and 2018. The Authority's appeal lies in the two items (30% estimated profit margin on revenues for the years 2017 and 2018), (and the withholding tax for the months of January for the years 2017 and 2018), requesting the cancellation of the Circuit's decision related to these two items, with an explicit stipulation to reassign the Taxpayer in accordance with the approved financial statements. the Appellate Committee found that the Adjudication Circuit's decision to annul the Authority's action did not address the Authority's entitlement to reconnect based on the audited financial statements. article 63 of the Income Tax Law enables the authority to make an estimated assessment in the absence of accurate calculations. the withholding tax for the months of January 2017 and 2018 is not subject to the statute of limitations. the 2017 and 2018 tax bindings were issued within the statutory period, and the Taxpayer does not have the right to object to the statute of limitations before a new binding is issued. this means accepting the Authority's appeal and amending the Adjudication Circuit's decision to stipulate that the Authority is entitled to a tax rebate based on the approved financial statements.

Document

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (b,c,d) of Article (68) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (a) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (3) of Article (16) 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.](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- The Authority argued that the reasoning of the First Chamber in Riyadh was flawed in its reasoning, as the Chamber canceled the Authority's action and did not address the re-assessment of the Taxpayer based on the audited financial statements, even though its decision was overturned based on the financial statements so that its right to re-assessment would not be forfeited.

The Committee's response to the defenses:

the Authority's appeal is to modify the operative part of the adjudication decision, which ruled (annulment of the Authority's discretionary assessment procedure without addressing the Authority's right to re-assessment the Taxpayer based on the audited financial statements) however, the Taxpayer claims that the assessment related to income and withholding taxes should not be reinstated due to the statute of limitations and argues that the Authority does not have the right to reissue any assessment after the statutory periods guaranteed by the law. Referring to the merits of the decision under appeal, it is clear that it referred to the invalidity of the estimated assessment and the assessment on the Taxpayer based on his certified financial statements, but the operative part of the decision came to cancel the Authority's action as a whole without addressing its right to reinstate the assessment based on those lists, and therefore the adjudication decision was incorrect in its conclusion.

Decision:

- 1- 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 Riyadh (IFR-2023-93544) issued in Case No. (IW-2022-93544) regarding the tax assessment for the years 2016 and 2017, and the withholding tax for the years 2017 and 2018.
- 2- On the merits:
 - a- Accepting the Authority's appeal and amending the decision of the Adjudication Circuit regarding the item (withholding tax for the month of January for 2017/2018).
 - b- Accepting the Authority's appeal and amending the decision of the Adjudication Circuit regarding the item (30% estimated profit margin on revenues for the years ending June 30, 2017 and June 30, 2018).
 - c- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the delay penalty clause.



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

Decision No. IR-2024-179136

Case No. IR-2024-179136

Keywords:

Income Tax - Taxable Income - Raising the Profit Margin Rate on Expenses Recharged to the Head Office -
Acceptance of the Authority's Appeal

Summary:

the Zakat, Tax and Customs Authority's objection to the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1970), issued in Case No. (I-2021-74489) regarding the tax assessment for the years 2016 to 2018. the Commission's appeal lies on the provision (raising the profit margin percentage on expenses recharged to the headquarters) to 40% for the years 2016 through 2018. the Authority confirmed that the Taxpayer did not provide supporting documents for the costs or contracts related to the scope of services. the Authority also explained that the Taxpayer did not clarify the mechanism for determining the profit percentage he used, and provided justifications based on the 2015 financial documents, which show a profit margin of 34.1% on contracts with unrelated parties, which led the Authority to estimate the percentage at 40%. the fine decision was also appealed based on the authority's imposition of a late penalty for unpaid tax differences. the Appellate Committee partially accepted the Authority's appeal regarding the amendment of the profit margin percentage to 40% and the amendment of the decision of the Adjudication Circuit on this item, while the Authority's appeal regarding the delay penalty was rejected, as the Circuit confirmed the validity of applying the penalty in accordance with Article (77) of the Income Tax Law. Consequently: accepting the Authority's appeal in part and amending the initial decision regarding the profit margin clause, and rejecting the Authority's appeal regarding the delay penalty.

Document

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (62) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- paragraph (2) of Article (63) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (a) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (3,4) of Article (16) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425H](#)
- Paragraph (3) of Article (57) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (2) of Article (71) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- The Authority argued that the Taxpayer did not commit to providing the contract explaining the scope of the service, its value and the value of the basic contract, and for not providing a list of local customers to verify the value of payment and collection from external parties, as this shadows the value of other revenues and the inability to track their cost, as these transactions do not reflect their essence, status and true image.
- 2- The Authority argued that the mechanism for determining the profit percentage, which was estimated at (40%), is that according to the letter of understanding concluded between the branch and the head office, the branch may provide consulting services to other parties other than those provided to the head office. The same letter also stated that this revenue - service fees - will be periodically reviewed to maintain a neutral compensation. Therefore, the Authority reviewed the services provided by the branch to neutral parties as shown in the financial statements for the year 2015 as the closest year that can be taken as a basis for comparison with the disputed years and found the following: revenues from contracts with third parties (13,370,968 SAR) Costs from contracts with third parties (8,811,581 SAR) Profit from contracts with third parties (4,559,387 SAR) Profit percentage (34.1%) Therefore, the Taxpayer was charged with an estimated profit percentage (40%) based on the profitability of contracts with unrelated parties.



The Committee's response to the defenses:



Whereas the Taxpayer claims to apply a profit rate of 5%, and the decision of the Circuit in the adjudication was to accept the Taxpayer's objection to submit the head office and branch agreement and a detailed statement of these expenses and financial statements, and that (the Authority) did not provide a calculation basis for applying the profit margin of (40%) and its procedure was not supported by supporting documents, while the Authority argued that the Taxpayer did not commit to submit the contract indicating the scope of the service, its value and the value of the basic contract, and for not submitting the list of local customers to verify the value of the payment and collection of third parties, as this shadows the value of other revenues and the inability to trace their cost the Circuit reviewed the attached documents and found that the Taxpayer submitted the memorandum of understanding concluded on September 15, 2011 between the head office and the branch (the Taxpayer), which includes that the head office pays all the payments to the branch (the Taxpayer) in accordance with Article (63) of the Income Tax Law which includes that the main center pays all the costs of the branch in addition to (5%) "service fees", while he did not commit to provide a sample of invoices issued to customers and a sample of journal entries showing their registration in the accounts within the revenue account and the corresponding invoices and journal entries showing the costs incurred for services provided to customers with a profit margin (5%), which are sent to the main center, and the Authority in its reply memorandum, the Authority clarified the mechanism for determining the profit percentage that was estimated at (40%) and provided the basis for its calculation compared to 2015 by reviewing the services provided by the branch to neutral parties as shown in the financial statements for 2015 as the closest year that can be taken as a basis for comparison with the disputed years, which leads the Circuit to partially accept the Authority's appeal and modify the decision of the Adjudication Circuit regarding this item.

Decision:

1- Accepting the appeal procedurally from the Appellant/Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City No. (ISR-2022-1970) issued in Case No. (I-2021-74489) regarding the tax assessment for the years 2016 to 2018.

2- On the merits:

- a. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the provision (raising the profit margin percentage on expenses recharged to the headquarters to 40% for the years 2016 to 2018)
- b- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit with regard to the delay penalty clause.



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

Decision No. IR-2024-173912

Case No. IR-2024-173912

Keywords:

Income Tax - Taxable Income - Unallowable Contract Costs - Taxpayer's Appeal Accepted

Summary:

the Taxpayer's objection to the decision of the first department for resolving income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2596) regarding the tax assessment for the years 2017 and 2018. the Taxpayer's appeal of the 2017 contract cost is to exclude a difference in the contract cost for legal expenses related to the company. the Appellant also provided a detailed breakdown of the differences related to the legal services provided by his law firm, requesting that they be deducted as administrative expenses for the company and not for the joint venture. under (2018 Contract Cost), he assessed income tax to the differences in the 2018 contract cost (SAR 443,786), claiming that employee-related expenses are not recognized by the JV management, asserting that they are expenses that belong to the company and not the project. the Taxpayer rejects the imposition of a late penalty of 1% of the unpaid tax, arguing that the delay is due to a technical dispute between the Taxpayer and the authority, and that a late penalty should not be imposed in this case. with regard to (the 2017 contract cost), the Appellate Committee found that the expenses for which documents were submitted were actual expenses related to the activity. the item (Delay Penalty) was upheld and the item (Contract Cost for 2018) was partially accepted, after verifying the reasons provided in the objection, and the decision was amended accordingly. this means accepting the Taxpayer's appeal regarding the 2017 contract cost and partially accepting the Taxpayer's appeal regarding the 2018 contract cost.

Document

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (a,b) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (1) of Article (9) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



- Paragraph (3) of Article (67) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (2) of Article (71) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- The Appellant argued that it disagrees with the decision of the Dismissal Committee, and attached a detailed breakdown of the differences in the cost of the contract for 2017, explaining that the difference represents legal services provided to (...) from (...) and that the legal expenses are related to the company itself and therefore not incurred by the joint venture.

The Committee's response to the defenses:

Based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425H, concerning the expenses that may be deducted to determine the taxable income as follows: 1- All ordinary and necessary expenses incurred to achieve taxable income, whether paid or accrued, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other proof that enables the authority to verify its validity. B- It must be related to achieving taxable income. c. It must be related to the tax year. d. Not of a capital nature" based on the above, the centerpiece of the dispute lies in the non-determination of legal consultancy fees, as the Taxpayer indicated that the fees were inadvertently categorized as part of the contract costs. and that the expenses inadvertently classified as contract cost are in fact administrative expenses in nature and he claims to deduct them. A review of the documents attached to the case file shows that the Taxpayer submitted the account statements related to these expenses (general ledger) with the submission of invoices related to the item and in addition to submitting the agreements related to the consultations of the legal accountant in the amount of (721,000 riyals) in-Appendix (5), the Taxpayer has submitted the documents supporting his point of view, and the disputed expenses are actual expenses related to the activity according to Article (9) of the Executive Regulations of the Income Tax Law, which means that the Taxpayer's appeal should be accepted and the decision of the Adjudication Circuit regarding the item (20% income tax on the unauthorized contract cost for the year 2017) should be annulled.



Decision:

1- Acceptance of the appeal procedurally, submitted by / ... Company commercial Register (...), unique number (...), on the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2596) issued in Case No. (I-2021-83561) related to the tax assessment for the years 2017 and 2018.

2- On the merits:

a- Regarding the Taxpayer's appeal on the item (excluding the difference in contract cost):

b- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (20% income tax on the unauthorized contract cost for 2017).

c- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the 20% income tax on the differences in the contract cost for 2018.

d- Amending the decision of the Adjudication Circuit regarding (delay penalties).



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

Decision No. IR-2024-178191
Case No. IW-2023-178191

Keywords:

Income Tax - Taxable Income - Revenue in the Company Contract - Accepting the Taxpayer's Appeal -
Rejecting the Authority's Appeal

Summary:

the Taxpayer and 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-2022-6893) regarding the tax assessment for the years 2013 and 2014. the Taxpayer's appeal is based on the rejection of the item (application of estimated profit on revenues and other income) on the grounds that the branch complied with the provisions of the tax system and provided the necessary records and documents, explaining the accounting change in 2013 and the adoption of a new system. he objected to the item (Revenue from the company's contract ...), pointing out that the contract was "on-call services" and the revenue generated was declared according to the percentage of completion method with supporting documents. he requested the elimination of the "delay penalty" clause and the calculation from the date of exhaustion of the objection procedure or acceptance of the connection. the Authority's appeal lies on the item (calculating the withholding tax on dividends based on the estimated assessment) because the Taxpayer did not provide sufficient documents and the Authority resorted to estimation based on the Income Tax Law. the Appellate Committee accepted the Taxpayer's appeal on the item (Revenue in the company contract) and overturned the Circuit's decision because it proved the correctness of the estimated assessment and the adoption of the available data in accordance with the Income Tax Law. The outcome of this; rejecting the Authority's appeal, accepting the taxpayer's appeal on merits grounds.

Document

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (a) of Article (76) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (b) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (3) of Article (57) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that there were no unauthorized revenues with the company and all revenues were disclosed according to the percentage-of-completion method.
- 2- the Taxpayer argued that the agreement is an on-call services agreement, i.e. the service will be provided upon request, and the revenues for polymers amounted to (19,881,781) SAR over the years 2013 to 2018, and the difference between the total contract amounting to (24,400,000) SAR and the value of the executed contract amounting to (19,881,779) SAR, so the difference is due to an on-call services agreement.

The Committee's response to the defenses:

Based on paragraph (3) of Article (57) of the executive regulations of the income tax system issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which states the following: "3. The burden of proving the validity of the revenues, expenses and any other data contained in the Taxpayer's return lies with the Taxpayer. In the event that the Taxpayer fails to prove the validity of his return, the Authority may, in addition to applying any other statutory sanctions, not authorize the expense that is not validated 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 the Authority." Based on the above, the Taxpayer disputes the refund of the revenue difference from the contract with Saudi Aramco... he indicated that the contract did not end in 2014, as it was extended until 2016, as stated in the letters of contract extension attached to the case file, and the realized revenues were declared according to implementation, and the Taxpayer submitted returns, financial statements, a sample of invoices and a contract follow-up statement including miscellaneous revenues, and the Taxpayer submitted the translated and approved agreement, through which it is clear that the work depends on what is completed and submitted, and therefore the Taxpayer submitted an analytical statement showing what was disclosed by the Taxpayer according to the percentage of completion until 2018. He also submitted a table of revenues from his main activity, which shows the disclosure of those amounts in his tax returns from 2015 to 2018. Accordingly, and as proven by the contracts, the invoice is approved within thirty days from the date of service. the Taxpayer acknowledged the revenues he had submitted in accordance with the analytical data and the



agreement and based on the tax returns. This led the court to accept the Authority's appeal and overturn the decision of the Circuit with regard to the item (revenues from the Saudi company contract).

Decision:

1- Accepting the appeal procedurally of the Taxpayer's ... , commercial registration (...), unique number (...) the appeal filed by the Zakat, Tax and Customs Authority against the decision of the Third Chamber for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6893) issued in Case No. (IW-81946-2021) related to the tax assessment for the years 2013 and 2014.

2- On the merits:

a- rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the item (calculation of withholding tax on dividends based on the estimated assessment).

b- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the item (Investments in a company ...).

c. Rejecting the parties' appeal and upholding the decision of the Adjudication Circuit regarding the delay penalty clause.

d. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (applying the estimated profit to revenues and other income).

e. Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (revenues from the Saudi Company contract).

f. Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (penalty for concealing contract revenues).



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

Decision No. IR-2024-192732

Case No. I-2023-192732

Keywords:

Income tax-Taxable income-No deduction for profits adjusted for prior losses-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the Third Department of Income Tax Irregularities and Disputes in Riyadh (IFR-2022-6682), where his appeal is based on the clause (not deducting 25% of adjusted profits to cover previous losses), claiming that the loss carryover deduction is assessed to the tax base and not the profit or loss realized in the return, and the clause (adjusting net profits with overloaded depreciation differences), claiming that the method of calculating the depreciation amount for the year in dispute does not comply with the tax system or with accounting standards applied in the Kingdom of Saudi Arabia. according to the Taxpayer's return, the Taxpayer has the right to deduct the losses carried forward from the taxable profit up to a maximum of (25%) of the annual profit according to the Taxpayer's return, and by reviewing the Taxpayer's return, it appears that the Taxpayer stated in his return submitted to the Commission about the net profit in the amount of the net profit. Therefore, according to the provision of paragraph (1) of Article (11) of the Executive Regulations of the Income Tax Law, the Taxpayer has the right to carry over the adjusted operating losses to tax years following the year of loss by reducing the following years profit until the accumulated operating losses are fully recovered without being limited to a specific period of time. Consequently; accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit.

Document



- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (17) of [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (a,b) of Article (21) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (1) of Article (11) of [the Executive Regulations of the Income Tax Law issued by Decision No. \(1535\) of the Minister of Finance dated 11/06/1425H.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the deduction of the loss carried forward is related to the tax base and not to the profit or loss realized in the return, because although the return stated a loss, the tax base proved that the tax base is (426,037) riyals and the income tax rate (20%) of the value of the base is (85,207) riyals, because any amendment to the Taxpayer's return by the Authority or the tax committees is a return for the Taxpayer and no one else, and since this item is one of the subsidiary items with a fixed percentage (25%) variable value, it is mandatory in the event of any change in the return to be followed by an amendment in the deduction of losses carried forward; as a result, the Committee's decision must be reversed and a 25% discount must be applied to any amendment to the return.

The Committee's response to the defenses:

According to the provisions of the articles, the Taxpayer is entitled to deduct the losses carried forward from the taxable profit so that what is deducted does not exceed (25%) of the annual profit according to the Taxpayer's return, and a review of the Taxpayer's return shows that in his return submitted to the Authority, he declared a net profit of SR (8,428,562), thus, in accordance with Article 11(1) of the Executive Regulations of the Income Tax Law, the Taxpayer is entitled to carry forward the adjusted operating losses to the tax years following the year of loss by reducing the profits of the following years until the accumulated operating losses are fully recovered without being restricted to a specific period, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit regarding this item.

Decision:

- 1- Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6682) issued in case number (I-2021-50132) related to the Zakat assessment for the year 2012.
- 2- On the merits:
 - a- rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (bank interest) item.



- b- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (delay penalty) clause.
- c- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (rewards) item.
- d- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (adjusting net profits with overloaded depreciation differences).
- e- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (not deducting 25% of the adjusted profits to cover previous losses).



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

Decision No. IR-2024-192732

Case No. I-2023-192732

Keywords:

Income Tax-Taxable Income-Adjustment of Net Profits with Overstated Depreciation Differences-
Acceptance of Taxpayer's Appeal

Summary:

The Taxpayer's appeal against the decision of the Third Department of Income Tax Irregularities and Disputes in Riyadh (IFR-2022-6682), where his appeal is based on the clause (not deducting 25% of adjusted profits to cover previous losses), claiming that the loss carryover deduction is assessed to the tax base and not the profit or loss realized in the return, and the clause (adjusting net profits with overloaded depreciation differences), claiming that the method of calculating the depreciation amount for the year in dispute does not comply with the tax system or with accounting standards applied in the Kingdom of Saudi Arabia. the Appellate Committee found that the Authority adjusted the adjusted net profit by revising the depreciation difference according to the rates prescribed by law, after reviewing the depreciation schedule and reconciling it with the financial statements without providing the details of its calculation and the reasons that made it modify the Taxpayer's calculation, the burden of proof in this case falls on the Authority to prove that the Taxpayer's calculation of the depreciation expense is incorrect, and therefore, the Authority did not submit the depreciation expense calculation prepared by it. Consequently; accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit.

Document



- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (17) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (a,b) of Article (21) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (1) of Article (11) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- The Taxpayer argued that the adjustment of the depreciation differences charged in excess of SAR (6,754,222) million cannot be greater than the total depreciation expense charged to the income statement in the amount of SAR (1,401,917) million, a difference of more than four million, since the depreciation differences are the difference between the depreciation charged to the income statement and the depreciation arrived at by the Authority according to the depreciation schedule prepared in accordance with the law and circulars.

The Committee's response to the defenses:

since the dispute lies over the calculation of the depreciation difference, it is clear that the Authority did not provide evidence of the Taxpayer's error in calculating the depreciation differences from his Zakat return, nor did it meet that error to support its assessment procedure on the Taxpayer to adjust the depreciation rates in the manner that the Authority claims is the method in accordance with the law, the Taxpayer indicated in his appeal list and reply memorandum that it is impossible for the difference to be greater than the full amount of depreciation charged to the income statement and stated that the depreciation differences are the difference between the depreciation charged to the income statement and the depreciation arrived at by the Authority according to the depreciation schedule prepared in accordance with the law and circulars, the Authority indicated that it adjusted the adjusted net profit by revising the depreciation difference in accordance with the rates prescribed by law, after reviewing the depreciation schedule and reconciling it with the financial statements without providing details of its calculation and the reasons that made it modify the Taxpayer's calculation, the burden of proof in this case falls on the Authority to prove the incorrectness of the Taxpayer's calculation of depreciation expense, and therefore, due to the failure of the Authority to submit the depreciation expense calculation prepared by it, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this item.



Decision:

1- Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6682) issued in case number (I-2021-50132) related to the Zakat assessment for the year 2012.

2- On the merits:

a- rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (bank interest) item.

b- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (delay penalty) clause.

c- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the (rewards) item.

d- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (adjusting net profits with overloaded depreciation differences).

e- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (not deducting 25% of the adjusted profits to cover previous losses).



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

Decision No. IR-2024-176508

Case No. I-2023-1765078

Keywords:

Income Tax-Taxable Income-Addition of Other Income-Acceptance of the Authority's Appeal

Summary:

the Zakat, Tax and Customs Authority (ZTA) appealed the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2689), as its appeal is based on the item "Adding other revenues from (...) for the year 2015, the Taxpayer's tax return did not match the Taxpayer's tax return, and the item (adding the net profit of a company ... 2015) in calculating the Taxpayer's share of the adjusted net profit. the Appellate Committee reviewed the Taxpayer's return and the project's return and found that there were differences and that the Taxpayer did not provide any justifications for these differences. The Taxpayer's reply list also proved that he understood the basis for the Authority's assessment when he stated his disagreement with the Authority's exclusion of the difference in support services and explained the Authority's addition of other revenues and the reasons for the exclusion. 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 (5) of Article (17) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (3) of Article (57) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Authority's) Defenses

- 1- The Authority argued that the amount of the dispute is a difference in revenue between the returns submitted for the joint ventures and what was declared in the Taxpayer's returns and added to his net profit, and clarified the difference through the supplementary appeal list, and according to the final report, the Taxpayer partially cooperated and provided the examination team with some documents necessary for the purpose of the examination, in addition to that the Taxpayer did not submit tax returns and audited and approved financial statements.

