



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

# Compendium of Principles Issed by the Decisions of the Tax Appeal Committees for the Year 2024



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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## Introduction

All praise is due to Allah, Lord of the Worlds, and may peace and blessings be upon the most honorable of Messengers and the Seal of the Prophets, our Prophet Muhammad, and upon his family, companions, and followers:

It goes without saying that the efforts exerted by the courts and judicial committees throughout the Kingdom of Saudi Arabia, and the rulings and decisions they issue, collectively constitute an invaluable jurisprudential and legal asset—one that warrants due care, preservation, and attention. Amid the commercial and industrial transformation currently witnessed in the Kingdom of Saudi Arabia under Saudi Vision 2030, many complex and novel tax-related issues have emerged. In alignment with its commitment to social responsibility, the General Secretariat of the Zakat, Tax, and Customs Committees has sought to establish a solid reference framework for the benefit of committee members, taxpayers, and interested parties. Among these efforts is the publication of the “Compendium of Principles Derived from the Decisions of the Tax Appeal Committees for the Year 2024”, which is intended to effectively support the resolution of tax disputes. This compendium contributes to reducing the length of proceedings by clarifying the established positions and principles adopted by the appellate committees. Such clarity is expected to shorten litigation timelines, ease the burden on adjudicating bodies, and reinforce the principle of transparency pursued by the General Secretariat. It also offers practical legal insights to entities engaged in Sharia and legal research, especially academic and training institutions.

The General Secretariat has been keen to consolidate the principles consistently adopted by the Tax Appeal Committees to achieve its objectives of streamlining legal efforts and enhancing awareness of judicial precedents. This, in turn, may reduce the number of cases filed before the committees by enabling litigants to anticipate the committee’s likely position on the subject matter of their intended claims.

We ask Allah Almighty to make this work sincerely for His noble countenance, and to bless these efforts and guide all endeavors toward that which is beneficial and righteous. Indeed, He is Most Generous and Kind.



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

Praise be to Allah alone:

Based on the vision and values of the General Secretariat of the Zakat, Tax, and Customs Committees—an entity committed to excellence in resolving zakat, tax, and customs disputes through innovative and effective approaches, while promoting transparency, impartiality, and fostering collaboration among the stakeholders of the zakat, tax, and customs ecosystem—the Secretariat plays an active role in enhancing the quality of legal adjudication. These efforts contribute to the realization of Saudi Vision 2030 objectives by enabling swift justice, upholding the principles of transparency and innovation, and supporting the Committees in efficiently resolving the disputes brought before them. This support extends to all stages of the dispute resolution process by conducting legal studies and research, assisting taxpayers through clarifying regulations, decisions, and judicial precedents, and ensuring their periodic updates. A key initiative in this regard is the project titled: “Compendium of Principles Derived from the Decisions of the Tax Appeal Committees for the Year 2024”.

The General Secretariat places special importance on the decisions issued by the Tax Appeal Committees and the principles they contain, as these reflect the established and reasoned judicial interpretations. These principles are characterized by their adaptability and continued evolution in response to changing circumstances, given that their primary purpose is to provide resolution in disputes presented before the Committees. Familiarity with such principles can reduce legal conflicts and disputes, serving as a preventive tool and a safeguard for parties in their dealings, and assisting them in presenting their positions before the Committees.

Given the significance of these principles, it is imperative to extract and make them publicly available—to uphold the principle of transparency, showcase the ongoing judicial efforts, and enrich the legal and academic fields. These principles will serve as a valuable resource for scholars, practitioners, and research centers alike.

The Secretariat’s endeavor to publish these principles reaffirms its commitment to advancing the level of justice in a manner befitting its role, made possible by the generous support and wise



directives of the Kingdom's leadership, which continues to provide unwavering backing to the legislative and regulatory environment.

In conclusion, I extend my sincere gratitude to the Custodian of the Two Holy Mosques, King Salman bin Abdulaziz Al Saud, and to His Royal Highness Crown Prince Mohammed bin Salman bin Abdulaziz, Prime Minister—may Allah protect them—for their continuous patronage and support of the Kingdom's judicial and legal activities across all fields. I also express my deep appreciation to the personnel of the General Secretariat for their outstanding efforts in producing this publication, which I hope will achieve its intended objectives and serve as a meaningful contribution to the legal domain.

Secretary-General

Abdullah bin Abdulrahman Alsuhaibani





## Methodology

The Secretariat was keen to select the established principles among the committees, which have a general character that applies to many issues and not just opinions related to a specific case, and it was not a legislative text. Given the various facts and circumstances of tax claims, they have been organized and classified by topics.