The Committee's response to the defenses:

Based on paragraph (5) of Article (17) of the Regulations, which states: "The obligations relating to a person's company apply to a consortium of companies (...) this includes registration with the Authority, filing a return of information, and the resulting fines for non-compliance. based on paragraph (3) of Article (57) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/6/1425 AH, which stipulates the following: "In the event that the Taxpayer is unable to prove the validity of the revenues, expenses and any other data contained in the Taxpayer's return, the Authority may, in addition to applying any other statutory sanctions, not authorize the expense that is not validated 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 the Authority." based on the above, and upon reviewing the attached documents, the Circuit found that the dispute is about the mismatch of the Taxpayer's tax return (branch of the company ...) with the project (...) whose percentage is (55%), it turns out that the Authority did the same treatment for the first item, and by reviewing the Taxpayer's return and the project's return, there were differences and the Taxpayer did not provide any justifications for these differences, the expenses charged on behalf of the project ... as mentioned in the project's approval, Statement No. (9) Rental of machinery and equipment worth (413,206 SAR), outsourcing services worth (8,896,559 SAR), and outsourcing services worth (731,564 SAR) (a total of 9,628,123 SAR in accordance with the Authority's appeal regulations) and in return, the Taxpayer declared revenues for expenses charged on behalf of the project ... (6,991,102) riyals (according to Annex No. 7 related to other revenues) and as the Taxpayer stated "he did not realize the branch and did not know the basis for attributing the revenues to the tax base." Through the Circuit's review of the Taxpayer's reply list in the adjudication stage dated (27/01/2022 AD), which is clear from his response on his awareness of the basis for the Authority's assessment when he stated his disagreement with the Authority's exclusion of the difference in support services and explained the Authority's addition of other revenues and the reasons for the exclusion, which leads the Circuit to accept the appeal and cancel the decision of the Adjudication Circuit with regard to this item.



Decision:

1- Accepting the appeal procedurally from the Appellant/Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2689) issued in Case No. (I-2021-78700) related to the tax assessment for 2015.

2- On the merits:

a. Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the item (adding other revenues from ... for 2015).

b. Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the item (adding other revenues...). for 2015).

c. Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the item "Adding the net profit of ... for 2015).

d. Accepting the abandonment of litigation in relation to the Authority's appeal on the item (exclusion of reloaded costs for the year 2015).

e. Accepting the abandonment of litigation regarding the Authority's appeal on the item (exclusion of the user's share in the Provident and Social Security Fund for 2015).

f. accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the 2015 delay penalty.



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

Decision No. IR-2024-176902

Case No. I-2023-176902

Keywords:

Income tax - Taxable income - Invalid income added to the tax base - Accepting 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-2022-1947) regarding the tax assessment for 2019. his appeal is based on the item (incorrect revenue added to the tax base for 2019), explaining that the audited financial statements do not disclose any revenue from new contracts during this year. whereas it was proven to the Appellate Committee that the Taxpayer submitted the approved financial statements that did not disclose any revenues for any contracts during the year 2019, he also submitted a letter confirming the revenues related to the executed works disclosed to the Authority, in addition to an email containing a statement from the Taxpayer's representative that the letter was rejected by the National Information Center and that he could not obtain the required documents from the Authority unless this request was submitted directly from the government agencies (the Authority), so the original validity of the Taxpayer's return and the Authority did not provide any evidence to prove its claim regarding these revenues. Consequently; the Taxpayer's appeal is accepted and the Adjudication Circuit decision is canceled.

Document

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (a) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (3) of Article (67) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (2) of Article (71) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that he had not entered into any new contracts since 2014, and disclosed all revenues associated with previous contracts in his tax returns until the end of 2014, disputing the Authority's addition of contract revenues to the tax base.
- 2- the Taxpayer argued that the 2019 financial statements, audited and approved by the competent authorities, did not include any revenues from new contracts.

The Committee's response to the defenses:

based on the above, the Circuit finds that the dispute lies around the Authority's action to add the disputed amount to the net profit, which is represented by the profits of unauthorized contracts with a profit rate of (20%), because the Taxpayer did not provide a statement from the National Information Center that no contracts were awarded to the company, while the Taxpayer indicated that he did not conclude any new contracts since 2014, and after reviewing the case file and the defenses and documents it contains, the Circuit found that the Taxpayer submitted certified financial statements that did not disclose any revenues for any contracts during 2019, in addition, the Taxpayer submitted an email (Appendix D) containing a statement from the Taxpayer's representative that the letter was rejected by the National Information Center and he was unable to obtain the required documents from the Authority unless this request was submitted directly from the government agencies (the Authority), so the original validity of the Taxpayer's return and the Authority did not provide any evidence to prove the validity of its claim regarding these revenues, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit.

Decision:

- 1- Accepting the appeal procedurally of the Taxpayer's ... commercial Register No. (...), unique number (...), against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (ISR-2022-1947) issued in Case No. (I-2021-55101) related to the tax assessment for 2019.
- 2- On the merits:
 - a- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (incorrect revenue added to the tax base for 2019).
 - b- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the (delay penalty) clause.



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

Decision No. IR-2024-173371

Case No. W-2023-173371

Keywords:

Income Tax - Taxable Income - Capital Gains Tax - Acceptance of the Authority's Appeal

Summary:

the Authority's objection to the decision of the Second Circuit of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2586) regarding the tax assessment for the year 2016. his appeal lies on the item (Capital Gains Tax), where the basis for calculating the capital gains tax of the partner - the seller - requires determining the selling value based on (the contractual or market value of this share or the book value of it in the company's accounts), whichever is greater on the other hand, its appeal lies in the imposition of a delay penalty on the Taxpayer for tax differences not paid within the statutory deadline, as the Authority challenged the criteria for determining the penalties and requested to amend the decision. as the Appeals Chamber found that the Authority calculated the sales value based on the nominal value, this confirms the correctness of the Authority's calculation of the sales value, and with regard to the delay penalty, the Authority's procedure of imposing the delay penalty from the due date on the first item was proven correct. Consequently: 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 (a,b) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (7) of Article (16) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1,3) of Article (68) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425H](#)



- Paragraph (2) of Article (71) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that the Taxpayer did not submit any document related to the waiver or the value of the waiver, as the documents he submitted are minutes of a meeting of the administration, ministerial decisions and precedents from the adjudication committees, and accordingly, it emphasizes that it is not permissible to rely on documents that the Authority has not seen, based on Article (29) of the working rules of the Tax Disputes and Violations Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH, in accordance with Article (29) of the working rules of the Tax Disputes and Violations Resolution Committees.

The Committee's response to the defenses:

based on paragraph (7) of Article (16) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Decision No. (1535) dated 11/6/1425 AH, which stipulates the following: "7. Capital gains on the disposal of assets in the absence of statutory accounts at the Taxpayer (seller) are estimated as follows: b- If the asset sold is a share in a financial company, the selling value is determined on the basis of the contractual value or the market value of this share or its book value in the company's accounts, whichever is greater, and is compared to the cost basis to determine the capital gain. d- In other cases, the selling value is determined by either the contractual value or the market value, whichever is greater, and this is compared to the cost basis to determine the capital gain, provided that the capital gain is not less than 15% of the cost basis. the selling partner must notify the Authority of the sale and pay the taxes due on the resulting capital gains within sixty days from the date of sale, and the buyer is jointly responsible with the selling partner in paying any dues to the Authority as a result. " - article 9 of the Law stipulates: "Gains or losses resulting from the disposal of assets: gain or loss realized on the disposal of an asset is the difference between the compensation received for the asset and its cost basis. d - The cost basis of an asset purchased, produced, manufactured or constructed by the Taxpayer is the amount paid by the Taxpayer for the asset or incurred in cash or in kind in the process of acquiring it. (h) If a Taxpayer disposes of an asset by gift or inheritance, the person disposing of the asset shall be treated as if he had received a compensatory value for the asset equal to its market value at the time of disposal, unless paragraph (i) of this article applies." based on the above, and since the Taxpayer's appeal on the calculation of capital gains tax on the basis that there is no sale resulting in capital gains or losses because he transferred the shares from the partner to a company owned by the partner and his family, the Circuit emphasizes that this principle is not compatible



with the tax system at all, as the disposal of shares is a sale, regardless of its form, as the transfer or transfer of shares is a form of sale, as this is clearly evident from the attached articles of incorporation and the assignment contract as for the other part of the dispute, namely the method of calculating capital gains, the Circuit found that the Taxpayer demands that the cost basis be calculated by the partner's share in the capital (provided that the deposit is not less than 15% of the cost), as the Circuit referred to the Authority's calculation and found that it took the capital of the partner as the cost basis, which shows that there is no dispute about this, which the Taxpayer acknowledged in his appeal list to be (1,000,000) Riyals, therefore, the dispute is about the selling value according to what the Taxpayer indicated that the capital (partner's percentage) should be (1,000,000) riyals, while it turns out that the Authority took the selling value based on the nominal value of (6,789,842) riyals, which confirms the correctness of the Authority's calculation of the selling value as the determination of the selling value is based on (the contractual or market value of this share or its book value in the company's accounts) whichever is greater as stipulated in paragraph (7.b) of Article (16) of the Regulation, as the Taxpayer's reliance on paragraph (7.d) is incorrect, since both articles emphasize the same treatment of the sales value referred to above, but what applies to the Taxpayer's case is the text of paragraph (7.b) of Article (16) of the Regulation, except that what applies to the Taxpayer's case is the text of paragraph (7.b) of Article (16) of the Regulation it should also be noted that the nominal value is adopted in light of the Taxpayer's failure to submit a sales agreement to determine the contractual value of the shares, and therefore the Taxpayer's claim is not affected, as the selling value is determined by the capital (partner percentage), which leads the Chamber to accept the Authority's appeal and cancel the decision of the Adjudication Circuit in this item.

Decision:

1- Acceptance of the appeal procedurally, submitted by / ... Company Ltd, Commercial Registration No. (...), unique number (...), and 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-2022-2586) issued in Case No. (W-2021-86495) regarding the tax assessment for June 2016.

2- On the merits:

a- Annulment of the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal with regard to the capital gains tax item.

b- Accepting the Authority's appeal, annulment of the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal with regard to the delay penalty clause.



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

Decision No. IR-2024-191202

Case No. I-2023-191202

Keywords:

Income Tax - Taxable Income - 15% estimated profit on import differences - Partial acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam (IZD-2023-90702), where his appeal on the (delay penalty) clause is that the Authority rejected the delay penalty, and the (15% estimated profit on import differences) clause is that the differences are imports of clients on their behalf. the Appellate Committee found that the dispute is documentary in substance, and the Taxpayer provided samples of invoices and settlement of import differences and copies of contract clauses that prove that the Taxpayer is responsible for importing and delivering materials on behalf of his clients, and with regard to the Taxpayer's reference to excluding customs fees, the Circuit found that the difference in the calculation between the Taxpayer and the Authority lies in customs fees and that the Taxpayer had categorized customs fees as an expense in a separate item. this means partially accepting the Taxpayer's appeal and modifying the decision of the Adjudication Circuit with regard to this item, and accepting his appeal and annulment of the decision of the Adjudication Circuit with regard to the (delay penalty) item.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (4) of Article (16) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that the Authority violated Article (65) of the Income Tax Law, as the Authority did not clarify the basis of its assessment, decision or calculation with regard to this item, so he obtained the customs data and the customs return, compared the value of the imports between the customs return and the tax return, analyzed the differences and matched them with the invoices.
- 2- the Taxpayer argued that the import differences mentioned in the table amounting to SAR 8,658,363 represent the value of equipment and materials imported by the Taxpayer on behalf of his clients, and although they were imported in the name of the Taxpayer, these imports were not declared and claimed in the Taxpayer's books or his tax return, as the purchases were recorded as an expense in the books and accounts of the Taxpayer's clients.

The Committee's response to the defenses:

whereas, the dispute lies in the Authority's action to profit from import differences amounting to SAR 9,153,609 for the year 2018 by 15% between the value of imports in the Taxpayer's return compared to the imports according to the customs return, and the Taxpayer stated that the difference is for imports belonging to customers on their behalf, whereas, the Taxpayer attached an analytical statement "Annex 7" showing that the difference is SAR 8,658,363 after excluding customs duties worth SAR 495,246, and where the dispute is documentary in substance, and where the Taxpayer provided samples of invoices and settlement of import differences and copies of contract clauses "Annex 10 Contract" "Annex 11 Company Contract..." "Annex 12 Construction Contract ..." with regard to the Taxpayer's reference to the exclusion of customs fees, the Circuit found that the difference in the calculation between the Taxpayer and the Authority lies in the customs fees and that the Taxpayer had categorized the customs fees as an expense in a separate item, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit with regard to this item.



Decision:

1-Acceptance of the appeal procedurally, submitted by / ... Company commercial Register (...), unique number (...), against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City (IZD-2023-90702) issued in Case No. (I-2022-90702) related to the tax assessment for 2018.

2- On the merits:

a- accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the item (imposing a 15% estimated profit on the import difference).

b- Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the (delay penalty) clause.



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

Decision No. IR-2024-179134

Case No. I-2023-179134

Keywords:

Income Tax - Taxable Income - Foreign Procurement - Acceptance of the Authority's Appeal

Summary:

the Zakat, Tax and Customs Authority's objection to the decision of the Second Circuit for adjudicating income tax violations and disputes in Riyadh (ISR-2022-1989) regarding the tax assessment for the years 2016 and 2017. the Authority's appeal lies on the item (external purchases) as it claims that there is a difference that has not been proven. the Taxpayer referred to the Authority's argument that this is due to the existence of another project and for another client, and upon reviewing the documents submitted to verify the validity of what the Taxpayer referred to, it is clear that no proof of this difference was provided, which makes it clear that the Authority's argument about the existence of an unproven difference is correct, and the Taxpayer did not provide the supporting documents. Consequently, the Taxpayer's appeal is accepted partially, and the decision of the circuit regarding this item is amended.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (a,b) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (1) of Article (9) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (3) of Article (57) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that it had adjusted the profit by the difference of foreign purchases that were overcharged because the Taxpayer did not provide documentary evidence for them and the difference was accounted for.

The Committee's response to the defenses:

Based on paragraph (1) of Article (9) of the executive regulations of the income tax system issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which states the following: "The expenses that may be deducted to determine the taxable income are: 1- All ordinary and necessary expenses incurred to achieve taxable income, whether paid or accrued, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other proof that enables the authority to verify its validity. B- It must be related to achieving taxable income. c. Be related to the tax year D. Not be of a capitalistic nature." according to Article (57) paragraph (3) of the Executive Regulations of the Income Tax Law, which stipulates that "In the event that the Taxpayer is unable to prove the validity of the revenues, expenses and any other data contained in the Taxpayer's return, the Authority may, in addition to applying any other statutory sanctions, not authorize the expense that is not validated 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 the Authority." after reviewing the case file and its documents, it turns out that the Taxpayer submitted a certification from the Land Forces Aviation Command about the existence of imports from the Taxpayer in the amount of (13,469,303 riyals) for 2016 and (14,972,571 riyals) for 2017, as well as a certification from the Ministry of Defense represented by the Saudi Armed Forces that the company ... whereas, the Authority's appeal on this item is that the import difference according to the Authority's assessment for the years 2016 and 2017 amounts to (14,477,908) riyals and (15,338,693) riyals respectively, and the Authority clarifies that the Taxpayer provided supporting documents in the amount of (13,469,303) riyals for the year 2016 and (14,972,571) riyals for the year 2017, so it is clear that there is an unrecognized difference of (1,008,605) riyals and (366,122) riyals, respectively. whereas the Taxpayer indicated that the Authority's payment was due to the existence of another project "Project ..." and for another customer "... Accordingly, by referring to the documents submitted to verify the validity of the Taxpayer's claim, it is clear that no proof of this difference was provided, which makes it clear that the Authority's claim about the existence of a difference that has not been proven, and therefore, due to the Taxpayer's failure to provide supporting documents, the Circuit concludes to partially accept the Authority's appeal and amend the decision of the Dispute Resolution Department regarding this item.



Decision:

1- Accepting the appeal procedurally from the applicant Zakat, Tax and Customs Authority against the decision of the Second Circuit for adjudicating income tax violations and disputes in Riyadh, No. (ISR-2022-1989) issued in Case No. (I-2021-82232) regarding the tax assessment for the years 2016 and 2017.

2- On the merits:

a. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the item (external procurement for 2016 and 2017).

b- Amending the decision of the Adjudication Circuit with respect to the "Penalty for Delay" clause.



Additional rules for determining the tax base



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

Decision No. IR-2024-169890

Case No. I-2023-169890

Keywords:

Income Tax - Additional rules for determining the tax base - Discretionary tax assessment - Acceptance of the Authority's appeal

Summary:

the Zakat, Tax and Customs Authority's objection to the decision of the Third Department for adjudicating income tax violations and disputes (ITR-2022-6130) regarding the tax assessment for the years 2018 and 2019. the Authority's appeal lies in objecting to the Circuit's modification of the estimated assessment made by the Authority, as the estimated profit percentage was calculated at (15%) instead of (50%), based on the fact that the Taxpayer's activity does not require direct costs and that the bank deposits refer to his activity as a social media celebrity. the authority explained that Article (16) of the Executive Regulations of the Income Tax Law allows for discretionary assessment according to the nature and circumstances of the activity, not less than 15%, without specifying a higher ceiling for the percentage. the Appeals Chamber upheld the validity of the Commission's action and overturned the decision of the Adjudication Circuit. this means accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the estimated tax assessment clause for the years 2018 and 2019.

Document

- [Regulations for the operation of Zakat, tax, and customs committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (4) of Article (16) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that the activity of providing advertisements through social media applications has no costs, and the profit percentage was determined based on the facts and circumstances associated with the Taxpayer.
- 2- the Authority argued that Article 16 of the Executive Regulations of the Income Tax Law clarified the minimum rate and did not specify the maximum rate, so the rate was estimated by the Authority due to the nature of the Taxpayer's activity and the lack of proven costs and expenses.

The Committee's response to the defenses:

article 16, paragraph (4) of the Executive Regulations of the Income Tax Law stipulates that "The estimated net profit shall be determined in accordance with the available evidence, facts or indicators related to the Taxpayer's business, nature and surrounding circumstances, and in no case less than the following rates of the Taxpayer's revenues: ... activities other than those mentioned above are 15%. based on the above, and after reviewing the appeal list and the reply memorandum, it appears that the dispute between the parties is over the estimated tax assessment for the years 2018 and 2019, and it turns out that the subject of the Authority's appeal can be found in its failure to accept the Circuit's decision to amend its procedure by calculating an estimated profit percentage (15%) instead of (50%), as the Authority believes that the estimated method of the social media celebrities' path, given the bank deposits and the lack of activity-specific costs it made an estimated assessment at 50%, as the Authority explained that the Taxpayer has no activity costs, and did not provide the costs of providing the advertisements that he referred to and did not provide proof of this through the financial statements, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Circuit of Adjudication in this item.

Decision:

- 1- 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 (ITR-2022-6130) issued in case number (I-2021-67640)) regarding the tax assessment for the years 2018 and 2019.
- 2- On the merits:
accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the item (Estimated Tax Linkage for 2018 and 2019), according to the reasons and rationale provided in this decision.



Tax base and tax rates



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

Decision No. IR-2024-176564

Case No. W-2023-176564

Keywords:

Income tax-Tax base and tax rates-Withholding tax on other payments-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 (No. IZD-2022- 2580), where he claims to have submitted a detailed file of salary payments to the Authority, where his appeal is based on the item (withholding tax on salaries) as he claims that he submitted a detailed file of salary payments to the Authority, the item (withholding tax on technical, consulting and administrative services) as he claims that he has already deducted the withholding tax, and the item (delay penalty) as he claims that it arose from a difference of opinion between him and the Appellant and did not arise from deliberate non-payment of the dues the Taxpayer claims that the delay penalty should not be calculated until the tax due becomes final for the year 2017, and the item (Withholding tax on other payments for the year 2017) as he claims that he is not aware of the basis of these payments and the details submitted to the Authority did not include any amount equal to SAR (936,228). the details provided by the Taxpayer to the Authority, on which the Authority based its withholding tax, did not include this amount, since the Taxpayer requested the Authority to provide him with the basis for its withholding tax, and since the Authority, in its reply memorandum to the Taxpayer's appeal, did not clarify the basis for its withholding tax on other payments in the amount in dispute. Consequently; accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (57) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (63) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that while assessing the Authority, he provided details of all payments to non-residents. in its valuation, the Authority assessed withholding tax on (SAR 936,228) as other payments.

The Committee's response to the defenses:

paragraph (1) of Article 63 of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/6/1425H and amended by Ministerial Decision No. (1/1748) dated 20/2/1427H, stipulates that "1- A non-resident shall be subject to tax on any amount received from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following rates: any other payments 15%." Article 57(3) also stipulates: "The burden of proving the validity of the revenues, expenses and any other data contained in the Taxpayer's return is on the Taxpayer, and in case he is unable to prove the validity of his return, the Authority may, in addition to applying any other statutory sanctions, not authorize the expense 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 the Authority." Based on the foregoing, after reviewing the arguments and documents presented by the parties in the case file and the withholding tax on other services paid by the College (...) on behalf of the College of (...) (In this regard, the Taxpayer provided an analytical statement of all amounts subject to withholding tax, and with reference to the details provided by the Taxpayer to the Authority, on the basis of which the Authority relied to assess the withholding tax, it did not include this amount, as the Taxpayer requested the Authority to provide him with the basis for assessing it, and since the Authority, in its reply memo to the Taxpayer's appeal, did not explain the basis for assessing it to the other payments with the disputed amount, which leads the Circuit to accept the Taxpayer's objection and annul the decision of the Adjudication Circuit on this item.

Decision:

1. 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 circuit regarding violations and disputes of income tax in the city of Dammam with number (IZD-2022-2580) issued in case number (W-2021-42672) related to the zakat assessment for the year 2017.

- 2- On the merits:



- a. rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the insurance withholding tax item.
- b. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (withholding tax imposed on telecommunications).
- c. Accepting the abandonment of litigation regarding the Authority's appeal on the (withholding tax imposed on loan interest) clause.
- d. Accepting the abandonment of litigation with regard to the Authority's appeal on the (insurance withholding tax) clause.
- e. Accepting the abandonment of litigation regarding the Authority's appeal on the (withholding tax imposed on travel tickets) clause.
- f. Accepting the abandonment of litigation with regard to the Authority's appeal on the item (withholding tax on telecommunications).
- g. Rejecting the Taxpayer's appeal and upholding the decision of the Determination Department regarding the item (Basis for issuing the amended withholding assessment for 2017).
- h. Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (withholding tax on salaries for the year 2017).
- i. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the withholding tax imposed on maintenance and marketing services.
- accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the item (withholding tax imposed on technical, consulting and administrative services).
- k. Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (withholding tax on other payments for the year 2017).
- l. accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit with regard to the delay penalty clause.