The project entailed a careful plan and methodology to bring it out in an easy and approachable manner. It has been divided into several stages as follows:

- A thorough inventory of the final decisions of the Appellate Committee.
- Distinguishing what is stated in the mentioned principles as a narrative from the parties to the lawsuit, and the principles that express the committee's opinion.
- Extracting the opinions of the committee are often found in the reasons for the decision, which have a general nature, and express a rule that applies to similar cases.
- Registering the decision number of the appeal in which the principle was mentioned, even if it is repeated in multiple decisions.
- Merging the identical principles in their wording into one principle while mentioning the decisions that were included therein.
- Merging the principles that are identical in meaning and similar formulation into one principle, while choosing the best, clearest, and broadest formulations, and merging the formulations in occasional instances.
- Tabulating principles by topics.
- Numbering the principles sequentially.
- Not publishing any principle that is currently established in the applicable regulations and new circulars, unless it would be beneficial to do so.
- To facilitate understanding of the appellate decision, the decision of the Appeals Committee from which the principle was extracted has been provided, by placing the appellate committee's decision on the analytical template, which highlighted the document of the decision, the facts, the grounds, and the text of the decision.
- If there is more than one decision through which the principle was extracted, it is sufficient to include one decision, indicating the number and details of similar decisions if they exist.
- Ensuring the deletion of all data indicating the parties to the lawsuit or other parties without affecting the Decision.



# **Principles Issued by the Decisions of the Tax Appeal Committees (Income Tax) Taxable Income**



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR-2024-170641

Case No. I-2023-170641

**Principle No. 1**

- If the recharged expenses at cost represent labor leasing to related internal or external parties, and no profit has been realized therefrom, the Authority is entitled to reallocate the revenue in related-party transactions to reflect the revenue that would have been generated in a transaction with independent parties.

**Facts**

the appeal filed on 18/01/2023 AD from/... National ID number (...) as an agent for the Appellant company under Agency No. (...), and the appeal filed on 22/01/2023 AD from the Zakat, Tax and Customs Authority (ZTA), against the decision of the First Panel for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IFR-2022-2273) issued in Case No. (I-2021-74097) related to the 2015 AD tax assessment, in the case filed by the Taxpayer against the ZTA, in which the decision of the Adjudicating Panel ruled as follows:

First: the decision of the Defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Related to the clause of profits of expenses recharged to the affiliates of the subject matter of the lawsuit.

Second: proof of termination of plaintiff's... (unique number...) With the Defendant/Zakat, Tax and Customs Authority, related to the clause of subcontractors and support services of the subject matter of the lawsuit, by the Defendant's acceptance of the plaintiff's requests.

Third: modification of the Defendant/Zakat, Tax and Customs Authority's action against the plaintiff/company. (unique number...) relating to the clause of late payment penalties at issue, as set out in the Reasons.

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

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



With regard to the Taxpayer's appeal of the Adjudication Panel's decision, it submitted an appeal statement that was reviewed by the Panel and included what happened that the Taxpayer is demanding to accept its appeal and overturn the Adjudication Panel's decision regarding the clause (import profits), the clause (social insurance), the clause (subcontractors and support services that are not supported by documents), the clause (unrealized currency exchange gains) and the clause (delay fine).

With regard to the Authority's appeal against the decision of the Adjudication Panel, its appeal can be made with regard to the clause (reloaded expenses profits) that it added the clause of (5,247,964) riyals to the net profit, which is represented in estimated profits of (40%) of the reloaded expenses to non-affiliated parties charged with general and administrative expenses (leasing labor to external and internal parties) because these assessment ed parties are outside the Kingdom and were included in other revenues in the same amount (excluding the impact). After studying and reviewing, the Authority confirms the validity of its procedure, as the service provided to non-resident related parties in the Kingdom at cost without making any profits and not according to the prices used between independent parties based on Article (63/ c) of the Income Tax Law. The Authority recalculated these operations and calculated profits on them at a rate of (40%), and therefore the Taxpayer's objection was rejected, adding that the Panel issued the decision subject of appeal cancelled With regard to the clause (delay fine), the Authority clarifies that the decision of the Panel is consistent with the principle of the Authority in calculating the fine on the clauses rejected by the plaintiff and the conclusion of the Panel that the delay fine is originally assessment ed and lapses with the fall of its origin, and since the decision to amend the fine is assessment ed to the clause subject to appeal, the Authority confirms the validity of its procedure, and therefore the Authority adheres to the validity and safety of its procedure and requests the reversal of the decision of the Appealed Clauses Adjudication Panel for the above reasons.

on Monday, February 12, 2024 AD , the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Panel decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Panel found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that



the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, and as for the Authority's appeal regarding the clause (reloaded expenses profits), and where its appeal is that it added the clause of (5,247,964) riyals to the net profit, which is represented in estimated profits of (40%) of the reloaded expenses to non-affiliated parties charged to general and administrative expenses (leasing labor to external and internal assessment ed parties) because these related parties are outside the Kingdom and have been included in other revenues for the same amount. 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 Authority 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 Panel to accept the Authority's appeal and cancel the decision of the Adjudication Panel on this clause.