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

Decision No. IR-2024-176788

Case No. I-2023-176788

Keywords:

Income Tax - Tax base and tax rates - Deduction of accelerated tax installments - Acceptance of the Authority's appeal

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-2022-6686) regarding the tax assessment for 2014. the Authority's appeal lies in the (Delay Penalty) item, where it argued that the imposition of a delay penalty on unpaid tax differences is valid based on Article (77) of the Income Tax Law and Article (68) of its Executive Regulations, asserting that the initial decision contradicted what the Appellate Committees decided in previous decisions, and its appeal lies in the (Accelerated Tax Installment Deduction) item, where it claims that the Taxpayer is not entitled to deduct an amount previously refunded to the amount of (1,045,123.85) riyals. it also argued that the Taxpayer recovered an amount that had already been deducted, which means that the Taxpayer is not entitled to deduct it again. the Appellate Committee found that the Authority has deducted the amounts paid under the account and the rest of the amount is an overpaid balance that the Taxpayer has already recovered: accepting the Authority's appeal and annulment of the initial decision.

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.](#)
- Paragraphs (a,b) of Article (77) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Authority's) Defenses

- 1- The Authority argued that it deducted the amounts paid under the account for a total of SAR 2,908,390.42 and the remaining amount of SAR 1,045,123.85 as an overpaid balance that the Taxpayer has already recovered according to the Taxpayer's request letter dated 23/4/1440 AH corresponding to 30/12/2018 AD and the request form for refund of overpaid taxes and fines.

The Committee's response to the defenses:

Based on the above, it is clear that the dispute lies in determining the amounts paid under the account from the total amounts due as a result of the tax assessment for the year 2014. Upon reviewing the documents submitted by the Taxpayer, which included an analytical statement of the tax liability imposed in accordance with the payment invoices/amended returns and copies of the accelerated tax receipts paid, in the amount of (1,317,838) riyals as a first instalment on 22/5/2014; and a second instalment of the same amount on 21/9/2014 and 13/1/2015, with a total amount paid of (3,953,514) riyals. Upon reviewing the documents submitted by the Authority, it appears that the Authority deducted the amounts paid under the account, totaling SAR 2,908,390.42. The remaining amount of SAR 1,045,123.85 is an overpayment, as the agent had previously recovered it in accordance with the agent's request letter dated 23/4/1440 AH, corresponding to 30/12/2018 AD, and the form for requesting the recovery of overpaid taxes and fines, and it was recovered on 12/03/2019 AD, as stated in the Authority's appeal statement. The Court therefore accepts the Authority's appeal and overturns the decision of the Circuit on this point.

Decision:

- 1- 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 (IFR-2022-6686) issued in case number (I-2020-24144) related to the zakat assessment for the year 2014.
- 2- On the merits:
 - a. Accepting the abandonment of litigation regarding the Authority's appeal on the (consumption differences) clause.
 - b. Accepting the abandonment of the litigation regarding the Authority's appeal on the item (non-deductible expenses).
 - c. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit with regard to the delay penalty clause.
 - d. Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the item (deduction of accelerated tax installments).



Defenses Raised in Withholding Tax Dispute and Committees' Response



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

Decision No. IR-2024-171744

Case No. W-2023-171744

Keywords:

Withholding Tax - Royalties - Accepting 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-2022-1855), where the ZTA's appeal lies in the item (withholding tax) on the amounts paid to a company ... as royalties subject to a 15% tax rate according to the Income Tax Law, emphasizing that the Taxpayer did not provide an agreement clarifying the nature of the business relationship. the Authority also objected to the cancellation of the delay penalty, maintaining that it was validly imposed based on the law and the executive regulations, and supporting its actions with previous rulings and appeals decisions. since the Appeals Chamber found that the disputed payments relate to software usage rights and licenses, which fall within the concept of royalties according to Article 1 of the Income Tax Law, Article 68 of the same law, and the provisions of tax treaties, it considers the Authority's action to impose withholding tax on these amounts to be correct. it also validated the imposition of the delay penalty in accordance with the relevant statutory articles. The implication is that the appeal of the authority is accepted.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (1) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (a) of Article (68) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (a) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (3) of Article (76) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- The Authority argued that, upon assessing, it had subjected the amounts paid to ... Company to withholding tax at a rate of (15%) as royalties, in addition to the fact that the Taxpayer did not submit any agreement concluded between him and ... company clarifying the relationship and the manner of dealing between them, and therefore it maintains the validity of its procedure of subjecting the amounts paid to external parties to withholding tax at a rate of (15%).

The Committee's response to the defenses:

a review of the documents attached to the case file shows that the Taxpayer submitted several agreements with a company ... however, he did not attach a valid agreement for the period in question, and as it appears that the Taxpayer's work with the company ... limited to the collection of orders and collection of payments for licensed software and services and the purchase and delivery of welcome kits, software CDs and/or any additional information and materials related to the software under the Channel Partner License, and the agreements in other years and attached by the Taxpayer in paragraph (7) Reimbursement:" if the company fails to make any payments by the due date, the take any of the following actions: (1) may ... holding all pending orders, suspending other shipments, and ceasing to provide services under any agreement between the company even receives..."All payments due under this Agreement." This makes it clear that the nature of the transaction is not simply the purchase and resale of the software. the right to stop the use of the licenses if payments are not received from the Taxpayer, so payments to ... this does not affect the Taxpayer's statement that the Authority imposed a withholding tax on the amount of (12,000,000) riyals for the tax period of December 2018, which represented the price of an initial payment to an offshore company, but the order was not completed, so the amount was returned to the company's account, as it is clear from the attached bank statement that the mentioned amount is not related to the period in dispute (September transfer date and November return date), which leads the Circuit to partially accept the Authority's appeal and amend the decision of the Adjudication Circuit with regard to this item.



Decision:

1- Accepting the appeal procedurally from the Appellant/Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh with number (ISR-2022-1855) issued in Case No. (W-2021-69654) regarding the withholding tax for the month of December 2018.

2- On the merits:

- a. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the (withholding tax) clause.
- b. Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the (delay penalty) clause.



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

Decision No. IR-2024-176717

Case No. W-2023-176717

Keywords:

Withholding Tax - Management Fees - Partial Acceptance of the Authority'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 Dammam City (IZD-2022-2613) regarding the withholding tax for the years 2015 to 2017. the Authority's appeal lies in the item "Management Fees for the years 2015 to 2017" on the incorrect classification of the amounts paid as management fees, as the Authority considered these payments subject to 20% withholding tax instead of 15%, and where it was proven to the Appellate Committee that the Authority requested the Taxpayer to describe and detail the services, but the Taxpayer did not provide documents that clarify the nature of the service that merited these fees. Consequently: accepting the Authority's appeal in part.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (68) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Article (70) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that it subjected amounts paid for support services paid to related parties to 20% withholding tax instead of 15%, because the Taxpayer did not provide an explanation of the detailed nature of the service for which the amounts were paid and did not provide supporting documents to indicate whether the services were royalties or management fees.



The Committee's response to the defenses:



based on Article (68) of the Income Tax Law on withholding tax: "A. Every resident, whether Taxpayer or non-Taxpayer under this Law, and the permanent establishment in the Kingdom of a non-resident, who pays an amount to a non-resident from a source in the Kingdom must withhold tax from the amount paid in accordance with the following rates: - 1 - Rent....5% - 2 - Royalties or royalties.....15% - 3 - Management fees.... 20% - 4 - Payments for airline tickets, air or sea freight.... 5% - 5 - Payments for International Telecommunications Services 5% - 6 - Any other payments specified by the regulations, provided that the tax rate shall not exceed 15% in the case of amounts paid by a natural person and the withholding conditions required by this Article shall apply to the activity-specific payments of this person."According to the above, it is clear to the Circuit that the dispute is that the Authority considers management support services to be management fee services and imposes a withholding tax of (20%) instead of (15%), which the Taxpayer argues are royalty services, according to his view before the adjudication committee and before the Authority and confirms that he pays the tax and that these amounts according to the agreement concluded between the company and the subsidiaries (Annex 4) are support services and network fees the Circuit reviewed the Authority's Supplementary Appeal Regulation, in which it stated that it does not accept the Taxpayer's argument that they are support services because he did not provide an explanation of the nature of the service for which the amounts were paid in detail and did not provide supporting documents to indicate whether the services were royalty or management fees, and the Circuit reviewed the case and the documents and defenses contained therein and found that the Authority the Authority requested from the Taxpayer a statement of the services and their details, which it turns out that the Taxpayer did not provide them, but only submitted the concession agreement and did not provide the management fee agreement to which the Authority referred, which is clear from the financial statements and images attached to the Authority's appeal list that there are management fees, as well as the management services provided by several parties, and the Authority provided a copy of an Excel spreadsheet explaining the management services. 2015 (9,795,171) SAR, 2016 (14,495,44) SAR, 2017 (16,422,335) SAR.

Decision:

1- Acceptance of the appeal procedurally, submitted by / ... Company Ltd, Commercial Registration No. (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam City (IZD-2022-2613) issued in Case No. (W-2021-82249) regarding the withholding tax for the years 2015 to 2017.

2- On the merits:

a. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the item (management fees for the years 2015 to 2017).



- b. Accepting the abandonment of the dispute regarding the Authority's appeal on the item (Payments to related parties categorized within other payments for 2016).
- c. Accepting the abandonment of litigation regarding the Authority's appeal on the item (amounts paid according to the profit notices for the years 2015 to 2017).
- d. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (amounts paid to related parties classified as other payments for 2017).
- e. Rejecting the parties' appeal and upholding the decision of the Adjudication Circuit with regard to the delay penalty clause.



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

Decision No. IR-2024-173976

Case No. W-2023-173976

Keywords:

Withholding Tax - Withholding Tax on Dividends - Accepting the Authority's Appeal

Summary:

the Zakat, Tax and Customs Authority's objection to the decision of the first department for adjudicating income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2599), related to assessing the withholding tax for the years 2017 to 2019. the Authority's appeal lies on the item (withholding tax on dividends), explaining that the Taxpayer did not provide sufficient documents to prove the residency of the foreign partners and asserts that the lease contracts provided are incomplete and do not apply to the years of the dispute and that the Taxpayer did not provide proof of residency through the entry and exit portal of the Kingdom from the Passport Department. and on the (delay penalty) item on unpaid tax differences. the Appellate Committee found that the Taxpayer did not submit the necessary documents to prove the residence of the foreign partners in accordance with the applicable regulations, as the leases submitted were not applicable to the years in dispute. it was also found that the Taxpayer did not provide proof of his presence in the Kingdom as required by the stipulated residency requirements. Consequently: accepting the Authority's appeal and annulment of the initial decision

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (a,b) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (3) of Article (67) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



- Paragraph (2) of Article (71) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that the Taxpayer did not provide proof of residency for the foreign partners, as it provided a copy of the residency and a copy of the partners' passports and a rental contract for the partner and its date on 19/04/2021 and the partner ... dated 1/12/2012 and commencing on 1/12/2014 for a period of five years, and that the documents submitted are incomplete and do not apply to the years of the dispute as the leases are not during the years of the dispute.

The Committee's response to the defenses:

Based on Article 3 of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425H, which stipulates that "1- A natural person is considered a resident of the Kingdom during the tax year, if he has a permanent residence in the Kingdom, and is present in the Kingdom for a total of not less than thirty continuous or separate days during the tax year. a natural person is also considered a resident of the Kingdom when he is present in the Kingdom for at least one hundred and eighty-three consecutive or separate days, even if he does not have a permanent residence in the Kingdom. 2- Permanent residence means the residence owned by the natural person, or rented with lease contracts during the tax year for a total of not less than one year, or the residence secured for the natural person from any other entity during the tax year for a period of not less than one year. 3- A person's nationality is not taken into account to determine his place of residence, as a natural or legal person is considered non-resident in the Kingdom if he does not meet the residency conditions specified in the law and these regulations, regardless of his nationality." based on the above, it is clear that the dispute is centered on the extent to which the withholding tax is subject to the dividend, as the Taxpayer asserts that the partners are residents and have fulfilled the residency conditions stipulated in Article 3 referred to above, while the Authority asserts that the lease contracts submitted are incomplete and do not apply to the years in dispute, and also clarifies that the Taxpayer has not provided proof of residency through the entry and exit protocol for the Kingdom from the Passport Department, and referring to the text of Article 3 referred to above, it is clear to us that one of the conditions for residence if a permanent residence in the Kingdom is to be in the Kingdom for a total of not less than thirty days, continuous or separate it starts on December 1, 2014 and the partner (...) On 19/04/2021, as it does not apply to the years of the dispute, and the Taxpayer did not initially submit his response to the Authority's appeal, which was requested of him, nor did he provide proof of the partners' presence in the Kingdom in accordance with the text of the above article in case they have



a permanent residence in the Kingdom, and therefore, since the documents submitted are not sufficient to prove the validity of the Taxpayer's point of view and the burden of proof falls on the Taxpayer, which means that the Circuit must accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the item (withholding tax on dividends).

Decision:

1- Accepting the appeal procedurally from the applicant/Zakat, Tax and Customs Authority, against the decision of the First Circuit for Settling Income Tax Violations and Disputes in Jeddah Governorate No. (IZ)-2022-2599) issued in Case No. (W-78374-2021) related to assessing the withholding tax for the years 2017 to 2019.

2- On the merits:

- a. Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the item (withholding tax on dividends).
- b. Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the (delay penalty) clause.



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

Decision No. IR-2024-191783

Case No. W-2023-191783

Keywords:

Withholding tax - Withholding tax on airline tickets or sea freight - Acceptance of the Authority's appeal

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 (ITR-2023-92248) regarding the tax assessment of the withholding tax for December 2016. the Authority's appeal lies on the item (withholding tax on airline tickets or sea freight) for the month of December 2016, noting that the Taxpayer did not submit the international convention application forms according to the approved forms in the examination and objection stages to avoid double taxation. with regard to the delay penalty, the Authority requests confirmation of the validity of its imposition based on Article (77) of the Law, considering that the decision to cancel the imposition of the penalty is contrary to previous judicial rulings on this issue. the Appellate Committee found that the Taxpayer did not submit the necessary documents. it was pointed out that the Authority's appeal is based on a valid legal basis in terms of submitting the necessary forms and the accrual of fines. The implication is that the appeal of the authority is accepted.

Document

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (a,b) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that it imposed a 5% withholding tax on the amounts paid to ... for airline tickets as the Taxpayer did not previously remit tax on these amounts.
- 2- it stated that the Taxpayer did not comply with the submission of the international agreement application forms in accordance with the Authority's forms (Form 7 (b) and (c)) in the examination and objection phases, in addition to not providing details of these amounts.

The Committee's response to the defenses:

it is clear from the statutory texts that the imposition of withholding tax on amounts paid to non-resident entities is based on the actual payment or its equivalent, such as settlements, set-off or any other means, and since the dispute lies in the Authority's procedure for imposing withholding tax on amounts paid to non-resident entities (airline tickets), and by reviewing the documents submitted in the case file, it appears that the Taxpayer submitted the agreement between him and ... company ... in Arabic, according to paragraph (4), the amounts are transferred directly to the airline., and the Taxpayer submitted the agreement on the income realized from the international operation of ships and aircraft between Saudi Arabia and the United States of America, and the Taxpayer submitted the residency certificate of ... one of the requirements of Form 7(b) is that the embassy of the Kingdom of Saudi Arabia in the non-resident's country of residence must be authenticated in accordance with the above-mentioned Authority circular, resulting in the Chamber's decision to accept Authority's appeal and annul the decision of the Adjudication Chamber regarding this clause.

Decision:

- 1- Accepting the appeal procedurally from the applicant/Zakat, Tax and Customs Authority, against the decision of the Third Department for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (ITR-2023-92248) issued in Case No. (W-2022-92248) related to the withholding tax assessment for the month of December 2016.
- 2- On the merits:
 - a. Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the item (withholding tax on airline tickets or sea freight for December 2016).
 - b. Accepting the Authority's appeal and amending the decision of the Adjudication Circuit with regard to the delay penalty clause.



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

Decision No. IR-2024-174941

Case No. W-2023-174941

Keywords:

Withholding Tax - Withholding Tax on Assumed Dividends - Acceptance of 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-2022-1930), regarding the establishment of a withholding tax on employee salaries and assumed dividends, where the Taxpayer's appeal is based on the fact that the tax on employee salaries was calculated in an inaccurate manner, and regarding his objection to the imposition of a tax on profits, where he explained that the Authority indicated that the branch's general profits are settled in the main center account and these settlements are considered as payments, as the Authority based its viewpoint on the main center account movement provided by the Taxpayer without recourse to definitive evidence for the occurrence of the fact of the Taxpayer. the Appeals Chamber found that the Taxpayer submitted some documents in support of his appeal regarding the withholding tax on salaries, and the Chamber found that the Authority's action to impose the withholding tax on discretionary dividends resulted from the assumption that the branch's profits were closed in the main center's account. 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 (1) of Article (63,68) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH](#)
- Paragraph (3) of Article (67) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (71) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that the Authority based its view on the movement of the main center account submitted by him without resorting to conclusive evidence of the fact of payment or settlement.

The Committee's response to the defenses:

Based on Article (63) Paragraph (1) of the Executive Regulations of the Income Tax Law on: "A non-resident shall be subject to tax on any amount received from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following rates: 5% dividend payout ratio', based on the above, and where it is clear from the statutory provisions that the imposition of withholding tax is assessed to the payment process and its equivalent such as reconciliation between accounts and clearing, and where the Authority's action to impose withholding tax on discretionary dividends results from the assumption that the branch's profits are closed in the main center's account, as it is statutory that the withholding tax is due and consequent to the occurrence of the payment event. since the Authority did not provide proof of the fact of payment, the Circuit must accept the appeal regarding the withholding tax on supposed dividend distributions and overturn the Circuit's decision.

Decision:

- 1- Accepting the appeal procedurally of the Taxpayer's ... Commercial registration (...), unique number (...) against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1930) issued in Case No. (W-2021-87544) regarding its objection to the withholding tax for the months of September 2014 December 2015 December 2017 December 2018 December 2019 December 2020.
- 2- On the merits:
 - a- Accepting the costly appeal and annulment of the decision of the Adjudication Circuit regarding the withholding tax on employees' salaries.
 - b - Accepting the costly appeal and annulment of the decision of the Adjudication Circuit regarding the withholding tax on supposed dividend distributions.
 - c- Accepting the costly appeal and annulment of the decision of the Adjudication Circuit regarding the delay penalty.



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

Decision No. IR-2024-176207
Case No. W-2023-176207

Keywords:

Withholding Tax - Withholding Tax on Foreign Remittances - Partial Acceptance of Taxpayer's Appeal

Summary:

the Taxpayer's objection to the decision of the first department for adjudicating income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2710) regarding the withholding tax for the month of June 2016. the Taxpayer's appeal (withholding tax on foreign remittances) is based on the Chamber's rejection of his objection regarding the disputed item, as he claims that the remittances are not from his party and are not in his bank accounts, as the Authority calculated a withholding tax on (26,749,608.53) and claimed that it is the total amount of foreign remittances, while the company's real remittances amounted to only (1,126,096.00). he also objected to the calculation of a late penalty on the alleged amounts. the Appeals Chamber found that the documents submitted during the appeal do not match the documents previously submitted, and some of the transactions described in the analysis provided do not appear, resulting in the partial acceptance of the Taxpayer's appeal.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (a) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (1,8) of Article (63) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/06/1425 A.H](#)
- Paragraph (3) of Article (67) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/06/1425 A.H](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/06/1425 A.H](#)



- Paragraph (2) of Article (71) of [the Executive Regulations of the Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/06/1425 A.H](#)

Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that the remittances are not from him and are not in his bank accounts, as the Authority calculated a withholding tax on (26,749,608.53) and claimed that it was the total amount of foreign remittances, while the company's real remittances amounted to only (1,126,096.00).

The Committee's response to the defenses:

based on paragraph (8) of Article Sixty-Three of the Executive Regulations of the Income Tax Law, "Withholding tax shall be imposed at the rates specified in paragraph (1) of this Article on the entire amount paid to a non-resident regardless of any expense incurred to realize this income, and regardless of the legality of accepting it or part of it as a deductible expense, even if the amounts paid relate to contracts concluded on a date prior to the entry into force of the Law." article (63) paragraph (1) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH stipulates the following: "A non-resident shall be subject to tax on any amount received from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following rates..." based on the foregoing, and upon reviewing the supplementary memorandum submitted by the Taxpayer, who argues that the remittances mentioned by the Authority, according to the Authority's Reply Memorandum No. (2), are incorrect and there is no external transfer in the amounts mentioned by the Authority, and where the Taxpayer submitted the account statements of a company... it was previously requested from him and by looking at the account movement and comparing it with the account statement related to the company's ... the Circuit found that what was submitted did not match the previously submitted documents, and some of the transactions shown in the submitted analysis and the company's account statement do not appear ... the Circuit concluded by partially accepting the Taxpayer's appeal regarding the Jordanian artifacts related to a former employee's receivables and Dubai real estate for a total amount of SAR 422,992, rejecting the non-documented amount of SAR 17,885,732, and amending the decision of the Adjudication Circuit.

Decision:

- 1- Acceptance of the appeal procedurally, submitted by / ... Company for contracting, commercial register (...), unique number (...) against the decision of the First Circuit of Income Tax Violations and Disputes in



Jeddah Governorate (IZJ-2022-2710) issued in Case No. W-60917-2021 regarding the withholding tax for the month of June 2016.

2- On the merits:

- a. Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the item (withholding taxes on foreign remittances for the year 2016).
- b. Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the 2016 delay penalty



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

Decision No. IR-2024-171072

Case No. IW-2023-171072

Keywords:

Withholding Tax - Imposition of a 5% withholding tax - 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-2022-2478) regarding the tax assessment for the years 2015-2018. the Taxpayer's appeal lies in the discretionary assessment, re-assessment and discretionary profit ratio clauses, and the Authority's appeal lies in the Circuit's decision on the 5% withholding tax for discretionary dividends, in addition to the delay penalty clause. whereas, the Appellate Committee found that the 5% withholding tax for discretionary dividends was justified by the existence of revenues that the Taxpayer was not obligated to disclose and for which he was charged discretionary dividends, as explained, which justifies the imposition of a 5% withholding tax as decided by the Authority. Consequently: rejecting the Taxpayer's appeal, accepting the Authority's appeal.