Whereas, with regard to the Authority's appeal on the clause (delay fine), and where its appeal lies that the decision of the Panel is consistent with the principle of the Authority in calculating the fine on the clauses rejected by the Plaintiff and the conclusion of the Panel that the delay fine is originally assessment ed and lapses with the fall of its original, and since the decision to amend the fine is assessment ed to the clause under appeal, the Authority confirms the validity of its procedure. 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 11/06/1425 AH, 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 ." Based on the foregoing, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, which leads the Panel to partially accept the Authority's appeal and amend the decision of the Adjudication Panel in this clause by imposing the delay fine on the clauses in which the Taxpayer's appeal was rejected and the Authority's appeal is accepted.

regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the Panel's adoption of the grounds for the contested decision without adding to them, since it deemed that those grounds were sufficient and did not require the addition of any new information, because in upholding it on the grounds set out in those grounds, it confirmed that it did not find in the objections raised against the decision anything that warranted a response beyond what was contained in those grounds. That being the case, and since it has been established that the decision under appeal in the dispute concerning the contested clauses is consistent with the valid grounds on which it is based and sufficient to support its ruling, as the Panel that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This Panel did not find anything that would warrant correction or comment in light of the arguments presented before it. This Panel therefore rejects the appeal and upholds the decision of the Panel of first instance in its entirety with regard to the remaining clauses of the claim, based on the grounds given.

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

#### Decision:

1- Accepting the appeal from the Taxpayer / ...Company procedurally. , commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first Panel adjudicating violations and disputes of income tax in the city of Riyadh with number (IFR-2022-2273) issued in case number (I-2021-74097) related to the tax assessment for the year 2015 AD.

2- On the merits:

a- Accepting the Authority's appeal and canceling the decision of the Adjudication Panel with regard to the clause (Recharged Dividends).

b- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (import profits).

c- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the (social insurance) clause.

d. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (subcontractors and support services that are not documented).



e- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (unrealized currency exchange gains).

f- Accepting the Authority's appeal in part, amending the decision of the Adjudication Panel, and rejecting the Taxpayer's appeal with regard to the delay fine clause.

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 Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR -2024-192732

Case No. I-2023-192732

**Principle No. 2**

- The burden of proof lies with the Authority regarding the inaccuracy of the taxpayer's calculation of depreciation expense, particularly when the Authority adjusts the modified net profit by reviewing depreciation differences without providing evidence that the taxpayer erred in calculating depreciation variances based on the submitted Zakat return, or without substantiating its reassessment through supporting grounds for modifying depreciation rates.

**Facts**

The submitted appeal was heard on: 25/04/2023 AD , of/..., a national identity (...), in its capacity as the legal representative of the Appellant company under the license to defend the private legal personality No. (...), on the decision of the Third Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-6682) issued in Case No. (I-2021-50132) related to the tax assessment for the year 2012 AD, in the lawsuit filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following:

First: Procedurally:

- (a) Notwithstanding the objection regarding the bank interest clause and the delay fine clause.
- (b) Accepting the objection to the remaining clauses.

Secondly: On the merits:

The Plaintiff/ Company refused... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority.

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

The Taxpayer objects to the decision of the Adjudication Panel in question, it claims that with regard to the clause (adjustment of net profits with depreciation differences overloaded), the Taxpayer explained that it is established that the adjustment of depreciation differences cannot be overloaded by an amount of (6,754,222) million riyals greater than the total depreciation expense charged to the income statement by





an amount of (1,401,917) million riyals with a difference of more than four million, because the depreciation differences are the difference between the depreciation charged to the income statement and the depreciation reached by the Authority under the depreciation schedule prepared in accordance with the system and circulars, so it is impossible that the difference is greater than the full amount of depreciation charged to the income statement, and the method by which the amount of depreciation for 2012 AD was calculated at an amount of (6,754.22) million riyals is incompatible with the tax system and accounting standards applied in the Kingdom, as the Authority committed a mistake when it reached that the amount of depreciation for 2012 AD is negative, since this is negative. The clause was rejected because we did not submit the depreciation schedule or the financial statements within the declaration, as stated in the decision "because the plaintiff did not submit the depreciation schedule within the declaration or the financial statements for the year in question". This is contrary to the fact that we submitted the documents referred to, in addition to the fact that this payment was not paid by the Defendant and was not approved by the plaintiff. Rather, the Authority paid by approving the method of calculating this clause on the depreciation schedule and matching it with the lists submitted by us in its response memorandum. "The Authority clarifies that it reviewed the depreciation schedule and matched it with the financial statements, from which the declarations were amended." Moreover, the decision contradicted some of it in the previous line of what was mentioned, "It turns out that the plaintiff attached a statement of depreciation expenses from the general ledger and it was found that its classification of fixed assets came in accordance with Article (17) of the tax system." The objectionable decision also relied on the correctness of the Authority's calculation without clarification of the method of calculation and identification of supporting documents. With regard to the Taxpayer's appeal regarding the clause (not deducting 25% of the adjusted profits to cover previous losses), the Taxpayer stated that based on paragraph (1) of Article (11) of the Executive Regulations of the Income Tax Law, the Panel recognized our right to deduct the carried forward losses not exceeding (25%) "Based on the above and in accordance with the above provisions, the plaintiff has the right to deduct the carried forward losses from the taxable profit not exceeding what is deducted (25%) from the annual profit in accordance with the Taxpayer's declaration." Then it followed by rejecting our objection: 'Upon reviewing the plaintiff's declaration, it appears that it declared a loss in its declarations submitted to the Authority, and therefore, applying the text of paragraph (1) of Article (11) of the Executive Regulations of the Income Tax Law, it is not entitled to demand a reduction of the adjusted profit under the Authority's assessment by carried-forward losses for the disputed years.' Whereas the decision was flawed by an error in reasoning by relying on the fact that the submitted declaration declared a loss, we clarify to the honorable Panel that the deduction of carried-forward losses is contingent upon the tax base and not upon the profit or loss realized in the declaration. Although the declaration declared a loss, the tax base established amounts due to the Authority, where the tax base is (426,037) riyals and the income tax rate of (20%) of the base value is (85,207) riyals. Because any amendment to the Taxpayer's declaration by the Authority or tax committees is a declaration for the Taxpayer and not for others, and since this clause is among the subsidiary clauses



with a fixed percentage (25%) and variable value, it becomes mandatory that any change to the declaration be followed by an adjustment in the deduction of carried-forward losses. Consequently, the committee's decision must be overturned and (25%) must be deducted on any amendment to the declaration. Then the Panel based its decision on the assumption that all losses from years prior to 2012 AD are disputed losses. We have attached and shown that the tax assessment for 2010 AD is not disputed and was prepared and adjusted by the Authority with a loss of (13,854,591) riyals, and accordingly we are entitled to the deduction. Therefore, the Taxpayer demands the reversal of the adjudication Panel's decision under appeal for the aforementioned reasons.

On Thursday, on: 27/06/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

#### Grounds:

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

On the merits, and since it is with regard to the Taxpayer's appeal on the clause (adjustment of net profits with depreciation differences loaded with increase), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel towards this clause, as it claims that the method of calculating the amount of depreciation for the year in dispute is not in accordance with the tax system nor with the accounting standards applied in the Kingdom. Based on Article (17) of the Income Tax Law, which stipulates that: (b) Depreciable assets are classified into groups and depreciation rates as follows: 1-Fixed buildings: five percent (5%). " 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 its Zakat declaration, 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 its 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 Panel to accept the Taxpayer's appeal and cancel the decision of the Adjudication Panel regarding this clause.

Regarding the Taxpayer's appeal regarding the clause (not deducting 25% of the adjusted profits to cover previous losses), where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel towards this clause, as it claims that the deduction of the carried forward loss depends on the tax base and not on the profit or loss achieved by the declaration. Based on paragraphs (a) and (b) of Article (21) of the Income Tax Law relating to the posting of losses, which stipulates the following: (a) Net operating losses may be carried forward to the tax year following the year in which the loss was realized. The loss carried forward from the tax base for the following tax years shall be deducted until the full accumulated loss is recovered. The regulation shall specify the maximum limits allowed to be deducted annually. B- Net operating loss is the deductions allowed under this chapter and in excess of the taxable income in the tax year ", and based on paragraph (1) of Article (11) of the Executive Regulations of the Income Tax Law related to the carry-over of losses, which stipulates the following: "The Taxpayer has the right to carry forward the adjusted operating losses, according to the controls of the system and these regulations for tax purposes, to the tax years following the year of loss by reducing the profits of the following years until the full accumulated operating losses are recovered, without being limited to a specific period, provided that the maximum allowed deduction in each tax year does not exceed (25%) of the annual profit in accordance with the Taxpayer's declaration." 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 declaration, and a review of the Taxpayer's declaration shows that in its declaration submitted to the Authority, it 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 Panel to accept the Taxpayer's appeal and annul the decision of the Adjudication Panel regarding this clause.

with regard to the Taxpayer's appeal on the remaining clauses at issue in the case, the Panel has no fault in adopting the reasons for the decision under appeal without adding to them, if it determines that these

reasons make it unnecessary to introduce anything new, since in upholding the decision with the content of these reasons, it is clear that the Panel did not find any objections to the decision that merit a response beyond what is contained in these reasons; whereas it is established that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Panel scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Panel did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Panel concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Panel with respect to the rest of the clauses in the case, based on the grounds for the decision.