Document:

- Paragraph (a) of Article (70) of [the Sharia Procedure Law promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (a,b) of Article (77) of [the Sharia Procedure Law promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- Paragraph (1) of Article (63) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that after reviewing the Taxpayer's audited financial statements and the assessment issued, it was found that there were revenues that he was not obligated to disclose, which required him to account for them on a discretionary basis.

The Committee's response to the defenses:

Based on Article (63) Paragraph (1) of the Executive Regulations of the Income Tax Law on: "A non-resident is subject to tax on any amount received from any source in the Kingdom, and the tax is deducted from the total amount according to the following rates: 5% dividend payout ratio', based on the above, and where the dispute lies in the Authority's procedure of imposing an estimated withholding tax on the net profit after deducting the income tax for the years in dispute, after reviewing the audited financial statements and the assessment issued, it was found that there were revenues that the Taxpayer was not obligated to disclose and for which he was held accountable on an estimated basis, as explained, and where the Taxpayer's appeal regarding the estimated assessment was rejected for submitting financial statements that cannot be relied upon to verify the fact of paying cash distributions on unjust profits, and where there are no documents through which the profits of the establishment can be traced, which shows the correctness of the Authority's procedure in imposing withholding tax on estimated dividend distributions. upon reviewing the documents attached to the case file, it is clear that the adjudication decision referred to the necessity of service revenues for the foreign company's contracts to ensure that it discloses its real revenues, which shows that the revenues declared in the financial statements do not reflect the true reality of the revenues, as the company did not provide the agreement concluded between it and the head office and proof that its financial statements are based on regular books and records that can be relied upon in calculating its tax burden, which means that the Authority's appeal should be accepted and the decision of the Adjudication Circuit should be canceled with regard to the item (5% withholding tax for discretionary dividends).

Decision:

1. Accepting 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 for the Resolution of Income Tax Violations and Disputes in Dammam, No. (IZD-2022-2478) issued in Case No. (IW-2021-72905) related to the tax assessment for the years 2015 to 2018.

- 2- On the merits:



- a- Accepting the Authority's appeal and annulment of the decision of the Adjudication Circuit regarding the item (5% withholding tax for discretionary dividends).
- b- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit with regard to the delay penalty clause.
- c- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (Estimated assessment for the years 2015 to 2018 - Re-assessing -).
- d- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (Estimated assessment for the years 2015 to 2018 - Estimated assessment and its justifications).
- e- Regarding the parties' appeal on the item (Estimated assessment for the years 2015 to 2018 - Estimated Profit Ratio):
accepting the abandonment of litigation regarding the Authority's appeal on the item (Estimated assessment for the years 2015 to 2018 - Estimated Profit Rate).
- g- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (Estimated assessment for the years 2015 to 2018 - Estimated Profit Percentage).



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

Decision No. IR-2024-191914

Case No. W-2023-191914

Keywords:

Withholding Tax - Request for Refund for Periods - 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-2023-143920), where his appeal is based on the item "Request for refund of withholding tax paid for a company.. it is not entitled to apply the agreement and recover the withholding tax because it is not a resident of the Kingdom. the Appellate Committee found by reviewing the translated copies of the labor contract that the services consist of performing engineering and project management services on a task force basis for the designated company's facilities that it wishes to design, construct and conduct operational testing in Ras Tanura, and since the services can be applied from outside the Kingdom, and the staff visits did not exceed (183) days, and the Commission did not provide otherwise. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Article (35) of [the Judicial Procedures law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (4) of Article (66) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)

Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that ... is entitled to a refund of the withholding tax according to the Double Taxation Avoidance Agreement between Saudi Arabia and the UK, as it does not have a permanent



establishment in the Kingdom according to Article 5 of the agreement, which requires a physical presence of at least 183 days. all work was done outside of the Kingdom, with the exception of short visits by company employees not exceeding the specified duration. the company relied on an April 2021 Authority bulletin, which emphasizes the need for physical presence to be considered a permanent establishment. the company also argued that the imposition of the tax leads to double taxation.

The Committee's response to the defenses:



whereas, the Circuit found from reviewing the translated copies of the labor contract that the services consist of carrying out engineering works and project management services on a task force basis for the facilities of the designated company that wishes to design, construct and conduct operational testing in Ras Tanura, and since the services can be applied from outside the Kingdom, and the staff visits did not exceed (183) days, and the Authority did not present otherwise, and there is no validity to the Authority's argument that the physical presence of employees or affiliated individuals is not required in the other item, as according to Tax Bulletin No. (...) issued on (May 17, 2023) indicated that "the actual presence within the country for a specific period of time in order to perform the relevant services is a prerequisite for determining whether a non-resident entity has a permanent establishment in the Kingdom or not", which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit regarding the item (Request for refund of withholding tax paid for a company...).

Decision:

1-Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), unique number (...) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2023-143920) issued in Case No. (W-2022-143920) regarding the denial of the refund of the 2012 withholding tax.

2- On the merits:

- a. Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (Request for refund of withholding tax paid for a company...).
- b. Rejection of the appeal and upholding of the decision of the Adjudication Chamber with regard to the item (compensation).



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

Decision No. IR-2024-170825

Case No. IW-2023-170825

Keywords:

Withholding Tax - Imposition of Additional Withholding Tax on Hypothetical Profit Distributions -
Acceptance of Taxpayer's Appeal

Summary:

the Taxpayer's appeal against the decision of the Second Circuit of Income Tax Irregularities and Disputes in Riyadh (ISR-2022-1798), where his appeal is based on the item (imposition of income tax on the basis of lump sum profit on contracts with a company ... (for the years 2016 to 2018), claiming the Authority's approval on the basis of the calculation provided, and the item (imposition of additional withholding tax on hypothetical profit distributions), claiming that the permanent establishment paid the tax on the basis of the books of accounts it maintains regarding its contract with a company (...). WHEREAS, the Appellate Committee found that the Circuit concluded to modify the Authority's action to impose a withholding tax on hypothetical dividends based on the profit percentage (20%) and the fact that the Appellant is a company (...) provided proof of payment of withholding tax on her return. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Paragraph (1) of Article (63) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (3) of Article (67) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that the Authority imposed a 5% withholding tax on hypothetical dividends based on the net profit applied by the Authority to the contract with ... company, where the permanent establishment pays the corporate income tax due on the contract with ... company on the basis of the books of accounts.

The Committee's response to the defenses:

based on Article (63) Paragraph (1) of the Executive Regulations of the Income Tax Law on: "A non-resident shall be subject to tax on any amount received from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following rates: 5% dividend." based on the above, it is clear from the statutory texts that the imposition of withholding tax is related to the payment process and the like, such as reconciliation between accounts and clearing, and since the Authority's action to impose withholding tax on hypothetical dividends is the result of the Appellant's discretionary accounting, and by studying the outcome of the adjudication decision, it is clear that the Adjudication Circuit reached the modification of the Authority's action to impose withholding tax on hypothetical dividends based on the profit percentage (20%) and the fact that the Appellant is a company (...) she provided proof of payment of the withholding tax on her return, which resulted in the Circuit accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit on this item.

Decision:

- 1- Accepting 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 Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh (ISR-2022-1798) issued in Case No. (IW-2021-44392) related to the tax assessment for the years 2015 to 2018 and the withholding tax.
- 2- On the merits:
 - a. Accepting the abandonment of litigation with regard to the Authority's appeal on the item (imposing the lump sum profit at a rate of 40% instead of 25% for the years 2016 to 2018).
 - b. Regarding the parties' appeal on the item (imposition of additional withholding tax on hypothetical profit distributions):
 - c. Accepting the abandonment of litigation with respect to the Authority's appeal against the additional withholding tax on hypothetical dividend distributions.



d. Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (imposition of additional withholding tax on hypothetical profit distributions).

e. Amending the decision of the Adjudication Circuit regarding the parties' appeal on the delay penalty clause.

accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit regarding the item (imposing income tax based on the net profit on contracts with a company ... for the years 2016 to 2018).

g. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the item (incorrect amount as amounts subject to withholding tax by the Authority for the years 2015 to 2018).



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

Decision No. IR-2024-169932

Case No. W-2023-169932

Keywords:

Withholding Tax - Imposition of Withholding Tax on services provided from the headquarters -
Acceptance of the Authority's appeal

Summary:

the Zakat, Tax and Customs Authority's appeal against the decision of the Third Department for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2022-6135), where its appeal lies on the item (Delay Penalty) in that it imposed the penalty on the tax differences not paid within the statutory deadline, and the item (Imposing a withholding tax on services provided by the head office) in that it imposed a withholding tax on the charging of expenses made by the head office in the data included in the audited financial statements. the Appellate Committee found that the Taxpayer did not provide documents proving otherwise, and the fact that the settlement with the invested funds (the capital of the branches of foreign companies) is an actual payment supports the Authority's action and does not negate it. 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 (57) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (63) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that the imposition of the withholding tax was unlawful because there was no actual payment, settlement or set-off.

Defendant's (Taxpayer's) defenses

- 1- the Taxpayer argued that the additional investment is not considered as a payment, but it is clear that there are services and management fees with the parent company, which instead of paying for it, it is reinvested, and therefore it is clear that it is a set-off between the accounts and this is confirmed by the Income Tax Law and its Executive Regulations, as it is clear that paragraph (a) of Article (68) of the Income Tax Law and paragraph (1) of Article (63) of the Executive Regulations.

The Committee's response to the defenses:

based on paragraph (1) of Article (63) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425H, which stipulates the following: "1- A non-resident shall be subject to tax on any amount received from any source in the Kingdom and the tax shall be deducted from the total amount according to the following rates: 3 - Management Fees by 20%." paragraph (3) of Article (57) of the Executive Regulations of the Income Tax Law stipulates: "In the event that the Taxpayer is unable to prove the validity of the income, expenses and any other data contained in the Taxpayer's return, the Authority may, in addition to applying any other statutory sanctions, not authorize the expense that is not validated 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 the Authority." In accordance with the above, it is clear from the above statutory provisions that the imposition of withholding tax is assessed to the existence of the actual payment process and its equivalent such as settlement between accounts and clearing, and by reviewing the Authority's viewpoint, it is clear that it subjected the amounts in dispute from the date of the accounting entry on the basis that they represent services provided by the head office and associated entities and that the accounting entry is considered a settlement between accounts upon reviewing the documents attached to the case file, it is clear from Note (5) of the notes to the financial statements for 2017 and subsequent years that these amounts are included under the name of receivables for the head office - transactions with related parties, and during 2020, the receivables for the head office were settled to become investments under the following accounting entry: as the Taxpayer did not provide documents proving otherwise, and as the settlement with the invested funds (the capital of the branches of foreign companies) is an actual payment



that supports the Authority's action and does not negate it, the Circuit concludes to accept the Authority's appeal and cancel the decision of the Adjudication Circuit on this item.

Decision:

1- Accepting the appeal procedurally from the Appellant/Zakat, Tax and Customs Authority, against the decision of the Third Department for adjudicating income tax violations and disputes in Riyadh, No. (ITR-2022-6135) issued in Case No. (W-2021-50770) regarding the withholding tax for the years 2017, 2018 and 2020.

2- On the merits:

a- Accepting the Authority's appeal and annulling the decision of the Decision Chamber regarding the item (imposing a withholding tax on services provided from the main center).

b- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit with regard to the (delay penalty) clause.



Fines



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

Decision No. IR-2024-171420

Case No. I-2023-171420

Keywords:

Income Tax - Penalties - 1% delay for every 30 days - Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's objection to the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam No. (IZD-2022-2523) regarding the 2017 income tax assessment. the Taxpayer's appeal lies on the item (salaries and wages), the item (double taxation), the item (reducing the tax assessment to carryover losses), the item (withholding tax), and the item (delay 1% for every 30 days) on the imposition of any late penalties, non-filing penalties, or any other penalties resulting from the amended and contested assessment, as the penalties are extinguished by their origin. the Appellate Committee found that the disagreement between the two parties is well founded and did not result in a significant difference in the interpretation of the statutory provisions, which makes it clear that the Authority's action to impose the delay penalty from the due date on the items in which the Taxpayer's appeal was rejected, and the delay penalty on the items in which the Taxpayer's appeal was accepted, shall be forfeited due to the loss of the original imposition of the tax, is correct. Consequently: partial acceptance of 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 (a,b) of Article (77) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- Paragraph (3) of Article (67) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)
- Paragraph (1) of Article (68) of [the Executive Regulations of the Income Tax Law issued by Decision of the Minister of Finance No. \(1535\) dated 11/06/1425H](#)



Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that he objects to the imposition of any late penalties, non-filing penalties, or any other penalties resulting from the amended and challenged assessment, as the penalties are extinguished by the loss of their origin.

The Committee's response to the defenses:

paragraph (a) of Article 77 of the Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH stipulates the following: "In addition to the fines stipulated in Article 76 of this Law and in paragraph (b) of this article, the Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay, including delays in the payment of the tax to be withheld and accelerated payments, calculated from the date the tax is due to the date of payment." Paragraph (1) of Article 68 of the executive regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425H, stipulates the following: "In addition to the fines mentioned in the previous article, 1% of the unpaid tax shall be added for every thirty days of delay in the following cases: b. Delay in paying the tax due under the Authority's assessment." Article 67(3) of the Executive Regulations of the Income Tax Law also stipulates: "Unpaid tax means the difference between the tax paid by the Taxpayer on the statutory date and the tax payable under the provisions of the Law, including the amendments made by the Circuit that have become final as stated in paragraph (2) of Article 71 of these Regulations, including cases that are disputed, where the penalty is calculated from the date of the statutory deadline for submission of the return and payment." based on the foregoing, and upon reviewing the case file and the defenses and documents it contains, and since the delay penalty is calculated from the date of expiration of the deadline for filing the return to the date of payment of the due tax arising under the application of the provisions of the Law and the amendments made by the Defendant, and since the dispute between the two parties is based on a fundamental difference, and did not arise from a significant difference in the interpretation of the statutory texts the Authority's decision to impose the delay penalty from the due date on the items in which the Taxpayer's appeal was rejected, and to waive the delay penalty on the items in which the Taxpayer's appeal was accepted due to the loss of the original imposition of the tax, which leads the Chamber to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Chamber on this item.



Decision:

1- Accepting the appeal procedurally of the Taxpayer's ... , commercial registration (...), unique number (...) against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2523) issued in Case No. (I-2021-63177) regarding the 2017 income tax assessment.

2- On the merits:

- a. Accepting the Taxpayer's appeal and annulment of the decision of the Adjudication Circuit in all matters related to the 2018 and 2017 withholding tax and the 2018 income tax.
- b. Recognizing the end of the dispute regarding the Taxpayer's appeal on the payroll difference in the amount of SAR 189,724,294 for the year 2017.
- c. Rejecting the Taxpayer's appeal and upholding the decision of the Determination Department regarding the item (double taxation of wages and salaries for 2017).
- d. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit with regard to the item (not reducing the tax assessment to the loss carryforward for 2017).
- e. Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the (1% delay for every 30 days) clause.



Defenses Raised in VAT Disputes and Committees' Response (Tax base)



Appellate Committee for Tax Violations and Disputes
first Appellate Chamber for VAT and Selective Goods Violations
and Disputes

Decision No. VA-2024-191744

Case No. V-2023-191744

Keywords:

VAT - Tax base - Taxability of refunds to customers - Partial acceptance of appeal

Summary:

objection to the decision of the first department for adjudicating value-added tax violations and disputes in Jeddah governorate (VJ-2023-2620), where the Taxpayer's appeal lies on the item (subjecting payments without deducting refunds) due to double taxation in collecting tax on the item of advance payments for health club subscriptions, as the tax was supplied when the revenue was due on a monthly basis, and comparing the audited financial statements of the years shows that the revenues from health club subscriptions declared in the returns are greater than the value of the related deposits, and that the refunds were subjected to a credit note despite the issuance of an invoice amounts refunded to customers under the pretext of not issuing a credit note despite not issuing an invoice, where the customer (hotel guests) makes an advance payment for the services provided and upon their departure, the invoice is issued with the net amount due and the amounts paid, in addition to the Appellant subjecting the total value of taxi payments despite the Appellant's share (15%) of the revenue that is subject to tax and the rest to the transportation service provider. the Appeals Chamber found that the Taxpayer submitted documents proving the incorrectness of his tax return, with a detailed explanation of the sources of error and insufficient documentation from a full audit trail. the implication is that the appeal is partially accepted.

Document:

- Article (7) of [the rules for the work of Zakat, tax, and customs committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)
- Article (40) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)



Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that the Respondent did not provide the mechanism for calculating the differences, as it was limited to the letter sent without indicating the value of each item for each tax period, and that a settlement was requested on the fund statement without referring to the audited financial statements and trial balance, despite the large number of daily operations, including income, canceled operations, and other operations that are not considered part of the accounting transactions, in spite of the large number of daily operations, including income, canceled operations, and others that are not considered part of the accounting operations
- 2- the Taxpayer argued that there is double taxation in the collection of tax on the item of advance payments for health club subscriptions, as the tax was supplied when the revenue was due on a monthly basis, and by comparing the audited financial statements for the years, it is clear that the health club subscription revenues declared in the returns are greater than the value of the related deposits, and that the amounts refunded to customers were subjected to a credit note despite not issuing an invoice where the customer (hotel guests) makes an advance payment for the services provided and upon their departure, the invoice is issued with the net amount due, the amounts paid under the account and the amount remaining or owed by the customer, and therefore the issuance of a credit note is not applicable for this supply because there is no adjustment.

The Committee's response to the defenses:

whereas the Appeals Chamber found that the Respondent did not submit the required documents to the Adjudication and Appeals Chamber and did not address taking into account the subjection of revenues in later periods and did not explain why it excluded the revenues reported on a monthly basis, while it admitted not deducting the amounts refunded to customers on the pretext that the adjustment is made by the Appellant in any subsequent return according to Article (40) of the Executive Regulations of the Value Added Tax Law, which is a clear violation of the aforementioned article and its negligence by subjecting the amounts paid without deducting the refunds and the amounts of canceled operations to the tax return the Appellant submitted a trial balance for the revenue accounts only, the financial statements for the years 2018, 2019, and 2020, the fund statement for the transfer operations for January 2019, copies of the health club subscription account, a tax invoice, and a reconciliation statement for the fund for the month of January 2019 tax and settlement statements for the cash fund for the disputed periods and a statement of the amounts declared in the tax returns and amended by the Appellant against her, upon reviewing the documents submitted, it is clear that the Appellant's calculation of the tax due is incorrect because she



deducted the amounts of municipal fees while including them as a difference based on the above, it is clear that the Appellant submitted documents proving the incorrectness of her tax return with a detailed statement of where the error lies, and did not provide sufficient documents from a complete trial balance for each tax period, sample invoices, and the contract with the transportation service provider with incorrect and incomplete reconciliations, and where the Appellant admitted to subjecting the amounts paid without deducting the refund and subjecting the amounts of operations that were canceled in the cashier's statement this is contrary to the provisions of Article (40) of the Executive Regulations of the VAT Law, and it is not clear that the other accounts are taken into account, and where it is not possible to rely solely on the fund account without referring to the rest of the accounts to avoid double taxation on the same supply, and where the Appellant did not provide the contract concluded and a sample of invoices to the customer issued by the transportation service provider to confirm the validity of her claim that she is an intermediary, which leads the Appeals Chamber to partially accept the appeal regarding the subsection of payments without deducting the refund in the amount of (145,540.88) riyals and subjecting the amounts of canceled transactions in the fund statement in the amount of (26,326.56) riyals.

Decision:

- 1- Acceptance of the appeal filed by ... - Commercial Registration No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal filed by ... , Commercial Register No. (...) partially, with regard to subjecting the amounts paid without deducting the refunds (145,540.88 SAR) and subjecting the amounts of canceled operations in the fund statement (26,326.56 SAR), and annulment of the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2023-2620) and amending the Appellant's decision accordingly.
- 3- Accepting the appeal submitted by (...) - Commercial Registration No. (...), regarding the penalty for error in a tax return, and annulment of the decision of the first department for adjudicating VAT violations and disputes in Jeddah governorate (VJ-2023-2620) and annulment of the decision of the Appellant against it.
- 4- Acceptance of the appeal filed by ... , Commercial Register No. (...) regarding the late payment penalty, annulment of the decision of the first department for adjudicating VAT violations and disputes in Jeddah governorate (VJ-2023-2620) and annulment of the decision of the Appellant against her.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. VA-2024-232234

Case No. V-2024-232234

Keywords:

Value Added Tax - Tax Base - Attorney Fees - Acceptance of Appeal

Summary:

the Taxpayer's objection to the decision of the Third Department for the adjudication of value-added tax violations and disputes in Riyadh (VTR-2023-203180), where the Taxpayer's appeal is based on the item (attorney's fees) because the judgment is premature, as attorney's fees are paid as compensation for the amounts paid by the Plaintiff to the lawyer for the attorney's fees contract and valid receipt bonds, and that the claim is made after issuing a final and definitive judgment in the case and under an independent case that is subject to the authority and examination of the ruling department to ensure the basis on which the claim is based and verify whether the Defendant is stalling in the case. the Appellate Committee found that the claimed right was not clear and established at the time of the claim in the hands of the Defendant (the Appellant in this case). the implication is that the appeal is accepted.

Document:

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

Parties Defenses:

Appellant's Defenses

- 1- the Taxpayer argued that an award of attorneys' fees at this stage is premature, as attorneys' fees are an indemnity due for amounts paid by the Plaintiff to his attorney under the attorneys' fees contract and valid receipts.
- 2- the Taxpayer argued that a claim for attorney's fees can only be made after a final and definitive judgment has been issued in the case.



The Committee's response to the defenses:



the Defendant's liability for attorney's fees is contingent on several factors, including: the fact that the right is established in the Defendant's estate and his procrastination and denial of this established right, which prompts the owner of the right to resort to the judiciary to fulfill it, and therefore, since the claimed right was not clear and established in the Defendant's estate (the Appellant in this case), the Appeals Chamber concludes that the appeal filed regarding the attorney's fees should be accepted by the Appeals Chamber.