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

### Decision:

1- Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), unique number (...) Against the decision of the third Panel 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 tax assessment for the year 2012 AD.

2- On the merits:

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

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

c- Rejecting the Taxpayer's appeal and upholding the decision of the Adjucation Panel regarding the (rewards) clause.

d- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (adjusting net profits with overloaded depreciation differences).

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

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



Appellate Committee for Tax Violations and Disputes  
First Appellate Panel for Income Tax Violations and  
Disputes in Riyadh

Decision No. IR -2024-176508

Case No. I-2023-176508

Principle No. 3

- The taxpayer's share in the joint venture that must be added to their tax base is their share of the joint venture's adjusted profit.

Facts

The appeal filed on 07/02/2023 AD by the Zakat, Tax and Customs Authority against the decision of the First Panel to adjudicate 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 was considered in the lawsuit filed by the Appellee against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel stipulated the following:

First: Accepting the plaintiff's objection to the clause of adding other revenues from (...).

Second: Accepting the plaintiff's objection to the clause of adding a net profit for the company (...).

Third: Accepting the plaintiff's objection to the clause of adding other revenues from (...).

Fourth: Accept the Plaintiff's objection to the exclusion of costs clause.

fifth: Accept the Plaintiff's objection to the exclusion clause of the employee's share in the Provident and Social Security Fund.

sixth: Accept the plaintiff's objection to the delay fine clause.

Whereas this decision was not accepted by the Appellant (Zakat, Tax and Customs Authority), I submitted an appeal list that was reviewed by the Panel, where the Authority's appeal lies on the clause (adding other revenues... For the year 2015 AD), the Authority clarifies that the amount of the dispute is a difference in revenues between the declarations submitted for joint ventures and what was declared in the declarations of the Taxpayer and was added to the net profit of the Taxpayer. The Authority clarified the difference through the appendix appeal list. The Authority states, based on the final report, that the Taxpayer is partially cooperative and has provided the examination team with some of the necessary documents for the purpose of examination. In addition, the Taxpayer did not submit tax returns and audited and approved financial statements to the Authority. With regard to the clause (adding the net profit of the company (...)) 5

of 2015 AD), the Authority clarifies that the amount of the dispute relates to the difference between the Taxpayer's share of the net profit of the project ... (5) contained in the joint venture declaration amounting to (2,098,090) riyals and the Taxpayer declaration amounting to (301,310) riyals. The Authority clarified the differences through the appendix appeal list. The Authority reports, based on the final report, that the Taxpayer is partially cooperative and has provided the examination team with some of the necessary documents for the purpose of examination. In addition, the Taxpayer did not submit tax returns and audited and approved financial statements to the Authority. With regard to the clause (delay fine for 2015), the Authority clarifies that the delay fine was imposed on the unpaid tax differences on the regular date based on Article No. (77), paragraph (a) of the Income Tax Law, which stipulates : (In addition to the fines mentioned in Article 76 of this Law and in paragraph (b) of this Article , the Taxpayer shall pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay , and this includes the delay in the payment of the tax required to be withheld and the accelerated payments calculated from the date the tax is due to the date of payment), as well as based on Article (68) Paragraph (1/b) of the Executive Regulations of the Income Tax Law, which stipulates: (To the fines mentioned in the previous Article (1%) of the unpaid tax for every thirty days shall be added in the following cases, including what is stated in the paragraph: - b- Delay in the payment of the tax due under the assessment of the interest) , which is calculated after the legal date of submitting the declaration and not from the date of assessment . The Authority's action was supported by Appeal Resolution No. (1774) of 1438 AH , and the Authority's action was also supported by the final judgment issued in Case No. (5245/1/S ) of 1438 AH issued by the Nineteenth Administrative Panel of the Administrative Court in Riyadh and supported by the Second Administrative Panel of the Administrative Court of Appeal in Riyadh by Judgement No. (3404/S) of 1439 AH, and it demands the acceptance of its appeal and the reversal of the decision of the Adjudication Panel.

on Thursday, 16/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, and the papers and documents in the case file, and after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Zakat, Tax and Customs Authority, the Panel found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request



is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, and with regard to the Authority's appeal on the clause (adding other revenues from ... For the year 2015 AD), and where the Authority's appeal lies in the mismatch of the Taxpayer's tax return, and based on paragraph (5) of Article (17) of the Regulations, which stipulates that: (The obligations related to the partnership shall apply to the consortium of companies (...)) this includes registration with the Authority, filing a declaration 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 tax 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 Panel found that the dispute is about the mismatch of the Taxpayer's tax return (branch of the company ...) with the project (...) which amounts to (55%), and it was found that the Authority applied the same treatment to the first clause. Upon reviewing the Taxpayer's tax return and the project declaration, differences were found and the Taxpayer did not provide any justifications for those differences. 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 Panel's review of the Taxpayer's reply list in the Adjudication stage dated (27/01/2022 AD), which is clear from its response on its awareness of the basis for the Authority's assessment when it stated its 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 Panel to accept the appeal and cancel the decision of the Adjudication Panel with regard to this clause.

With regard to the Authority's appeal on the clause (adding the net profit of the company ... For the year 2015 AD), and where the Authority's appeal lies in its calculation of the Taxpayer's share of the adjusted net profit, and based on paragraph No. (3) of Article (57) of the Executive Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/6/1425 AH, which stipulated the following: "The burden of proving the validity of the revenues, expenses and any other data stated in the Taxpayer's declaration shall fall on the Taxpayer. In the event that the Taxpayer is unable to prove the validity of what



is stated in its declaration, the Panel may, in addition to applying any other statutory sanctions, not permit the expenditure whose validity is not proven by the Taxpayer or make an estimated assessment according to the point of view of the Panel in the light of the circumstances and facts related to the case and the information available to the Panel." Based on the above, and by reviewing the documents and attachments, it became clear to the Panel from the Authority's Appeal Regulation that the reason for the difference between the Taxpayer's share of the net profit of the project (...) In the joint venture declaration amounting to (2,098,090) riyals, and in the Taxpayer's declaration amounting to (301,310) riyals, the Taxpayer calculates its share of the net profit, while the Authority calculates its share of the adjusted net profit, and since the Taxpayer's share of the joint venture to be added to its tax base is its share of the adjusted profit of the joint venture, which shows the validity of the Authority's procedure, which ends with the acceptance of the Authority's appeal and the cancellation of the decision of the Adjudication Panel in this clause.

With regard to the Authority's appeal on the clause (delay fine for 2015), where the Authority's appeal lies in its imposition of a delay fine on unpaid tax differences on the regular date, and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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, which includes delays in paying the tax required for withholding and accelerated payments, calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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", and based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law, which stipulates that "Unpaid tax means the difference between what the Taxpayer paid on the regular date, and the tax payable under the provisions of the Law. It includes the amendments made by the Authority, which have become final as stated in paragraph (2) of Article Seventy-one of these Regulations, including the cases objected to, where the fine is calculated from the date of the regular date of submission of the declaration and payment. Based on the foregoing, and the Panel's reference to the case file and the defenses and documents contained therein, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 a documentary dispute, and did not arise from a significant difference in the interpretation of the statutory texts, which ends with the Panel partially accepting the Authority's appeal, and amending the decision of the Panel of Settlement in this clause by imposing a delay fine on For the year 2015 AD) , and an clause(adding the net profit of a company ... for the year 2015 AD) in which the Authority's appeal was accepted and the decision of the Adjudication Panel was canceled.





Regarding the Authority's appeal on the clause (excluding recharged costs for the year 2015 AD), and where Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject matter of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Panel that the Authority requested to withdraw its appeal in accordance with what was stated in the letter issued by the Authority in the supplementary note, which included: "The Authority wishes to inform the Honorable Panel that it has withdrawn its appeal with regard to the above clause specifically, and the procedures resulting from this clause's appeal, as per the decision reached by the Dispute Resolution Panel on the grounds thereof." Therefore, the Panel accepts the abandonment of the dispute.

Regarding the Authority's appeal on the clause (exclusion of the employee's share in the Provident and Social Security Fund for the year 2015 AD), and where Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the lawsuit is seized, it is necessary to monitor the content of the lawsuit and respond before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject of the lawsuit or some of it is among the agreed upon," and based on the foregoing, and where it was proven to this Panel that the Authority's request to leave the appeal according to what was stated in the letter issued by it in the supplementary memorandum, which includes "The Authority states that the Taxpayer agreed to pay the tax due on it in the amount of 31,153 riyals and therefore there is no dispute about it, which the Authority demands with him to prove the end of the dispute." Therefore, the Panel accepts the abandonment of the dispute.