Decision:

- 1- Acceptance of the appeal submitted by/ ... commercial Registration No. (...), is procedurally submitted within the prescribed period.
 - 2- Acceptance of the appeal submitted by/ ... , Commercial Register No. (...) regarding the second paragraph of the decision under appeal, which is to compel the Appellant to compensate the Defendant for litigation (attorney) fees, annulment of the paragraph of the decision of the Third Department for adjudicating VAT violations and disputes in Riyadh City (VTR-2023-203180) and ruling to reject the claimant's request ((...) company), as explained in the reasons.
 - 3- Rejecting the rest of the appeal requests, and upholding the decision of the Third Department for adjudicating VAT violations and disputes in Riyadh (VTR-2023-203180).
- 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. VA-2024-196697

Case No. V-2023-196697

Keywords:

Value-added tax-Tax base-Tax resulting from the sale of real estate-Acceptance of the Plaintiff's appeal

Summary:

the Plaintiff's appeal against the decision of the First Circuit for the adjudication of VAT violations and disputes in Dammam (VD-2023-144433), where his appeal against the dismissal of his claim involving the Defendant's demand to pay VAT arising from the sale of two plots of land under the two deeds, on the grounds that the burden of paying the tax is borne by the final beneficiary (the buyer), and the buyer must prove that he is exempt from paying it and not the seller to prove it. the Appellate Committee found that the date of the sale, according to the buyer, was after the entry into force of the VAT Law, and he provided supporting documents, namely the dated check, the deposit receipt deed, and the two emptying certificates, so the Circuit believes that the buyer (the Defendant) should be accepted, as he provided the supporting documents to prove that the sale took place after the entry into force of the VAT Law. this means that the Plaintiff's appeal is accepted and the decision of the Adjudication Circuit is annulled.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (30) of [Unified VAT Agreement for the Gulf Cooperation Council \(GCC\)](#)

Parties Defenses:

Appellant's Defenses

- 1- the Taxpayer argued that the ultimate beneficiary (the buyer) should bear the burden of paying the tax, and the buyer should prove that he is exempt from paying it, not the seller.



The Committee's response to the defenses:



it turns out that the Appellant's registration in the VAT Law was on 02/09/2019, but the effective date of registration is 01/01/2018 according to the submitted certificate, and where the original burden of paying the tax is on the customer or buyer as the person receiving goods and services, except for what is excluded by a special provision article (30) of the GCC Unified VAT Agreement stipulates that "Each member state may exclude the following categories from paying the tax when receiving goods or services in that state.." whereas the Appellate Chamber proved that the date of sale according to the buyer (the Defendant) was after the entry into force of the VAT Law, and provided supporting documents, namely the check dated 10/01/2018, the receipt of the deposit dated 02/01/2018, and the two discharge deeds dated 24/04/1439 AH corresponding to 11/01/2018 dated 02/01/2018, and the two emptying certificates dated 24/04/1439H corresponding to 11/01/2018, and where the Appellant submitted a letter addressed to the Zakat, Tax and Customs Authority stating that the sale took place on December 25, 2017, and where Article 16(2) of the Evidence Law stipulates that "a statement is not accepted if it is contradicted by the prima facie case." therefore, the Appeals Chamber considers the buyer (the Respondent) to have provided the supporting documents to prove that the sale took place after the VAT Law came into effect, which leads the Appeals Chamber to accept the submitted appeal.

Decision:

- 1- Acceptance of the appeal submitted by/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by/ ... - National ID No. (...), on the merits, annulment of the decision of the first department for adjudicating VAT violations and disputes in Dammam City (VD-2023-144433) and ruling to oblige ... - National Identity Number (...), to pay for ... - National ID No. (...), an amount of (111,843.76 riyals) one hundred and eleven thousand, eight hundred and forty-three riyals and seventy-six cents, representing the value-added tax imposed by the Zakat, Tax and Customs Authority arising from the sale of the two properties at issue in the case.



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. VA-2024-198382

Case No. V-2023-198382

Keywords:

Value Added Tax-Tax base-Payment of tax due on the lease contract-Acceptance of the Plaintiff's appeal

Summary:

the Plaintiff's objection to the decision of the First Circuit for the adjudication of VAT violations and disputes in Dammam City (VD-2023-99040), where his appeal lies on the dismissal of his claim regarding his claim to recover the amount of VAT resulting from the rental of two properties for him, because the effective date of the registration, which is dated 01/01/2020, is the precedent, so the amount of tax he claims is for the period after the effective registration, while the Defendant argues that the contract concluded between the parties to the case did not include any obligation to pay VAT for the period after the effectiveness of the registration. whereas it was proven to the Appellate Committee that the effectiveness of his registration was on 01/01/2018, and since the contracts that took place between the parties to the first and second deeds from 03/10/2016 until 01/09/2019, part of the period of contracts and supplies received by the lessor is subject to VAT due to the effectiveness of the law and the effectiveness of the Plaintiff's VAT registration. the effect is to accept the appeal and oblige the lessee to pay the lessor the amount of three hundred and thirty-eight thousand, one hundred and thirty-six riyals representing VAT.

Document:

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

Parties Defenses:

Appellant's Defenses

- 1- the Appellant argued that the basis for determining the tax due lies in the effective date of his VAT registration, which is 01/01/2020. accordingly, the tax claimed relates to the period following the effective date of the registration.



- 2- with regard to the agreement between the parties dated 05/10/2019, the Appellant argues that this agreement cannot be a reason to exempt the Defendant from his obligation to pay VAT, especially in light of his explicit and categorical acknowledgment of his obligation to pay any other invoices related to the building, which results in his obligation to pay the tax due in accordance with the law

Defendant's defenses

- 1- the Respondent argued that the contract between the parties to the case did not include any obligation to pay VAT, but stipulated the Respondent's obligation to pay government fees, water, electricity, sewage and telecommunications expenses, and the Appellant was not obligated to supply the tax in the claimed period as he does not have a tax number, in addition to the parties concluding a final discharge dated 05/10/2019 in which no mention was made of VAT.

The Committee's response to the defenses:



after reviewing the case file, the documents submitted, the decision of the Adjudication Circuit, the parties' submissions, and the Appellant's VAT registration certificate, the Circuit found that the registration took effect on 01/01/2018, and that the contracts between the parties to the case (the lessor/... and the lessee/...) on the first two instruments with the number (.../.../...) and the second with (.../.../...) from (03/10/2016) to (01/09/2019), part of the period of contracts and supplies received by the lessor is subject to VAT due to the entry into force of the law and the effectiveness of the Appellant's VAT registration. since the clearance between the two parties was dated 05/10/2019, and the lessor applied for VAT registration on 05/08/2021, i.e. the clearance was made after the lessor applied for VAT registration, and therefore it is not assumed that the clearance included VAT, as the lessor is not entitled to claim it at the time, and therefore, since the lessor claims Value Added Tax for the tenant for the rental period after the effectiveness of his VAT registration, and since the tax obligation on the Taxpayer in the face of the Zakat, Tax and Customs Authority is an obligation arising from the rental relationship between the two parties, and in accordance with the above, the Circuit concludes to accept the appeal and oblige the tenant/ ... to pay the lessor/ ... to pay the lessor/ ... the amount of (338,136) three hundred and thirty-eight thousand one hundred and thirty-six riyals representing the value-added tax that is the subject of the appeal. for these reasons and after deliberation, the Chamber unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by/ ... National ID number (...) the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam (VD-2023-99040) is annulled and the tenant is



obliged to ... National ID number (...) by paying the lessor/... National ID number (...) an amount of (338,136) three hundred and thirty-eight thousand one hundred and thirty-six riyals, representing the value-added tax that is the subject of the appeal.



Tax Return Reassessment



Appellate Committee for Tax Violations and Disputes

First Appellate Circuit for Income Tax Violations and Disputes

In Riyadh

Decision No. VA-2024-175308

Case No. V-2023-175308

Keywords:

VAT-Revaluation of tax return Services supplied to non-GCC residents-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2022-2513), where his appeal is based on the item (local sales subject to tax at the basic rate), which is contracts. with regard to (the contract of the General Authority for Tourism and National Heritage), the Taxpayer objects to the decision of the Adjudication Circuit because the contract ended on March 28, 2016, i.e. before the VAT came into effect. regarding (the contract with the Ministry of Finance), he refrained from paying the tax at the beginning of 2018 and six months later he paid it and included it in the June 2018 return. the Appellate Committee found that the Taxpayer submitted the contract to the General Authority for Tourism and National Heritage, which shows that it was completed before the VAT came into effect, as well as the letter issued by the Purchasing and Contracts Department at the Ministry of Tourism in response to the certificate request, which includes the client's assertion that "the expiration date of the contract. with regard to (the contract with the Ministry of Finance), it has been proven that the Authority did not clarify what determinants of tax accrual were monitored on the basis of which the tax accrual conclusion was reached in other tax periods, nor did it clarify which tax periods the amount in dispute was subject to taxation based on the occurrence of one of the determinants of tax accrual mentioned in Article (23) of the agreement. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Paragraph (1) of Article (79) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)



- Paragraph (3) of Article (73) of [Unified VAT Agreement for the Gulf Cooperation Council \(GCC\)](#)
- Article (23) of [the Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)

Parties Defenses:

Appellant's (Taxpayer's) Defenses

- 1- the Taxpayer argued that the contract ended before the VAT came into effect and provided a statement letter from the General Authority for Tourism about the contract, which is the reason for the late receipt of the statement, and therefore the amount shown in the company's revenues is only a proof of the payment that was due for previous works and was under doubtful debts and when the General Authority for Tourism and National Heritage made payment, it was included and income tax was paid for it, but it is not subject to value-added tax (VAT).
- 2- the Taxpayer argued that with regard to the contract with the Ministry of Finance, he failed to pay the tax at the beginning of 2018, and six months later he paid it and included it in the June 2018 return. where invoices were issued with zero tax, and when we requested the written certificate, the customer did not provide it, and accordingly, the tax was re-requested at the basic rate of 5%, which was included in the 12/2020 decision during the first initiative period.

The Committee's response to the defenses:

with regard to the contract of the General Authority for Tourism and National Heritage, and whereas what is considered in determining whether the tax is due or not is the "date of supply" and if it is proven that it was made on or after the entry into force of the system, the supply will be subject to tax based on the text of paragraph (3) of Article (73) of the Unified Agreement for Value Added Tax for the Cooperation Council for the Arab States of the Gulf and the text of paragraph (1) of Article (79) of the Executive Regulations of the Value Added Tax Law, and whereas the Taxpayer submitted the contract, which shows that it ended before the VAT came into effect, and the letter from the Procurement and Contracts Department at the Ministry of Tourism in response to the request for a certificate, which includes the customer's confirmation that 'the contract ended on 28/03/2016, i.e. before the VAT came into effect.' This is considered valid evidence that the date of supply based on the 'date of completion of the service' is prior to the date of entry into force of the value added tax system in accordance with the provisions of Article (79)(b)(2) of the Regulations, which contradicts the decision of the Contract Termination Department, whereby this Department accepts the appeal.

regarding the contracts of the Ministry of Finance (3 contracts) and the contract of ...after reviewing the documents submitted, the Circuit found that the two tax periods for which the Appellant explained that she



declared the amount related to the contracts are (June 2018 and December 2020) and the June period, according to the Defendant's (the Authority) reply memorandum, within the tax periods under examination and the December 2020 tax period within the periods under assessment, despite this, the Authority did not explain the determinants of tax accrual based on which the tax accrual was reached in other tax periods the Authority did not explain what tax accrual determinants were detected in other tax periods, nor did it explain which tax periods the amount in dispute was subject to taxation based on the occurrence of one of the tax accrual determinants listed in Article 23 of the Agreement, nor did it explain why it was not taken into account when examining the two tax periods (June/2018 and December/2020), nor did it justify why it was not taken into account when examining the two tax periods (June/2018 and December/2020) by deducting them from the total amount that was subject to the tax since it was proven that they were subjected during another tax period based on the basis for accrual according to the Authority's statement and because the impact on the tax debt is zero due to the parties' agreement that the contracts are subject to the tax while the disagreement is over the period during which they should have been subjected and because the Authority, through the assessment notice and the response note, did not clarify the accrual determinant observed and the tax periods that should have been recognized based on the observed determinant and explain why it was not deducted from the total amount that was subjected in the two referred periods that were initially recognized and examined within the disputed tax periods, which leads us to accept the Taxpayer's appeal, which is contrary to what was stated in the decision of the Adjudication Circuit, which leads this department to conclude that the submitted appeal is accepted.

Decision:

1. regarding the appeal of ..., Commercial Registration No. (...):

1- Accepting the appeal procedurally for submitting it within the legally prescribed period.

2- Rejecting the appeal related to the subjection of the disputed exports to the "taxable sales in the basic ratio" and upholding the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513), and upholding the Authority's decision.

3- Partial acceptance of the appeal regarding contracts (General Authority for Tourism and National Heritage, 3 Ministry of Finance contracts, and a company contract...) exclude them from the sales item subject to the basic rate and add them to the sales item subject to zero percent tax, and reject the appeal On the merit of contracts (company ..., company ..., company ..., company contract ..., office contract ..., company contract ...) to the sales item, and amending the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513), and amending the Authority's decision.

4- Partial acceptance of the appeal related to the "Error in Return Penalty" and amending the decision of the Second Circuit for Adjudicating VAT Violations and Disputes in Riyadh City (VSR-2022-2513), and amending the Authority's decision by limiting the acceptable amount as stated in item (3).



5- Partial acceptance of the appeal related to the "Late Payment Penalty" and amending the decision of the Second Circuit for Adjudicating VAT Violations and Disputes in Riyadh (VSR-2022-2513), and amending the Authority's decision by limiting the accepted amount as stated in item (3).

2. regarding the Zakat, Tax and Customs Authority appeal:

1- Accepting the appeal procedurally for submitting it within the legally prescribed period.

2. Rejection of the appeal regarding the subjection of the (company contract...) for sales subject to the basic rate instead of sales taxed at zero percent, and upholding the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh.

3- Rejecting the appeal related to the "error in a tax return penalty", and upholding the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2022-2513).

4- Rejecting the appeal related to the "Late Payment Penalty" and upholding the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513).



committee for adjudicating tax violations and disputes

Second Circuit to adjudicate value tax violations and disputes

hosted in Riyadh

Decision No. VSR-2024-226058

Case No. V-2023-226058

Keywords:

VAT Revaluation of the tax return-Objection to the increase in tax- Rejection of the Plaintiff's objection

Summary:

the Plaintiff disputes the Defendant's claim for value-added tax (VAT), which represents the amount in excess of the government subsidy, and that he paid it to the seller, thus requesting judgment that the Defendant (the bank) is not entitled to recourse against him. the committee found that the Defendant financed the Plaintiff's purchase of the property, which leads to the existence of two independent sales transactions, the first transaction between the seller and the bank (Defendant), and the second transaction between the seller (Defendant) and the buyer (Plaintiff), which shows the validity of the Defendant's claim to the Plaintiff for the difference in the amount of tax. this means that the Plaintiff's objection is rejected .

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (8) of Article (67) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

Parties Defenses:

plaintiff's defenses

- 1- the Plaintiff argued that the Defendant (Bank of...) he claims VAT in the amount of SAR 15,000, representing the amount in excess of the government subsidy, and that he paid it to the seller, and therefore requests a judgment that the Defendant has no recourse against him.



The Committee's response to the defenses:



it appears that the Plaintiff filed his lawsuit objecting to the Defendant's demand to pay him the amount of value-added tax in excess of the amount of exemption from the first home purchase tax, amounting to SAR 15,000, because he paid the amount of tax amounting to SAR 15,000 to the seller's son on 19/07/2020, and the Circuit reviewed the deed of the property No. (...), which shows that the Defendant financed the Plaintiff in its purchase, which entails the existence of two independent sales transactions.), which shows that the Defendant financed the Plaintiff in its purchase, which leads to the existence of two independent sales transactions, the first transaction took place between the seller and the bank (the Defendant), and the second transaction took place between the seller (the Defendant) and the buyer (the Plaintiff), which shows the validity of the Defendant's claim to the Plaintiff for the difference in the tax amount, which leads the Circuit to reject the claim.

Decision:

Dismissal of the claim.



committee for adjudicating tax violations and disputes
Second Circuit to adjudicate value tax violations and disputes
hosted in Riyadh

Decision No. VD-2024-232807

Case No. V-2023-232807

Keywords:

VAT Revaluation of the tax return-Rejection of the commercial register-Rejection of the Taxpayer's objection

Summary:

the Taxpayer objected to the final assessment decision issued by the Zakat, Tax and Customs Authority on May 2020 for the fourth quarter of 2018, where his objection lies in the fact that he waived the commercial register on February 2018, according to the statement of the Ministry of Commerce attached to the case files, and therefore, due to the precedence of the transfer of the commercial register over the decision, he believes that the decision is invalid and demands the transfer of the assessment to the new owner, while the Authority argued that its decision is valid based on the provisions of the VAT regulation. whereas, the Committee was established in accordance with the provisions of Articles (8) and (17), which stipulate that the Authority must be notified in the event of a change in legal status or a change in taxable persons, and where the Taxpayer admitted at the hearing that he did not comply with notifying the Authority of this. 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.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (8,17) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)



Parties Defenses:

The defenses of the plaintiff (the taxpayer)

- 1- the Taxpayer argued that these amounts were incurred after the assignment of the commercial register according to the attached statement from the Ministry of Commerce indicating the date of the assignment.

Defenses of the defendant (the authority)

- 1- the Authority argued that the Claimant failed to notify the Authority of this change within twenty days, in accordance with paragraph (30) of Article XVII of the VAT Executive Regulations.

The Committee's response to the defenses:

the texts of Articles (8) and (17) of the VAT Regulation show that the Authority must be notified in the event of a change in legal status or a change in the persons subject to tax, and the Plaintiff stated at the hearing that he failed to notify the Authority, which makes it necessary for the Circuit to dismiss the Plaintiff's claim.

Decision:

Dismiss the Plaintiff's claim.



committee for adjudicating tax violations and disputes

Second Circuit to adjudicate value tax violations and disputes

hosted in Riyadh

Decision No. VTR-2024-228066

Case No. V-2023-228066

Keywords:

VAT Revaluation of tax returns -Revocation of recruitment contract-Acceptance of Plaintiff's claim

Summary:

the Plaintiff's claim to compel the Defendant to refund SAR 1,044.09, which is the remaining amount of VAT he paid under a recruitment contract that was canceled between the parties and based on the VAT Law and its Executive Regulations, the Plaintiff is entitled to recover the tax paid upon cancellation of the contract. Whereas it has been established to the Adjudication Committee that the claimant stated that he recovered part of the contract value, including part of the tax amounting to 391.41 riyals, but he still claims the remaining amount of 1,044.09 riyals. According to Article (14) of the Implementing Regulations of the Value Added Tax Law, tax is imposed on goods and services, and upon termination of the contract, the claimant is entitled to a tax refund. this means accepting the Plaintiff's claim and requiring the Defendant to pay the amount of SAR 1,044.09, which represents the remaining VAT that is the subject of the claim.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (8) of Article (67) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (14) of [Executive Regulationsof theValue Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)



Parties Defenses:

Plaintiff's Defenses

- 1- the Plaintiff argued that the amount claimed by the recruitment office was the tax value for the termination of a recruitment contract that totaled SAR 11,005.50 including tax, which included the service value of SAR 9570 and SAR 1,435.50 for the tax value.

The Committee's response to the defenses:

the committee found that the recruitment contract concluded between the two parties was terminated, and where the Plaintiff stated in the session held on 12/05/2024 that he had already recovered part of the amount of the contract value and part of the tax in the amount of 391.41 riyals and that he claims an amount of (1044.09 riyals) only, therefore, based on the provisions of Article (14) of the Executive Regulations of the Value Added Tax Law, issued under decision No. (3839) dated 14/11/2016 corresponding to 14/12/1438H, which stipulates that: "Without prejudice to Article 2 of the Law and for the purposes of applying the Convention and the Law in the Kingdom, the tax is imposed on all supplies of goods and services made by any taxable person in the Kingdom, or on those received by any taxable person in the Kingdom in cases where the reverse charge mechanism is applied, and on the import of goods into the Kingdom." The Circuit concluded by accepting the Plaintiff's claim and requiring the Defendant to pay the Plaintiff the amount of SR 1,044.09, representing the remaining VAT at issue.

Decision:

- 1- Order the Defendant, Office of ..., Commercial Registration No. (...), to pay the Plaintiff ... (... nationality) under National ID No. (...), the amount of (1,044.09) thousand, forty-four and nine riyals, representing the remaining VAT in the case.



Exports



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2023-154609

Case No. V-2022-154609

Keywords:

VAT Revaluation of tax return-Exports-Taxable exports at basic rate-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the Third Department for the adjudication of VAT violations and disputes in Riyadh (VTR-2022-1182), where his appeal is based on the imposition of the basic rate of VAT on the service provided because the basis of the reinsurance brokerage service is not closely related to the property insured by the insurance company, and the brokerage service here does not affect the area of the property insured by the insurance company and is not related to a specific area of it. the Appellate Committee found that according to paragraph (1) of Article (33) of the Executive Regulations of the VAT Law, the supply of services by a taxable person to a non-resident customer is subject to the zero rate, except for the cases stipulated in paragraph (2) of the same article. since the exception in paragraph (2) does not apply to this service, the supply is considered zero-rated. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Paragraph (1,2) of Article (33) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 12/14/1438H.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the basis of the reinsurance brokerage service is not closely related to the property insured by the insurance company.



- 2- the Taxpayer argued that the brokerage service here does not affect the area of the property insured by the insurance company and is not tied to a specific area of it.

The Committee's response to the defenses:



whereas it is established in accordance with paragraph (1) of Article (33) of the Executive Regulations of the Value Added Tax Law, which reads: "Except as provided in the second paragraph of this Article, a supply of services made by a taxable person to a non-resident customer in any Member State shall be deemed to be subject to the zero rate." Since none of the cases listed in paragraph (2) of Article (33) of the same regulation apply, the supply is zero-rated, which leads the Appeals Chamber to accept the appeal.

Decision:

- 1- Accepting the appeal filed by ... - Commercial Registration No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal filed by ... - Commercial Register No. (...), in relation to taxable exports for the basic rate, and annulment of the decision of the Third Department for adjudicating VAT violations and disputes in Riyadh (VTR-2022-1182) and annulment of the decision of the Appellant against it.
- 3- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the penalty for error in a tax return, and annulment of the decision of the Third Department for adjudicating VAT violations and disputes in Riyadh City No. (VTR-2022-1182) and annulment of the decision of the Appellant against her.
- 4- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the late payment penalty, and annulment of the decision of the Third Department for adjudicating VAT violations and disputes in Riyadh (VTR-2022-1182) and annulment of the decision of the Appellant against her.