With regard to the Authority's appeal on the clause (adding other revenues from ... For 2015 AD), whereas, there is no fault on the part of the Panel in adopting the reasons for the decision under appeal without adding to them, if it assesses that these reasons do not contain anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal



regarding the disputed clauses was in accordance with the sound reasons on which it was based and sufficient to carry its judgment, as the issuing Panel scrutinized the dispute in it and reached the result in its operative part since the issuing Panel scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Panel did not notice anything that warrants commenting on it in light of the arguments raised before it, this Panel concludes to reject the Authority's appeal and uphold the decision of the Adjudication Panel with respect to the outcome of the remaining clauses in the case, based on the grounds for the decision for doing so.

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

### Decision:

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

2- On the merits:

- a. Rejecting the Authority's appeal and upholding the decision of the Adjudication Panel regarding the clause (adding other revenues from ... for 2015 AD).
- b. Accepting the Authority's appeal and canceling the decision of the Adjudication Panel regarding the clause (adding other revenues... for 2015 AD ).
- c. Accepting the Authority's appeal and canceling the decision of the Adjudication Panel regarding the clause "Adding the net profit of ... for 2015 AD ).
- d. Accepting the abandonment of litigation in relation to the Authority's appeal on the clause (exclusion of reloaded costs for the year 2015 AD ).
- e. Accepting the abandonment of litigation regarding the Authority's appeal on the clause (exclusion of the user's share in the Provident and Social Security Fund for 2015 AD ).
- f. Accepting the Authority's appeal in part and amending the decision of the Adjudication Panel regarding the 2015 AD delay fine.

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-173371

Case No. W-2023-173371

### Principle No. 4

- The disposal of shares constitutes a sale regardless of its form, as the transfer or assignment of shares is considered a form of sale.

### Facts

the appeal filed on 29/01/2023 AD , from/... , National ID No. (...), in its capacity as an agent under the power of attorney No. (...), the lawyer's license No. (.../...), and the appeal filed on 31/01/2023 AD by the Zakat, Tax and Customs Authority, against the decision of the First Panel to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2586) issued in Case No. (W-2021-86495) related to the tax assessment for the month of June 2016 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled the following:

First: Modify the Defendant's action on the Capital Gains Tax Clause in accordance with the merits of the decision.

Second: Modify the Defendant's action on the delay fine clause in accordance with the merits of the decision.

since this decision was not accepted by the Taxpayer (a company ... For Contracting Limited), it submitted an appellate list, which was reviewed by the Panel, and included the outcome that the Taxpayer is demanding to accept its appeal and overturn the decision of the Adjudication Panel. This decision was also not accepted by the Appellant (Zakat, Tax and Customs Authority), so it submitted an appeal regulation that was reviewed by the Panel, where the Authority's appeal lies in relation to the clause (capital gains tax). The Authority clarifies that the Panel stated that the plaintiff submitted the waiver contract and the value of the waiver and is considered a reason for amending the clause. The Authority confirms that the plaintiff did not submit any document related to the waiver or the value of the waiver, as the documents submitted by the plaintiff are minutes of the meeting of the administration, ministerial decisions and precedents of the adjudication committees. Therefore, the Authority pushes the irregularity of the Authority's amendment of the clause because it is based on a document that does not exist. Accordingly, it confirms that it is not

permissible to rely on documents that have not been seen by the Authority, based on Article (29) of the work rules of the committees for adjudicating tax violations and disputes issued by Royal Order No. (26040) dated 21/04/1441 AH, which stated that "It is not permissible to rely on the papers of one of the parties to the case or its memoranda. The Authority reports that the Taxpayer acknowledged in its statement of claim that the process of changing quotas and introducing new partners is the transfer and transfer of its own share to its own company and it did not mention that it waived the share. The Authority reports that it imposed a capital gains tax on the Taxpayer as the ownership shares changed with the departure of the foreign partner on 8/5/2016 AD. The capital gains tax on the foreign partner was calculated at a value of (1,157,968) riyals (details of the calculation are attached to the Authority's response list). It is also clear that there is a real transfer of ownership of the foreign partner (...) the company Contracting Co., Ltd. to the company of... Trading & Contracting (Non-Resident Company). The existence of a material consideration for the transition process or not does not change the reality of the transfer of ownership to a legal personality independent of the previous owner. The company to which the Taxpayer's share is transferred is a company that is not wholly owned by the previous owner, but also owned by other persons. As for what the Taxpayer raised that the cost basis is equal to the transferred amount, this is not possible as the previous owner's ownership of the share was in 2006 AD, while the transfer subject to capital gains was in 2016 AD , that is, a difference of (10) years based on the above, the Authority confirms the validity of its procedure based on Article 1, paragraph (2/b) of the Regulations. With regard to the clause (delay fine), the Authority clarifies that the delay fine was imposed on the unpaid tax differences on the regular date based on Article No. (77), Paragraph (A) of the Income Tax Law, which stipulates : (In addition to the fines mentioned in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay, and this includes the delay in the payment of the tax required to be withheld and the accelerated payments calculated from the date the tax is due to the date of payment), as well as according to Article (68) Paragraph (1/b) of the Executive Regulations of the Income Tax Law, which stipulates: (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, including what is stated in the paragraph: - b- Delay in the payment of the tax due under the assessment ing of interest). it asks that its appeal be accepted and that the decision of the Adjudication Panel be reversed.

on Monday, 08/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.