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for

Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2023-141098

Case No. V-2022-141098

Keywords:

VAT Revaluation of tax return-Exports-Domestic exports subject to zero percent tax-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam (VD-2022-1346), where his appeal is based on the final reassessment of the tax period and the resulting fines, because he submitted all contracts and invoices to the Authority and attached a list of all export customers, and explained that the failure to submit documents was due to circumstances of data confidentiality with the customers. the Appellate Committee found that the supply of services by a taxable supplier resident in a GCC member state to a non-resident customer who utilizes this service outside the GCC territory is subject to a zero percent tax in accordance with Article 34 of the GCC Unified VAT Agreement. the documents provided, including a list of customers, show that the Taxpayer provided export services during the year with the invoice number, date of service, value of exports, type of service, and country of the customer, resulting in zero percent taxable exports. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Article (32,33) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Article (34) of [the Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)



Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the nature of his activity is the export of services, and therefore there is no export statement for this proof, as the proof he can provide is the contracts with (non-resident) customers as well as the invoices issued to them.

The Committee's response to the defenses:

Whereas, the Circuit has proven through a document (customer list) showing the Appellant's exports for the entire year, which shows the invoice number, date of service, value of exports, final beneficiary, type of service and country of the customer, in addition to the Appellant's submission of a sample of invoices proving that she provides research services to customers outside the Kingdom of Saudi Arabia, and that the final consumer is not inside the Kingdom according to the provisions of Article 32 of the executive regulations of the VAT Law, and whereas, according to the conditions stated in Article 33 of the executive regulations of the VAT Law, and whereas the Appellant provides services.

Decision:

- 1- Accepting the appeal of - Commercial Registration No. (...), procedurally submitted within the prescribed period.
- 2- Accepting the appeal filed by ... - Commercial Register No. (...), related to the item of domestic exports subject to zero percent tax, and annulment of the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Dammam City No. (VD-2022-1346) and annulment of the decision of the Appellant against it.
- 3- Accepting the appeal filed by ... - Commercial Register No. (...), related to the penalty for error in a tax return, annulment of the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam City No. (VD-2022-1346) and annulment of the decision of the Appellant against her.
- 4- Accepting the appeal filed by ... - Commercial Register No. (...), related to the late payment penalty, annulment of the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam City No. (VD-2022-1346) and annulment of the decision of the Appellant against her.



Sales



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. VA-2024-191093

Case No. V-2023-191093

Keywords:

VAT Revaluation of Tax Return-Sales Tax-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the Second Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh (VSR-2022-2630), where his appeal is based On the meritsion of the disputed amount to the (sales) item, because the Circuit of Adjudication was confused between the verification of the definition of supply for the disputed partial damage claims compensation transaction by verifying the existence of a supply of goods or services and verifying the requirements for the Taxpayer's deduction of input tax for the costs of repairing the partial damage. the Appellate Committee found that the amount does not represent a presumed supply that was subjected to the related inputs deduction because the presumed supply relates to the supply of goods or services, which does not correspond to the disputed case, as the disputed amount represents compensation resulting from damage agreed to be insured under the Taxpayer's client's insurance policy. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Paragraph (1) of Article (2) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (1) of [the GCC Unified VAT Agreement](#)



Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the Adjudication Chamber was confused between fulfilling the definition of supply for the disputed partial damage claims transaction by verifying the existence of a supply of goods or services and verifying the requirements for the Appellant's deduction of input tax for the costs of repairing partial damage.

The Committee's response to the defenses:

whereas the Circuit established that the main activity of the Appellant is the supply of insurance policies, the value of which is taxed at the basic rate and is not the subject of dispute, and that the dispute is the amount of "compensation" in case of partial damage resulting from the realization of the insured risk, which is the "accident", which is paid by the Appellant to her client and then recovered by the insurance company to the opposing party in case the fault is on the opposing party according to the percentage of fault, and whereas the actual compensation is paid by a third party to the Appellant's client and that the Appellant's role is limited to paying the amount to her client and recovering it from a third party its role is limited to paying the amount to its client and recovering it from a third party; and whereas the "compensation" does not constitute a form of supply of goods or services according to the definition of "supply" in Article 1 of the GCC Unified VAT Agreement; and whereas it is not a consideration received as a result of goods or services according to the definition of consideration in Article 1 of the aforementioned Agreement; and whereas the tax is imposed on the import and supply of goods and services according to Article 2(1) of the VAT Law Value Added Tax Law, which does not make it appropriate to impose the tax on an amount resulting from a "compensation" payable to the insured that did not result in the supply of goods or services, but rather an amount resulting from the obligation contained in the insurance policy to bear the total value of the damage estimated by an "estimation company" based on the fault tolerance ratio according to the "star" or "traffic" report, which is the damage caused by the realization of the risk insured against by the opponent, which includes compensation for "all costs" that the victim will incur as a result of the occurrence of the insured risk "accident which consists of the "original repair value" as well as the "original parts value" in addition to the "value-added tax" imposed which forms part of the value of the damage that the insured will incur as a result of the occurrence of the damage, thus the final bearer of the value-added tax instead of the insured is the Appellant, according to the tolerance rate or the insurance company of the deductible in case the fault rate is on him, on behalf of the policyholder based on the insurance policy which results in the insurance company of the at-fault party bearing the "total" value of the damage the value of the damage caused to the insured due to the accident, provided that the amount of compensation is recovered from the third party in case he is responsible for the "compensation" according to the percentage of fault, and when the "insured"



customer receives the total amount of compensation and sells the car instead of repairing it and keeping the value of the compensation or repairing it and benefiting from it or if the insured "the Appellant's customer" incurs purchases such as the value of spare parts or the cost of repair, the Appellant is not entitled to deduct them as inputs, as they are purchases not related to her but to the customer, and because the actual bearer of the compensation is the insurance company deducted in the case of third-party insurance based on the third-party insurance policy of the other party the amount does not represent a hypothetical supply that has been subjected to the deduction of inputs, as the hypothetical supply relates to the supply of goods or services, which is not compatible with the disputed case; as the amount in dispute represents compensation resulting from the occurrence of damage agreed to be insured the Appellant's customer's deductible under the insurance policy in case the amount represents a recovery from another insurance company and not for the supply of a good or service that has not been sold and has been subjected to the deduction of the related purchases, which is contrary to the decision of the Adjudication Circuit, which concludes that the Appellate Chamber accepts the submitted appeal.

Decision:

- 1- Accepting the company's appeal. - Commercial Registration No. (...), procedurally submitted within the prescribed period.
- 2- Accepting the company's appeal. - Commercial Register No. (...), regarding the subjection of the disputed amount to the "sales" item, annulment of the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh City (VSR-2022-2630) and annulment of the decision of the Appellant against her.
- 3- Accepting the company's appeal. - Commercial Register No. (...), related to the penalty for error in a tax return, annulment of the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh City (VSR-2022-2630) and annulment of the decision of the Appellant against her.
- 4- Accepting the company's appeal. - Commercial Register No. (...), related to the late payment penalty, annulment of the decision of the Second Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh City (VSR-2022-2630) and annulment of the decision of the Appellant against her.



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. VA-2024-194275

Case No. VA-2024-194275

Keywords:

VAT Revaluation of tax return-Sales-Zero taxable sales-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979), where his appeal is that the decision canceled the decision of the Zakat, Tax and Customs Authority for part of the customer contracts and did not cancel the decision for all customers regarding the final assessment for the fourth quarter of 2018, and the resulting fines. whereas, it was proven to the Appellate Committee through reviewing a sample of the submitted contract documents and written certificates according to the submitted zero-rated sales statement that the contracts were concluded before (30/05/2017) and included their tax numbers, which proves sufficient to consider all of them as zero-rated taxable contracts based on paragraph (3) of Article (79) of the Executive Regulations of the Value Added Tax Law. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Paragraph (3) of Article (79) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that all contracts are similar and represent a unified model, in addition to fulfilling the conditions stipulated in paragraph (3) of Article (79) of the Executive Regulations of the VAT Law, as all contracts were concluded before 30/05/2017, and written certificates were provided by the



customers that input tax can be deducted from the supply, in addition to the fact that he did not take tax from these customers.

The Committee's response to the defenses:



WHEREAS, the Appellate Chamber has established by reviewing a sample of the submitted contract documents and affidavits according to the Zero Sales Statement submitted for the year 2018, as follows: (Company... (666,500) SAR, a company ... With a value of (138,600) riyals The contracts were concluded before (30/05/2017) and include their tax numbers. This proves that they are considered contracts subject to zero percent tax based on paragraph (3) of Article (79) of the Executive Regulations of the Value Added Tax Law, Whereas the basis for the exclusion of the Appellant, according to the response submitted to the Court of Appeal, is the written statement that some customers are individuals who are not registered in the tax system, indicating that they do not meet two of the requirements without specifying the contracts. The Court of Appeal therefore upheld the appeal and subjected the remaining contracts to zero per cent tax in the amount of SAR 814,600.

Decision:

1. regarding the appeal of ..., Resident ID No. (...):

- 1- Accepting the appeal procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal related to the item of local sales subject to tax at the basic rate, amending the decision of the first department for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979) and annulment of the decision of the Zakat, Tax and Customs Authority.
- 3- Accepting the appeal related to the penalty for error in a tax return, amending the decision of the first department for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979), and annulment of the decision of the Zakat, Tax and Customs Authority.
- 4- Accepting the appeal related to the late payment penalty, amending the decision of the first department for adjudicating VAT violations and disputes in Riyadh (VR-2023-95979) and annulment of the decision of the Zakat, Tax and Customs Authority.

2. regarding the Zakat, Tax and Customs Authority appeal:

- 1- Accepting the appeal procedurally for submitting it within the legally prescribed period.
- 2- Rejecting the appeal on the merits.



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. VA-2024-192792

Case No. V-2023-192792

Keywords:

VAT Revaluation of tax return-Sales-Sales subject to the 5% rate-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam (VD-2022-61746), where his appeal is based on the item (sales subject to 5%) because the Authority did not approve the Taxpayer's amendment of his tax return with sales returns related to the tax period due to his failure to submit credit notes as stipulated in paragraph (3) of Article (54) of the Executive Regulations of the VAT Law. the Appellate Committee found that the Taxpayer submitted the documents supporting the validity of his action, namely (the accounting entry proving the cancellation of the invoice, the canceled invoice, and the credit note for the invoice) this proves that the Taxpayer complied with the provisions of Article 54(1) of the Regulations. this means that the Taxpayer's appeal is accepted and the Authority's decision is overturned.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (53) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Paragraph (1,3) of Article (54) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Appellant argued that it complied with its obligation to submit the statutory documents in accordance with the applicable statutory requirements, and that the documents submitted, namely



the "credit notes", comply with the provisions of Article 54(3) and Article 53 of the Executive Regulations of the VAT Law.

The Committee's response to the defenses:



Whereas it appears to the Court that the dispute lies in the Defendant's failure to approve the Appellant's amendment to its tax return with regard to sales revenue for the tax period due to the Appellant's failure to submit credit notices in accordance with the provisions of paragraph (3) of Article (54) of the Executive Regulations of the Value Added Tax Law. Whereas the Appellant submitted documents supporting the validity of its action, namely (the accounting entry confirming the cancellation of the invoice, the cancelled invoice, and the credit note for the invoice with a serial number referring to the cancelled invoice in the amount of SAR (1,060,347.80), which proves its compliance with the provisions of paragraph (1) of Article (54) of the Regulations, which is the notification relating to the invoice for the full value of the invoice. Consequently, it has been established to the Court that the Appellant issued and possessed the creditor's notice, which included a reference to the underlying invoice, and the Court of Appeal therefore accepts the appeal.

Decision:

- 1- Accepting the company's appeal... - Commercial Registration No. (...), procedurally submitted within the prescribed period.
- 2- Accepting the company's appeal. - Commercial Register No. (...), regarding the sales adjustment clause subject to 5%, and annulment of the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam City (VD-2022-61746), and annulment of the decision of the Appellant (the Authority).
- 3- Accepting the company's appeal. - Commercial Register No. (...), regarding the error in a tax return penalty clause for the tax period in question, and annulment of the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam City (VD-2022-61746), and annulment of the decision of the Appellant (the Authority).
- 4- Accepting the company's appeal. - Commercial Register No. (...), regarding the late payment penalty clause for the tax period in question, annulment of the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam City (VD-2022-61746), and annulment of the decision of the Appellant (the Authority).



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. VA-2024-192463

Case No. V-2023-192463

Keywords:

VAT Revaluation of tax return-Sales-Local sales subject to the basic rate (15%) - Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate (V)-2023-94063), where his appeal is based on the fact that as a brokerage company he executed the transactions of a company ... shares on behalf of its clients. when transactions are executed, a fee is charged. the company pays it to ..., and then recharges it to its customers. the Authority considered these fees that are recharged to clients to be a supply subject to VAT, which means that a 15% tax should be levied on these amounts and the brokerage firm should be obliged to pay it. whereas the Appellate Committee found that the ... according to Article (64) of the Executive Regulations of the VAT Law, the brokerage company cannot be held responsible for paying the tax because the original owner of the service is the ... company, which is the party that must bear the tax on its commission. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Paragraph (2) of Article (64) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Paragraph (1) of Article (23) of [the Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)
- Article (26) of [the Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)



Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Appellant argued that she had reloaded the (...) to customers as expenses (i.e. not taxable) on the basis that these fees are incurred on behalf of customers who are counterparties to the relevant transaction and responsible for paying the fees, and no refund of the 15% input tax imposed by (...) on fees and did not add the additional output tax to the reload on customers, considering it as a payment for any direct supply from (...) however, the Authority has made an assessment to the recharging of fees (...) as a taxable supply.

The Committee's response to the defenses:

the Appeals Chamber found that the parties agreed that the sales in the Appellant's self-return included the return of the "brokerage company's commission", which is not the subject of the dispute, and did not include the return of the CMA's share, which must be done with regard to this part, as it is income from an activity practiced by a government entity as a public authority and is not subject to tax accordingly, while the dispute is with regard to the failure to declare the share of the "..." a review of the "Final Assessment Notice" document and the "Notice of Cancellation of Objection Request" document shows that they indicated that the amendment was based on the text of Article (26) of the Unified VAT Agreement for the GCC countries, which addresses the fair market value of goods, but it must be monitored that all the cases stipulated in paragraph (1) of Article (38) of the Executive Regulations of the VAT Law, to take the fair market value of the supply and indicate the documents through which this result was reached, and the determinants of tax accrual are the date of "supply" or "issuance of the invoice" or "receipt of the consideration partially or completely" (whichever comes first) (whichever is earlier) as stated in the text of paragraph (1) of Article (23) of the GCC Unified VAT Agreement, and therefore the assessment related to the disputed period must reflect the tax due for it "only" based on a specific monitoring of the determinants of tax accrual during the disputed period in order to comply with the aforementioned statutory provisions, which set an accurate date for the accrual of tax and its return to avoid "duplication" of income in more than one tax period, and whereas "accounting" revenue recognition in the financial statements is not sufficient evidence of the occurrence of one of the determinants of tax accrual, and whereas the company in the disputed case, the intermediary "the Appellant" is the original supplier, which does not make it possible to hold the intermediary "the Appellant" accountable for the related tax, which is contrary to the text of paragraph (2) of Article (64) of the Executive Regulations of the VAT Law. thus, it is the party required to supply the tax in relation to its commission for the supply as the Appellant is providing the service as an intermediary to access the service as it is authorized to... in accordance with the CMA's requirements, the Appellate Circuit concluded that the appeal should be allowed.



Decision:

- 1- Accepting the appeal filed by... - Commercial Registration No. (...), procedurally submitted within the prescribed period.
- 2- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the subjection of the disputed amount to the "local sales subject to tax at the basic rate", and annulment of the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Jeddah Governorate (VJ-2023-94063) and annulment of the decision of the Appellant against it.
- 3- Accepting the appeal filed by ... - Commercial Register No. (...), partly in relation to the share of the Capital Market Authority and ... regarding the "Exports" item and dismissing the rest of the requests, and amending the decision of the first department for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2023-94063) and amending the Appellant's decision accordingly.
- 4- Accepting the appeal filed by ... - Commercial Register No. (...), in part with respect to the penalty for error in a tax return, and amending the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2023-94063) and amending the decision of the Appellant against her as stated in paragraph (II) and (III) above.
- 5- Accepting the appeal filed by ... - Commercial Register No. (...), partially in relation to the late payment penalty, and amending the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2023-94063) and amending the decision of the Appellant against her as stated in paragraph (II, III) above.



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. VA-2024-173489

Case No. V-2023-173489

Keywords:

VAT Revaluation of tax return-Sales-Out of band sales-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the first department to settle VAT violations and disputes in Jeddah Governorate (VJ-2022-2421), where his appeal is based on the sales agreement, which states that the buyer bears all costs, responsibility and subsequent risks, including all export procedures from the time the goods are loaded until they reach the buyer's headquarters, and accordingly, the company's sales delivered outside the Kingdom are not subject to VAT. the Appellate Committee found that the assessment notice did not clarify what provisions were violated and what was relied upon as the basis for considering that the "import" took place "before the transfer of ownership of the goods". Consequently; the Taxpayer's appeal is accepted and the Adjudication Circuit decision is canceled.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (3) of Article (27) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- The Taxpayer argued that he issues an invoice free of VAT, since the supply and delivery is made outside the Kingdom in accordance with the EX Works agreement, which states that the buyer bears all subsequent costs, responsibilities and risks, including all export procedures from the moment the goods are loaded until they arrive at his premises. accordingly, the Appellant argues that her sales that are supplied and delivered outside the Kingdom are not subject to VAT.



The Committee's response to the defenses:



whereas the Appellant is not a producer of goods according to the nature of its activity and the invoices it submitted for the disputed revenue prove that they represent goods purchased outside the Kingdom, which validates the possibility of re-supplying them to another party before importing them into the Kingdom, and whereas the disputed goods were transported to the Kingdom from outside the GCC region, any supply of those goods "before" importing them according to the Unified Customs System "outside the Kingdom" as stipulated in Article 27(3) of the Executive Regulations of the VAT Law, and therefore the decisive factor in whether or not they are subject to VAT is the transfer of ownership of the goods prior to their importation, and where the text does not require that the supplier of the goods does not provide transportation services for the supplied goods to be cited as evidence of ownership, and where the Appellant submitted a statement of sales outside the scope with a total amount of SAR (15,536,184.53), wherein most of the statement reflects EXW contracts, which is the abbreviation for EX Works, which according to its concept allows the seller to deliver the goods at the nearest location to him and entails assisting the buyer in obtaining export licenses for the purpose of delivering the goods to the specified location, and in return the buyer is responsible for paying the transportation costs including license fees, and once at the specified location the buyer is responsible for other risks such as loading the goods into trucks, transferring them to the ship or plane, and meeting customs regulations the assessment notice did not clarify what texts were violated and what was relied upon as a basis for considering that the "import" took place "before the transfer of ownership of the goods", which is contrary to the decision of the Adjudication Circuit, which concludes that the appellate department accepts the appeal regarding the subjection of "out-of-scope sales as they took place outside the Kingdom" to the item "sales", which represents part of the differences between financial statements and tax returns for a total amount of SAR (15,536,184.53).

Decision:

1.regarding the resume of , Commercial Register No. (...)

1- Accepting the appeal procedurally.

2- Accepting the appeal regarding the subjection of "out-of-scope sales as they took place outside the Kingdom" to the "Sales" item, which represents part of the differences between the financial statements and tax returns for a total amount of (15,536,184.53) riyals, and annulment of the decision of the First Circuit to settle VAT violations and disputes (VJ-2022-2421) and annulment of the decision of the Zakat, Tax and Customs Authority in Jeddah Governorate.

3- Accepting the appeal in part with respect to the "error in a tax return penalty" and amending the decision of the first department for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2421) and amending the decision of the Zakat, Tax and Customs Authority as stated in paragraph (2) above.



4- Accepting the appeal in part regarding the "Late Payment Penalty" and amending the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2421) and amending the decision of the Zakat, Tax and Customs Authority as stated in paragraph (2) above.

2. regarding the Zakat, Tax and Customs Authority appeal:

1- Accepting the appeal procedurally.

2- Rejecting the appeal regarding the "Fixed Assets" item for the amount of SAR 3,572,152.75, and upholding the decision of the First Circuit for adjudicating VAT violations and disputes in Jeddah Governorate (VJ-2022-2421).

3- Dismissing the appeal with respect to the penalty for error in a tax return.

4- Rejecting the appeal with respect to the late payment penalty.



Services



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. VA-2023-135691

Case No. V-2022-135691

Keywords:

VAT Revaluation of tax return Services-Food delivery platform-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2022-1153), where the Taxpayer's appeal is based on the item "Food Delivery Platform", which concerns the refusal to process VAT on cancellation fees on passengers and local sales related to delivery services. the Taxpayer also objected to the imposition of late payment penalties and the imposition of penalties for an error in the tax return. the Appellate Committee found that the Taxpayer had submitted the necessary documents about the cancellation fees, and that the delivery platform falls under abstract supply, which means that the delivery services provided by the platform are not considered essential services subject to VAT directly, but are merely a means of facilitating the transportation of food from restaurants to customers. local sales related to this service must be processed in accordance with the VAT controls for e-services. Consequently: accepting the Taxpayer's objection regarding the fees charged to passengers, rejecting the Taxpayer's objection regarding local sales related to delivery, and partially accepting the Taxpayer's objection regarding penalties for late payment.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (9) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (1) of [the GCC Unified VAT Agreement](#)



Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the platforms' relationship with the application parties is intermediary, which makes the cancellation fees charged to passengers non-taxable.
- 2- pay the Taxpayer in respect of the food delivery platform by providing proof that VAT has been calculated on the delivery charges levied on food ordering and on the commission charged to the restaurant as a whole.

Appellee's (Authority's) Defenses

- 1- the Authority argued that the fees collected from the customer for the delivery of orders, in addition to the commission collected from the contracted restaurant for displaying the menu on the online platform, are subject to VAT at the basic rate and have not been disclosed.

The Committee's response to the defenses:

Whereas, the role of the (food delivery platform) is to be a destination where order takers (customers) meet with restaurants and service providers (delivery agent) where they register on the online platforms, and the tax treatment by the Appellant company was by charging a commission fee to restaurants for displaying the menu on the platform, and also charging delivery fees to food order takers, and calculating the tax on them whereas, the Appellant provided a sample of the food delivery invoice and a sample of the intermediary commission fee invoice, which proves that the company subjected the delivery fees and intermediary commission fees to VAT, and whereas the Appellate Chamber found that the tax treatment carried out by the Appellant company is consistent with the Appellant's approach, which leads it to accept the submitted appeal.

Decision:

- 1- Accepting the appeal filed by ... - Commercial Registration No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal submitted by ... - Commercial Registration No. (...), regarding the item of local sales subject to tax in the basic ratio, and annulment of the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2022-1153) and annulment of the decision of the Appellant against it.



3- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the penalty for error in a tax return, and annulment of the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City (VSR-2022-1153) and annulment of the decision of the Appellant against her.

4- Accepting the appeal filed by ... - Commercial Register No. (...), regarding the late payment penalty, and annulment of the decision of the Second Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh City (VSR-2022-1153) and annulment of the decision of the Appellant against her.



Tax refund



Appellate Committee for Tax Violations and Disputes

first Appellate Chamber for VAT and Selective Goods Violations and Disputes

Decision No. VA-2023-198730

Case No. V-2023-198730

Keywords:

Value-added-tax-refund-tax principal-acceptance of Plaintiff's objection

Summary:

the Plaintiff's appeal against the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Dammam (VD-2023-92857), where his (the seller) appeal is to compel the Defendant (the buyer) to pay the tax due as a result of the sale of a property and cancel the resulting fines. the Appellate Committee found that the burden of paying the tax as an indirect tax on the goods and services received is mainly borne by the (buyer) who receives the goods and services, except as exempted by a special provision from paying according to certain cases stipulated in Article (30) of the GCC Unified VAT Agreement, and the obligation to supply and pay the tax collected from the customer or buyer who receives the goods and services to the competent tax authority falls on the supplier (seller) of the goods and services in accordance with the provisions of the agreement. the Appellant (the seller) provided proof of payment of the tax resulting from the sale under the payment notice, which allows him to claim the Appellant (the buyer) for the tax due on the sale of the said property. as a result, the Plaintiff's appeal is accepted and the company is ordered to pay the amount of the tax.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Article (2) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)
- Article (1,30) of [the Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)



- Paragraph (1,2) of Article (40) of [the Unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)

Parties Defenses:

Appellant's Defenses

- 1- the Appellant argued that the price of the sold property was not inclusive of VAT at the time, based on the agreement that the Appellant would pay the tax due to the Zakat, Tax and Customs Authority after collecting it from the buyer, since the purchase was made through mortgage financing for a citizen. however, the Appellant did not pay the tax to the Authority.

The Committee's response to the defenses:

whereas the Appellant provided proof of payment of the tax resulting from the sale under the payment notice issued No. (...) for the sold property which ownership transferred to the buyer on 28/11/2018, accordingly the tax is due according to the date of supply, the issuance of the invoice or the payment of part of the price, whichever is earlier for non-continuous supplies in accordance with paragraph 1 of Article (23) of the same agreement, and accordingly, the tax is due on the date of the conclusion of the sale transaction on 28/11/2018, at which time the Appellant was subject to the provisions of VAT and was obligated to register in accordance with the provisions of Article (1) of the same agreement and Article (2) of the executive regulations of the VAT Law, and is subject to the provisions of the articles of the agreement, the system and the regulations, considering that the value of the supply is higher than the mandatory registration threshold stipulated by the VAT Law the provisions of Article (1) of the same agreement and Article (2) of the Executive Regulations of the VAT Law apply to him, as the value of the supply exceeds the mandatory registration limit stipulated in the agreement, which allows him to claim the Defendant (the buyer) for the tax due on the sale of the said property. Based on the above, the Appeals Chamber concluded that the appeal related to the tax principal is accepted.

Decision:

- 1- Accepting the appeal submitted by (...), National ID No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal submitted by ..., National ID No. (...), regarding the origin of the tax, annulment of the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Dammam City (VD-2023-92857), and ruling to obligate the company ..., Commercial Registration No. (...) by paying an amount of (53,625) fifty-three thousand six hundred and twenty-five Saudi riyals.
- 3- Rejecting the appeal submitted by (...), National ID No. (...), related to the fines item, and upholding the decision of the First Circuit for adjudicating VAT violations and disputes in Dammam City (VD-2023-92857).



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. V-2023-84870

Case No. V-2021-84870

Keywords:

Value Added Tax - Tax Refunds - Refunded Costs - Acceptance of Taxpayer's Objection

Summary:

the Taxpayer objected to the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh (VSR-2021-916), where his appeal lies on the club's revenues because the authority did not provide the statutory basis in accordance with the legislation of the VAT Law and where it relied on the income tax system, considering the club as a fixed base from which an activity is practiced inside the Kingdom through the UAE company in its capacity as club manager and therefore subjecting management fees and commission for using ships as services provided to a fixed establishment practicing its business from inside the Kingdom and subjecting the supply to VAT at the legally prescribed rate. whereas the Appellate Committee proved that the Appellant company and its branch in the UAE is responsible for managing the club during the period of the Commission's examination and that the branch is a legal person registered for operational and VAT purposes in the UAE according to the registration certificate of the company's branch in the UAE and where it provided a sample of management letters and distribution of profit shares to the participating club member, and where the Commission did not provide and refer to the documents and legal support on which it relied in its procedure, and it was proven that the transactions were made in the United Arab Emirates and are not related to supplies made in Saudi Arabia and the Commission did not provide proof to the contrary. this means that the Taxpayer's appeal is accepted and the Authority's decision is overturned.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (c) of Article (2) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)



- Paragraph (2) of Article (64) of [The Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the Appellant (the Authority) did not provide the statutory basis according to the VAT legislation as it relied on the Income Tax Law.
- 2- the Taxpayer argued that the revenues related to this activity are managed by the company's branch in the United Arab Emirates and that the activity took place outside the Kingdom and cannot be subjected to tax.

The Committee's response to the defenses:

the Chamber found that the Appellant based her reasons for the amendment on the following: (According to Article 2(c) of the Income Tax Law, a club...is considered a fixed base from which it conducts its activity within the Kingdom through the company... as a director of the ... management fees and commission for the use of vessels in a club are therefore subject to... as services provided to a fixed establishment doing business from within the Kingdom and subject to Tawereda Nadi's ... for the years 2018 and 2019 for VAT at the statutory rate), which proves its reliance on the Income Tax Law, and whereas the final assessment notice must include the basis for calculating the assessment according to paragraph (2) of Article (64) of the Executive Regulations of the VAT Law, and whereas the Appellant Company indicates that its branch in the UAE is responsible for managing the club during the period of the Respondent's examination and that the branch is a legal person registered for operational and VAT purposes in the UAE under the the registration certificate of the company's branch in the UAE with a registration date of 01/01/2018 and where it provided a sample of the letters of management and distribution of profit shares to the participating club member, and where the Appellant did not provide and refer to the statutory documents and supports it relied on in its procedure, and where it is proven that the transactions were made in the United Arab Emirates and are not related to supplies made in Saudi Arabia and the Appellant did not provide proof to the contrary, which concludes the Appellate Chamber to accept the appeal.

Decision:

- 1- Accepting the company's appeal. - commercial Registration No. (...), procedurally submitted within the prescribed period.



- 2- Accepting the company's appeal. - commercial Register No. (...), in relation to the revenues of the ... club, and annulment of the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City (VSR-2021-916) and annulment of the decision of the Appellant against her.
- 3- Accepting the company's appeal. - commercial Register No. (...), regarding the item of reimbursed costs, annulment of the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VSR-2021-916) and returning the item to the Circuit issuing the decision for consideration in accordance with the reasons explained.
- 4- Accepting the company's appeal. - commercial Register No. (...), in relation to the commission item of Club ..., annulment of the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VSR-2021-916) and returning the item to the Circuit issuing the decision for consideration in accordance with the reasons explained.
- 5- Accepting the company's appeal. - commercial Register No. (...), regarding the item of management fees, annulment of the decision of the Second Circuit for the adjudication of VAT violations and disputes in Riyadh City No. (VSR-2021-916) and returning the item to the Circuit issuing the decision for consideration in accordance with the reasons explained.
- 6- Accepting the company's appeal. , Commercial Register No. (...) the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2021-916) is annulled and the decision of the Defendant on the penalty for error in a tax return is annulled, and the item is returned to the Circuit issuing the decision to consider the penalty imposed on the other items (management fees - club commission ... - reimbursed costs).
- 7- Accepting the company's appeal. , Commercial Register No. (...) regarding the late payment penalty, annulment of the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VSR-2021-916) and annulment of the decision of the Defendant in the penalty up to the amount of revenue ..., and returning the item to the Circuit issuing the decision to consider the penalty imposed on other items (management fees - club commission ... - reimbursed costs).
- 8- Proving the end of the dispute regarding the time contract travel clause (...).



Appellate Committee for Tax Violations and Disputes

First Appeal Chamber for additives and Excise Goods

Decision No. VA-2024-197324

Case No. V-2023-197324

Keywords:

Value Added Tax - Tax Refund - Refund of Cash Collateral - Acceptance of Taxpayer's Objection

Summary:

the Taxpayer's appeal against the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Riyadh (VR-2023-134579), where his appeal is based on the rejection of his claim for the refund of the cash bank guarantee paid to the Authority, and he objects to the decision of the Adjudication Circuit because the purpose of the bank guarantee has been fulfilled, as there are no pending cases because it was terminated by waiving the case and in another case by closing it to include him in the initiative of exemption from fines, and he has no outstanding amounts owed to him. the Appellate Committee found that there were lawsuits filed by the Taxpayer against the Authority with the General Secretariat of the Zakat, Tax and Customs Committees, and by reviewing the pages of the lawsuits, it was proven that the Taxpayer waived and one of them was extinguished by the initiative to exempt from fines. The Authority did not provide evidence to support its statement that the claims still exist and to support its right to set off the amounts owed against the amount of the guarantee. This means; accepting the Taxpayer's appeal and annulment 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.](#)
- Paragraph (2) of Article (65) of [Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)



Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Appellant argued that the decision to deny his request for a refund of the bank guarantee, stating that the purpose of this guarantee is no longer valid because there are no pending cases against him, as they ended with his waiver of the case and in another case by closing it due to his inclusion in the fines waiver initiative, as well as the absence of any amounts owed to him.

The Committee's response to the defenses:

whereas the Appeals Chamber established the existence of cases filed by the Appellant against the Defendant at the General Secretariat of the Zakat, Tax and Customs Committees with the following numbers: (V-2022-93857) - (V-2022-93865) - (V-2022-113345) - (V-2022-93851) and it is proven by reviewing the pages of the cases that the Appellant waived them and one of them expired by the initiative of exemption from fines, and whereas, according to paragraph (f) of Article 65 of the Executive Regulations of the VAT Law, the Defendant has the option to return the bank guarantee to the Taxpayer upon request or keep it for the purpose of offsetting when the Taxpayer's liabilities the Appellant has no outstanding invoice with the Defendant, and the Defendant did not provide any evidence to support her statement that the claims are still outstanding and to support her right to set off the amounts owed and the amount of the guarantee, as she did not provide a copy of her account showing the claims between them according to her she did not provide a copy of his account showing the claims between them according to her authority, nor did she provide any evidence to disprove the Appellant's claim that he was exempted from all fines by exempting him from the fines initiative, which supports the validity of his claim, and since the Appellant did not provide a justification for keeping the cash escrow amount, especially since the Appellant's account is free of any liabilities, she cannot exercise her right of set-off without its presence therefore, there is no justification for the application of Article 65 of the Executive Regulations of the VAT Law, and since the decision of the Adjudication Circuit to dismiss the case was based on the existence of unresolved receivables, and this has been negated by the aforementioned, the Appeals Chamber concludes that the appeal should be accepted.

Decision:

- 1- Accepting the appeal submitted by/..., National ID No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal submitted by (...), National ID No. (...), in substance, and annulment of the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh (VR-2023-134579), annulment of



the decision of the Appellant against her and obliging her to refund the cash guarantee of (209,117.09) two hundred and nine thousand, one hundred and seventeen riyals and nine halalas.



Tax claims between individuals or legal entities.

Imports



Appellate Committee for Tax Violations and Disputes
First Appeal Chamber for
Value Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-171053

Case No. V-2023-171053

Keywords:

Value Added Tax-Tax claims between individuals or legal entities-Imports-Real estate supply-Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate (VJ-2022-2367), where his appeal lies in the fact that the Authority relied on the value of a property (SAR 470,000) according to the data of the Ministry of Justice, while the Taxpayer disclosed in his tax return that the value of the property was only SAR 350,000, and the Authority added the difference between the two values to the taxable sales, considering it part of the sale value, resulting in additional tax and fines for the Taxpayer. however, the Taxpayer argued that this amount was not part of the actual sale price, but rather an additional financing amount paid by the buyer as an advance payment and later refunded, as it was transferred from the Taxpayer's account to the buyer's account after receiving it from the bank. the Appellate Committee found that the Authority did not provide proof from the Ministry of Justice data that the buyer purchased the property for SAR 470,000. this means accepting the Taxpayer's appeal so that the amount of the real estate supply is (350,000 riyals) and annulment of the decision of the Adjudication Circuit.

Document:

- Paragraph (1) of Article (15) of [the Rules for the Work of Zakat, Tax, and Customs Committees issued by Royal Order No. \(25711\) dated 08/04/1445 AH.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the difference between his disclosure of the value of the property in his tax return and the value registered with the Ministry of Justice for the deed is because the difference represents an additional financing amount for the client.



- 2- the Taxpayer argued that these amounts were paid by the client as down payments in excess of the actual sale value, and were subsequently transferred from his account to the client's account after receiving them from the bank, which means that they are not part of the actual sale value of the property.

The Committee's response to the defenses:



after reviewing the documents submitted by the Appellant, including a document depositing a check to the Appellant's account worth (470,000) riyals, and a document withdrawing a check from the Appellant's account for the Appellant's client from Al Rajhi Bank worth (320,000) riyals, it is clear that the withdrawal of the check took place on 30/05/2018, i.e. after the date of the sale of the property according to the sales contract submitted, and since the Respondent did not provide the data received from the Ministry of Justice indicating that the buyer purchased the property from the Appellant for (470,000) SAR, the Appellate Chamber concludes to accept the appeal with regard to the real estate supply for Deed No. (...) the supply amount is (350,000) riyals.

Decision:

- 1- Accepting the appeal submitted by (...), National ID No. (...), procedurally for submitting it within the legally prescribed period.
- 2- Accepting the appeal filed by/..., National ID No. (...), regarding the real estate supply of Deed No. (...) so that the amount of the supply is (350,000) Riyals, and cancel the decision of the first department for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2367) and cancel the decision of the Appellant against it.
- 3- Rejecting the appeal submitted by (...), National ID No. (...), regarding the supply of real estate prior to the entry into force of the system, which was added by the Zakat, Tax and Customs Authority in the sales item, and upholding the decision of the first department for adjudicating VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2367).
- 4- Accepting the appeal submitted by (...), National ID No. (...), regarding the transfer of ownership of (15) properties to the Appellant's brother, and annulment of the decision of the first department for adjudicating VAT violations and disputes in Jeddah Governorate (VJ-2022-2367) and annulment of the decision of the Appellant against it.
- 5- Accepting the appeal submitted by (...), National ID No. (...), in part regarding the penalty for error in a tax return, and amending the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2367) and amending the decision of the Appellant against her as stated in paragraph (II, IV) above.



6- Accepting the appeal submitted by (...), National ID No. (...), in part regarding the late payment penalty, and amending the decision of the First Circuit for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2367) and amending the decision of the Appellant against her as stated in paragraph (II, IV) above.

7- Rejecting the appeal filed by (...), National ID No. (...), regarding the penalty for late filing of the return, and upholding the decision of the first department for adjudicating VAT violations and disputes in Jeddah governorate (VJ-2022-2367).



Fines



Appellate Committee for Tax Violations and Disputes

first Appellate Chamber for VAT and Selective Goods Violations and Disputes

Decision No. VA-2023-112931

Case No. V-2022-112931

Keywords:

Value-added tax - Fines - Fines for obstructing the Authority's employee - Acceptance of Taxpayer's appeal

Summary:

the Taxpayer's appeal against the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh (VR-2022-73). The Taxpayer's appeal is regarding the imposition of VAT on sales and purchases for 2020 and the associated fines (penalty for error in a tax return, late payment, and obstructing the Authority's employee). documents could not be submitted due to the coronavirus pandemic, as the relevant staff member was abroad. since the Appellate Committee found that no actual obstruction by the Appellant was proven, the appeal was accepted and the Commission's decision was overturned.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (2) of Article (45) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (1) of Article (48) of [the Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438H.](#)
- Paragraph (5) of Article (53) of [the Executive Regulations of the Value Added Tax Law issued by Zakat, Tax and Customs Authority Council Decision No. \(3839\) dated 14/12/1438H.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that it was not possible to provide the documents to the Defendant because the competent employee and the person in charge of the accounts was outside the Kingdom due to the



coronavirus pandemic, in addition to the cessation of all its activities due to the coronavirus pandemic.

The Committee's response to the defenses:



with regard to the fine for obstructing the work of the Authority's employee, and where the Circuit did not prove that the Appellant prevented or hindered the Respondent's employees from performing their job duties in order to prove that the fine is due according to Article 45(2) of the VAT Law, and where the reason for imposing the fine is the Respondent's request to the Appellant to provide supporting documents for his submitted tax return to provide supporting documents for his submitted tax return, and that there is no merit in imposing the fine because the Respondent can amend the Appellant's return and issue its assessment in light of the documents provided to it, and the Appellant will bear the result of that, which concludes that the Appeals Chamber accepts the submitted appeal. for these reasons and after deliberation, the Chamber unanimously decided as follows:

Decision:

- 1- Acceptance of the appeal submitted by/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by/ ... - National ID No. (...), related to the item of taxable local sales for the basic rate, and annulment of the decision of the First Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh City No. (VR-2022-73) and annulment of the decision of the Appellant against it.
- 3- Acceptance of the appeal submitted by/ ... - National ID No. (...), related to the item of local purchases subject to tax at the basic rate, and annulment of the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and annulment of the decision of the Appellant against it.
- 4- Acceptance of the appeal submitted by/ ... - National ID No. (...), related to the penalty for error in a tax return, and annulment of the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and annulment of the decision of the Appellant against her.
- 5- Acceptance of the appeal submitted by/ ... - National ID No. (...), related to the late payment penalty, and annulment of the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and annulment of the decision of the Appellant against her.
- 6- Acceptance of the appeal submitted by/ ... - National ID No. (...), concerning the fine for obstructing the Authority's employee, and annulment of the decision of the First Circuit for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and annulment of the decision of the Appellant against her.



Defenses Raised in Excise Tax Disputes and Committees' Response (Tax revaluation)



committee for adjudicating tax violations and disputes
the first department to adjudicate value tax violations and
disputes
added in Riyadh

Decision No. ER-2024-225873

Case No. E-2023-225873

Keywords:

Excise Tax - Reassessment of Excise Tax - Reassessment of Excise Tax - Differences due - Acceptance of
Plaintiff's objection

Summary:

the Plaintiff objected to the Zakat, Tax and Customs Authority's decision to reassess the tax period and impose a tax difference of SAR 34,742.00, based on the difference between the prices declared at the time of import and the sales prices on the website. the panel found that the Plaintiff filed a correct tax return at the time of importation, and it was not proven that the Plaintiff intentionally disclosed inaccurate prices. also, the 0.07% difference in total sales is not sufficient evidence for reassessment, especially since prices may change due to economic factors and different locations. in addition, the authority did not notify the Plaintiff of the need to correct the prices during the customs clearance procedure. the result is that the Plaintiff's objection is accepted and the Commission's decision is overturned.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (1,8,17) of [the Executive Regulations of the Excise Tax System as amended by Zakat, Tax and Customs Authority Board of Directors Decision No. \(23-1-13\) dated Rajab 15, 1444 AH](#)
- Paragraph (2) of Article (6) of [the unified VAT Agreement of the Cooperation Council for the Arab States of the Gulf](#)

Parties Defenses:

The plaintiff's (taxpayer's) defenses

the Taxpayer's agent made the following arguments:



- 1- My client has always been committed to filing and paying Zakat and tax returns directly at the same time and has never been late in paying any dues to the Authority before, so she has no intention of violating the system, but rather, she was quick to notify the Authority as soon as any error appeared, as she notified them about the error in customs clearance, which indicates her good faith and lack of intention to violate the regulations, and the examiner should have recalled this matter when examining my client's sales documents.
- 2- These amounts were not calculated correctly and fairly, as the Authority took the price of assessing limited and few sales of the Taxpayer's sales, and did not take into account that these prices are covered by other costs, as they are not the real price for the sale of selective goods, as there are other costs included in the sales price but did not appear in the sales invoice (shipping costs, packaging, electronic payment commissions for ...); the fact that the Taxpayer did not mention these costs in the sales invoice does not mean that they do not exist. my client has proven all of these costs to the Commission.
- 3- These sales (sales of the online store and ... and...) this represents 0.07% of the Taxpayer's total sales of excise taxable products, and the tax examiner should have taken this into account, and the neglect of this matter by the tax examiner led to the appearance of large and incorrect figures in the calculation of the differences on the entire sales.
- 4- My client sold selective goods to its customers at prices lower than the assessment price, including its customer, a company ... (...) It is only fair that this difference should be calculated in my client's favor, which was not the case.
- 5- The Authority calculated the difference in electronic sales and generalized this difference to the Taxpayer's entire sales for the months of November and December FY 2022, and thus large differences emerged. without considering the actual sales invoices sent to the Authority as one of the attachments sent during the examination process, or considering the differences in favor of my client.
- 6- These differences that the Authority decided on my client did not enter my client's account, as she did not sell these amounts and did not earn them, so how can she be obliged to pay tax on them to the Authority?
- 7/ Also, the customer (the buyer) of my client bought the commodity from her at the selective goods assessment price in the rest of her sales, and this was stated in full and in detail in the attachments sent to the Authority by my client.
- 8- Multiple buyers after my client's direct buyer are not held liable because my client is unable to control the purchase price of the rest of the buyers.



Defenses of the defendant (the authority)

- 1- the Authority argued that there was a discrepancy between the prices disclosed by the Plaintiff at the time of import and the sale prices to the final consumer, as the Authority found that the sale price of the items on the Plaintiff's website as well as other websites was higher than the sale amount disclosed before the Authority.
- 2- The Authority also emphasizes that the Plaintiff only submitted invoices issued to distributors and wholesalers, through which it is difficult to determine the quantities and the retail price of the item, and therefore the Authority recalculated the tax due based on the price shown on the website.

The Committee's response to the defenses:



whereas it is established that the Plaintiff cleared her goods from customs by submitting an import permit and a proper tax return in accordance with the provisions of Article (17) of the Executive Regulations of the Excise Tax Law, after submitting all the necessary documents to prove the validity of the disclosed retail sales price, and whereas the Defendant did not provide any evidence to prove that the Plaintiff disclosed the incorrect retail sales price for the entire item in question, or that she deliberately submitted an incorrect retail sales price whereas the Defendant did not provide evidence that the Plaintiff made an incorrect disclosure about the entire item in question, or that she deliberately submitted an incorrect retail price, and all the Defendant based its decision on was that the retail price set by the Plaintiff and accepted by the Defendant upon importation differed from the actual retail price for an estimated 0.07% of the Taxpayer's total sales of the products. subject to excise tax, and where the difference in the actual selling price of a small portion of a particular commodity is not sufficient to say that the disclosed retail selling price was not correct; the different outlets and places of sale, the time difference between the time of importation and sale, and economic changes and fluctuations in the markets may cast a shadow on the prices of goods after their importation and the Taxpayer finds himself pushed to raise or lower the price of the commodity according to these facts, and therefore this cannot be considered a basis for the Defendant to return the importers with a tax assessment for the entirety of the imported goods on the pretext that the retail price of a small part of the commodity set by the importer was not correct for reasons beyond his control and attributable to the buyer of the commodity from the importer, which leads to considering that the Defendant's tax reassessment procedure failed to take into account the principles of justice, which the regulator must consider when applying and interpreting the relevant regulations and instructions in accordance with the rule (no harm, no harm) by imposing additional costs on the Plaintiff, especially since the Defendant's decision to tax reassess the entire imported goods even though the sale through the online website -which saw a sale price higher than the disclosed retail price, did not exceed 0.07% of the total sales, and the discounts received on sales through some sales platforms were disregarded in the reassessment,



despite the Plaintiff's supporting evidence. moreover, the Defendant did not provide a list of standard prices for the entire imported goods to prove the existence of tax differences on the entire imported goods at issue in the lawsuit, but only the retail price via the website, and whereas the purpose of Article (8) of the executive regulations of the system - on which the Defendant relied - determines the Defendant's right to reject and correct the retail prices during the time of submission of documents and not after importation and without notifying the Plaintiff of any doubt about the correctness of the retail price the right of the Defendant to reject and correct the retail sale prices during the time of submission of documents and not after importation and without notifying the Plaintiff that there is doubt about the correctness of the retail price, and since the approval of the prices by the customs entails determining the profit margin according to the cost and then the final sale, and since it was not proven to the Circuit that the Plaintiff was notified of the price correction during the clearance process and before the final sale, which concludes that the Circuit concludes that the procedure taken by the Defendant was incorrect and its decision regarding the tax differences resulting from the revaluation of the sixth tax period (November and December) for 2022 is invalid, and the amount of (34,472.00) Riyals.

Decision

- 1- Acceptance of the lawsuit procedurally.
- 2- Cancel the Defendant's decision regarding the tax differences resulting from the revaluation for the tax period in question in the amount of (34,472.00) riyals.



Appellate Committee for Tax Violations and Disputes
First Appeal Chamber for
Value Added Tax and Selective Goods Tax Violations and
Disputes

Decision No. VA-2024-171170

Case No. E-2023-171170

Keywords:

Excise Tax - Excise Tax Reassessment - Excise Tax Reassessment - Carbonated Water - Acceptance of the Authority's Appeal

Summary:

the Zakat, Tax and Customs Authority (ZTA) has appealed the decision of the First Chamber for the Adjudication of Excise Tax Violations and Disputes in Riyadh (ER-2022-208), as its appeal is based on the claim that carbonated water is subject to excise tax, as it is a carbonated or sparkling water subject to excise tax. the Appellate Committee found that the disputed product data stated that the product contains sparkling mineral water with natural lemon and lime flavors, and because the water is sparkling, it is carbonated, which determines that the product is subject to the concept contained in the definition of carbonated beverages contained in the Ministerial Decision. 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 (1) of Article (2) of [the Executive Regulations of the Excise Tax System as amended by Zakat, Tax and Customs Authority Board of Directors Decision No. \(23-1-13\) dated Rajab 15, 1444 AH](#)

Parties Defenses:

Appellant's (Authority's) Defenses

- 1- the Authority argued that carbonated water is water in which carbon dioxide gas is dissolved under pressure, a process that causes it to become effervescent and is called the carbonation process.



- 2- the Authority argued that carbonated natural carbonated water that has been flavored falls outside the scope of the exception in the definition of carbonated beverages and that carbonated water is carbonated or sparkling water subject to excise tax.

The Committee's response to the defenses:



Whereas, it is clear from Article 2 of the Executive Regulations of the Excise Goods Tax Law, paragraph (1/b) that the Excise Tax is imposed on carbonated beverages, and WHEREAS, paragraph (2) of the same article states that the definition of the excise goods mentioned in paragraph (1) of this article is subject to the decisions issued by the Ministerial Committee, and WHEREAS, the decision applicable to this subject in the minutes of the 106th meeting of the Financial and Economic Cooperation Committee defined carbonated drinks as "any beverage containing gas except carbonated water that has not been refined. it is considered a carbonated beverage any concentrates, powders, gels or extracts that can be converted into carbonated beverages." Since it is proven that the product data in dispute stipulates that the product contains sparkling mineral water with natural green lemon and lemon flavors, and because the water is sparkling, it is carbonated, and because of the presence of green lemon and lemon flavors, the water is flavored, which determines that the product is subject to the concept contained in the definition of carbonated drinks in the aforementioned ministerial decision, and the Appellate Chamber decides to accept the appeal.

for these reasons and after due deliberation, the Chamber unanimously decided as follows:

Decision

- 1- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, procedurally for submitting it within the legally specified period.
- 2- On the merits: annulment of the decision of the First Circuit of Excise Tax Violations and Disputes in Riyadh (ER-2022-208) and upholding the Appellant's decision.



Defenses Raised in Real Estate Tax Disputes and Committees' Response (Tax revaluation)



Appellate Committee for Tax Violations and Disputes
First Appeal Chamber for
Added Tax and Selective Goods Tax Violations and Disputes

Decision No. VA-2024-198602

Case No. R-2023-198602

Keywords:

Real Estate Transaction Tax-Reassessment of Tax-Reassessment of Real Estate Transaction Tax-
Acceptance of Taxpayer's Appeal

Summary:

the Taxpayer's objection to the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (No. VTR-2023-95166) to impose a real estate transaction tax on the transfer of ownership of a property. the Taxpayer claims that the transfer was a sham transaction to correct a title error resulting from a financing contract with a bank (...). the property was owned by his brother through the bank, and his other brother was a guarantor. due to a technical glitch in the notary system, the property was transferred from the guarantor's brother to the Taxpayer and then to the actual owner in one day. after reviewing the documents, the Appellate Committee found that the one-day ownership period indicates that there was no intention to realize a benefit, which indicates that the transaction was a sham. since the Commission did not provide any evidence to the contrary. This means; accepting the Taxpayer's appeal and annulment 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.](#)

Parties Defenses:

Appellant's ("Taxpayer's") Defenses

- 1- the Taxpayer argued that the real estate transaction (fictitious) was to address a mistake in ownership due to the financing contract with a bank (...).



The Committee's response to the defenses:



the Appellant objects to the decision of the Adjudication Circuit on the grounds that the real estate transaction was (fictitious) and was to address a mistake of ownership due to the financing contract with a bank (...) he explained that the property is owned by his brother (...) by bank (...), and (...) before the Saudi Central Bank directed banks and finance companies to correct the situation, the deed was in the name of Bank (...), so the bank transferred the ownership of the property to the owner and the joint guarantor, and to correct the deed, he indicated that there is a letter addressed to the bank stating that his brother guarantor has no objection to deleting him from the deed of the property and transferring it to the original owner (...).after reviewing the documents submitted by the Appellant in support of his claim of transferring the ownership of the subject property by way of gift to his brother in order to get out of an issue resulting from the emptying of the (...) Banking Company to the owner and the guarantor guarantor, and what is stated in the submitted contracts, the texts of which collectively indicate that Mr. (...) a guarantor is a guarantor and the owner is (...) this is supported by Mr. (...) the owner of the property and the debt account statement certified by the bank's seal, in which the number of installments and the total amount match what is stated in Deed No. (...) despite the Plaintiff's failure to provide evidence of a technical glitch in the notary's system that prevented the transfer of the property between his brothers, and his intervention in the matter to resolve the issue, when it appeared to the Circuit that the period between the transfer of the property from the guarantor (...) to the Appellant by deed no on (17/08/1442 AH) and its transfer from the Appellant to the owner (...) by Instrument No. (...) (18/08/1442 AH) is only one day and denies the intention of obtaining the benefit and ownership required to be considered a taxable real estate transaction, which is a conclusive evidence of the fictitiousness of the transaction, and since the period of ownership does not envisage any benefit to the Appellant, and the Adjudication Circuit cannot see the case before it separately from the original case No. (R-2022-94085) because the real estate transaction in the present case is closely related to the real estate transaction in the aforementioned case and is a result and complement to it, and because the subordinate takes the judgment of the dependent and does not stand alone....) for the Appellant (...) the Appellant (the Authority) did not provide any evidence in its reply memorandum to deny the validity of the Appellant's statement and merely maintained the validity of its assessment of the market value of the property even though it is not the subject of the dispute in the case, which leads the Appeals Chamber to accept the appeal.

for these reasons and after due deliberation, the Chamber unanimously decided as follows:



Decision

- 1- Acceptance of the appeal submitted by/ ... - National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Acceptance of the appeal submitted by/ ... - National ID No. (...), regarding the reassessment of the real estate transaction tax and the annulment of the decision of the Second Circuit for Adjudicating Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2023-95166), and the annulment of the Authority's decision.
- 3- Acceptance of the appeal submitted by/ ... - National ID No. (...), regarding the late payment penalty and annulment of the decision of the Second Circuit for adjudicating VAT violations and disputes in Riyadh (VTR-2023-95166), and annulment of the Authority's decision.



committee for adjudicating tax violations and disputes
the first department to adjudicate value tax violations and
disputes
addition in Dammam City

Decision No. VD -2024-228105

Case No. R-2023-228105

Keywords:

Real estate transaction tax-Revaluation of the tax-Revaluation of the real estate transaction-Sale of the property-Acceptance of the Plaintiff's claim

Summary:

the Taxpayer's objection to the General Authority for Zakat and Taxation's decision to reassess his property and impose a real estate transaction tax accordingly. his objection is that the sale took place years ago and he proved it with a sales paper and a bank transfer, while the authority reassessed the property based on Ministry of Justice data only, without relying on an official real estate appraisal. the committee found that the authority did not prove that the property was sold for less than market value, and that real estate appraisals must be done by certified appraisers according to the law, not based on average prices only. she also emphasized that a lower selling price may be for legitimate reasons, and does not imply tax evasion. this means accepting the Plaintiff's claim and annulment of the Authority's decision to reassess and its consequences.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Article (3) of [the Executive Regulations of the Real Estate Transaction Tax, amended by Ministerial Decision No. \(1445-88-1\) dated 02 Ramadan 1445 A.H.](#)



Parties Defenses:

Plaintiff's (Taxpayer's) Defenses

- 1- the Plaintiff argued that the sale took place in 1436 AH, for an amount of SAR 50,000, under a paper written between the seller and the buyer, and under a money order, which is land outside the urban area, and until now no construction has been allowed and no municipal permits.

Defenses of the defendant (the authority)

- 1- The Authority argued that the market value of the property is estimated according to international standards of valuation, based on Ministry of Justice data and excluding anomalous values. she noted that she relies on the market method, which compares the assessed property to similar properties.
- 2- the Authority argued that the property was sold for SAR 50,000, which is lower than the average prices in the same scheme, necessitating a reassessment.

The Committee's response to the defenses:

Whereas the Plaintiff maintained that the sale took place several years ago and presented a bill of sale and a bank transfer. Whereas it became clear to the court that the Defendant did not attach any evidence proving that the property was sold for less than its market value, and merely compared it with the Ministry of Justice's data, which is contrary to the established practice of the administrative courts in the Court of Appeal, A number of decisions were revoked in accordance with the assessment of the members of the Chamber of Commerce and upheld by the Court of Appeal. Furthermore, the deeds issued by the notary public do not have individual and conclusive significance in proving the actual value of the property, as a person may be forced to sell his land at a low price, or someone who wishes to buy it may come and sell it at an inflated price. Furthermore, the Defendant did not provide proof of the sales on which it relied in order for the payment to be accepted. This is because if evidence is subject to possibility, it cannot be used as a basis for reasoning. The possibility here is that the average price does not necessarily mean that the property being assessed for tax purposes is worth the same as the average price for the same plan, or more or less, and cannot be used as a basis for the market value of a specific property. This supports the existence of a body of certified real estate appraisers responsible for granting real estate appraisal licences and establishing fair regulatory controls for real estate appraisal, including physically visiting the property and conducting a visual inspection inside and outside the property, and taking into account several considerations for the appraisal, such as the location and characteristics of the property, the secondary and main roads leading to the property, ease of access, public services, and so on. This is not affected by the Authority's reference to the decision of the Court of Appeal upholding its decision, Given the reality of the valuation process, the Court finds that it was conducted in a manner that does not reflect the nature of the property being valued correctly and cannot be relied upon, as the use of average prices excluding outliers



cannot be considered valid, This is due to several considerations governing the nature of real estate sales, which the Authority did not take into account when re-evaluating, but merely took the average prices, without basing the revaluation on a real estate appraisal by a certified real estate appraiser in accordance with the provisions of the Certified Appraisers Regulation issued by Royal Decree No. (M/43) dated 09/07/1433 AH. in addition, by extrapolating the purpose and objective of the regulator to verify the correct calculation of the tax due, the purpose is to prevent tax evasion based on the existence of an agreement between the disposer and the disposed to sell at a higher value than the value contained in the deed, in order to evade the payment of tax, which makes it clear to the Circuit that it is necessary for the Authority, with its multiple powers, to verify the existence of tax evasion it is incumbent upon the Authority, with its multiple powers, to verify the existence of tax evasion, and if it exists, to prove it and then reassess and impose the tax by reassessing the value of the property according to an assessment issued by a certified real estate appraiser, and accordingly impose fines, and since the Authority's action did not achieve the aforementioned, as it reassessed the value of the property this is not prejudiced by the fact that the regulation provides for this right for the Authority, as it is clear to the Circuit that this right is not in isolation from reality and from the purpose of the regulation in preventing tax evasion, and this right is invalid because it violates the principle of hierarchy of the legal rule, which stipulates that the lower legislation does not violate the higher legislation, as the right exercised by the Authority under the Executive Regulations of the Real Estate Transaction Tax is contrary to a higher level of legislation, which is the Certified Valuers Law, Article 3 of which explicitly stipulates that the Authority has the right to reassess the value of the property. "No natural or legal person shall have the right to practice the profession of valuation in any branch of valuation unless he is licensed to practice the profession in the same branch." this explicit provision cannot be interpreted or infringed upon by a regulation that is considered inferior. in addition, what the regulation stipulates about selling according to fair value does not achieve reassurance for those dealing in real estate sales, due to the nature of the high amounts of real estate sales, and the difficulty of selling them at some times, coinciding with the need of some individuals for cash urgently, which forces them to sell them at a value lower than the value at which they intended to sell them, in addition to other considerations between the seller and the buyer that result in a reduction in the sale price, and this reduction cannot be considered as tax evasion the existence of other considerations between the seller and the buyer that result in a reduction in the sale price, and this reduction cannot be considered tax evasion in the absence of proof that the seller received an additional amount than the amount declared, and therefore in the absence of proof of tax evasion by the disposer; this entails that the Authority does not have the right to reassess the property subject to disposal. in the event of a real estate dispute before it, the courts administratively affiliated with the Ministry of Justice, including the general courts, do not use the data issued by the notaries affiliated with the Ministry of Justice, but rather assign a certified real estate appraiser to perform the appraisal, and this procedure is consistent with the statutory provisions that granted certified appraisers this right without any other natural or legal person, and therefore, this confirms the incorrectness of the Authority's action by conducting the appraisal according to the data extracted from the Ministry of Justice, and accordingly, according to what was stated, the Circuit decides to accept the Plaintiff's claim in substance, and



Decision

Accepting the Plaintiff's claim and annulment of the Authority's decision to reassess and its consequences.



Applicability of Real Estate Transaction Tax



committee for adjudicating tax violations and disputes
the first department to adjudicate value tax violations and
disputes
addition in Dammam City

Decision No. VD-2024-205508

Case No. R-2023-205508

Keywords:

Real Estate Disposition Tax - Real Estate Disposition Tax - Real Estate Disposition Tax - Mutual Funds -
Revocation of the Authority's Decision

Summary:

the Plaintiff objected to the Zakat, Tax and Customs Authority's decision to reassess and refuse to exclude the real estate transaction from the application of the real estate transaction tax and the imposition of the tax, as a closed private real estate investment fund was established and the Plaintiff contributed to this fund with the property in question as an in-kind share. the dispute lies in the subjection of the real estate transaction to the real estate transaction tax because the exception does not apply to the property, as leasing is one of the objectives of the fund according to the Authority, while the Plaintiff argued that the main purpose of establishing the fund is to develop for the purpose of selling real estate and exiting with the best return for the shareholders, and the fund manager may resort to leasing the property during the term of the fund in order to attract the final buyer and achieve the best return for the shareholders. the Chamber found that the Fund and its objectives are in accordance with the exception in the Regulation, resulting in the annulment of the Respondent's decision.

Document:

- [Zakat, Tax and Customs Committees Regulations issued by Royal Decree No. \(25711\) dated 08/04/1445 AH.](#)
- Paragraph (15) of Article (3) of [the Executive Regulations of the Real Estate Transaction Tax as amended by Ministerial Decision No. \(1445-88-1\) dated Ramadan 02, 1445 AH](#)



Parties Defenses:

Plaintiff's (Taxpayer's) Defenses

- 1- the Plaintiff argued that the primary purpose of the real estate investment fund is to sell, not rent, based on the text of Article 3 of the Executive Regulations of the Real Estate Transaction Tax, which excludes funds that are not intended for renting from the tax. he emphasizes that the leasing option was not a core part of the fund's activity, but a contingency only when necessary, and the fund's financial statements did not record any income from leasing.

Defenses of the defendant (the authority)

- 1- the Authority argued that the fund has stipulated in its terms and conditions the possibility of leasing as part of its objectives, which excludes it from the scope of the exception contained in the same article. it is based on the business plan that included the option of leasing during a specific period of the project's life, emphasizing that the mere existence of a possible intention to lease forfeits the fund's right to benefit from the tax exclusion. it emphasizes that the tax was levied based on the fair market value of the property, in accordance with the applicable laws and regulations.

The Committee's response to the defenses:

After reviewing the case file and the documents it contains, it is clear that the dispute is about subjecting the real estate transaction to the real estate transaction tax, because the exception does not apply to the real estate, as leasing is one of the objectives of the fund according to the Authority, while the Plaintiff argued that the main objective of establishing the fund is to develop for the purpose of selling real estate and exiting with the best return for the shareholders, and the fund manager may resort to leasing the property during the term of the fund for the purpose of attracting the final buyer and achieving the best return the fund manager may resort to leasing the property during the term of the fund for the purpose of attracting the final buyer and achieving the best return for the shareholders, and looking at paragraph (15) of Article (3) of the Real Estate Dispositions Regulation, it is clear that this exception relates to the disposal of the property by providing it as a contribution in kind to the capital of a real estate investment fund, provided that the leasing of real estate is not the goal of the fund's establishment the terms and conditions of the disputed real estate fund show that its main purpose is to sell real estate with the best return for the shareholders, and to achieve this purpose, the fund manager may resort to leasing the property during the term of the fund in order to attract the final buyer and achieve the best return for the shareholders, and therefore it appears that the main objective of the fund according to the is to sell real estate and exit from it with the best return, and the issue of leasing real estate is complementary and supplementary to the original, and the



purpose and motivation thereof is to achieve the main objective of the fund represented in the intention to sell, which proves the incorrectness of the Authority's approach in subjecting the property to real estate transaction tax, based on the deficit of paragraph (15) of Article (3) of the Real Estate Regulation, which explicitly states it is clear that the Authority has expanded the interpretation and application of the provisions of paragraph (15) of the aforementioned article by applying them without the main objective of leasing real estate, since the original purpose of establishing the fund is to sell real estate, and in order to achieve this principle, the conditions stipulate that the fund must be sold in order to achieve this principle, the terms and conditions of the disputed real estate fund stipulated that the fund manager was given the authority to lease during the fund's term, which is four years, in order to entice the final buyer, in order to achieve the original goal and purpose of establishing the fund, which is the intention to sell, and what is stated in the deficit of paragraph (15) is not consistent with the fund's term, which is limited to four years therefore, given the four-year duration of the fund, it is not possible to consider leasing for a period of one year in accordance with paragraph (d) of Article (6) of the terms and conditions of the real estate fund, as leasing is only a means to achieve the original objective and purpose of establishing the fund, which is the intention to sell as leasing is only a means to encourage the sale of the property, and the fund manager may resort to it to achieve the main purpose of establishing the fund, which is to sell, which shows the incorrectness of the Authority's approach in considering the leasing of real estate as an offshoot of the main purpose of the fund, and consequently the incorrectness of subjecting the property to the real estate transaction tax.

Moreover, the purpose and motivation of the regulator in excluding the scope of the real estate transaction tax is to encourage and stimulate the establishment and establishment of real estate investment funds, due to its important economic and developmental effects. Therefore, the Authority's tendency to expand the interpretation of the text of paragraph (15) of Article (3) of the Real Estate Transactions Regulation is contrary to what is stipulated in the deficit of the said paragraph, according to the reasons stated, which leads the Circuit to accept the Plaintiff company's objection and cancel the Defendant's decision on subjecting the real estate transaction to taxation.

Based on the above and in accordance with the provisions of the Unified Agreement, the VAT Law and its Executive Regulations, and the working rules of the committees for adjudicating tax violations and disputes, the Circuit decided after deliberation unanimously:

Decision

1-Annulment of the Defendant's decision to subject the real estate transaction to the real estate transaction tax.

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 to appeal it within (30) thirty days from the day following the date specified for its delivery, and if no objection is filed, it shall become final and enforceable after the expiration of this period.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