## Grounds:



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

On the merits, and with regard to the Zakat, Tax and Customs Authority's appeal on the clause (Capital Gains Tax), and where the Authority's appeal lies in the fact that the basis of calculating the capital gains tax for the partner - the seller - requires determining the sale value on the basis of (the contractual or market value of this share or its book value in the company's accounts), whichever is greater, and comparing it with the cost basis on the other hand, and based on paragraph (7) of Article (16) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution 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 it 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 what was mentioned above, and whereas the Taxpayer's appeal concerns the calculation of capital gains tax on the basis that there was no sale transaction resulting in capital gains or losses, as he transferred shares from the partner to a company owned by the partner and his family, the Panel affirms that this principle is completely incompatible with the tax system, as disposing of shares constitutes a sale regardless of its form. The transfer or assignment of shares is a form of sale, as is clearly evident from the attached articles of incorporation and the assignment contract that proves and confirms the exit transaction. Regarding the other aspect of the dispute, which is the method of calculating capital gains, the Panel

found that the Taxpayer demands that the cost basis be calculated based on the partner's share in the capital (provided that the base does not fall below 15% of the cost). Upon the Panel's review of the Authority's calculation, it was found that it used the capital at the partner's percentage as the cost basis, which shows there is no dispute about this, as acknowledged by the Taxpayer in his appeal brief that it should be (1,000,000) riyals. Therefore, the dispute is about the sale value according to what the Taxpayer indicated, that it should be the capital (partner's percentage) valued at (1,000,000) riyals, while it appears that the Authority used the sale value based on the nominal value of (6,789,842) riyals. This confirms the correctness of the Authority's calculation of the sale value, as determining the sale value should be based on (the contractual or market value of this share or its book value in the company's accounts), whichever is greater, according to paragraph (7-b) of Article (16) of the regulation. The Taxpayer's reliance on paragraph (7-d) was incorrect, as both articles confirmed the same treatment for the sale value mentioned above. However, what applies to the Taxpayer's case is the text of paragraph (7-b) of Article (16) of the regulation, since the Taxpayer's legal entity is a limited liability company, which is considered a capital company. It should also be noted that the nominal value was adopted due to the Taxpayer's failure to provide the sale agreement to determine the contractual value of the shares. Therefore, the Taxpayer's demand that the sale value be determined by the capital (partner's percentage) does not detract from this. Consequently, the Panel concludes by accepting the Authority's appeal and canceling the adjudication Panel's decision on this clause.

With regard to the Zakat, Tax and Customs Authority's appeal on the clause (delay fine), where the Authority's appeal lies in imposing a delay fine on unpaid tax differences on the regular date, and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 ." based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law: "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 Panel 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 the Panel's reference to the case file and the defenses and documents contained therein, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, and since the dispute between the two parties did not result in a significant difference in the interpretation of the statutory texts, which makes it clear to the Panel the validity of the Authority's procedure to impose the delay fine from the due date on the first clause with which the Panel ended up accepting the Authority's appeal and canceling the decision of the Adjudication Panel, and accordingly the matter with which the Panel ends up accepting the Authority's appeal and canceling the decision of the Adjudication Panel in this clause.

with regard to the Taxpayer's appeal on the remaining clauses, the Panel has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Panel scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Panel did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this Panel concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Panel in its conclusion on the remaining clauses, based on the grounds for the decision.

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

#### Decision:

1- Acceptance of the appeal submitted by / ... Company procedurally; ltd, Commercial Registration No. (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the First Panel 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- Canceling the decision of the Adjudication Panel and rejecting the Taxpayer's appeal with regard to the capital gains tax clause.

b- Accepting the Authority's appeal, canceling the decision of the Adjudication Panel and rejecting the Taxpayer's appeal with regard to the delay fine clause.

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-176902

Case No. I-2023-176902

### Principal No. 5

- As a general principle, the taxpayer's return is presumed to be valid if supported by the approved financial statements, in the absence of any evidence submitted by the Authority to substantiate its claim.

### Facts



the appeal filed on 09/02/2023 AD , from/... National ID number: ) In its capacity as a legal representative of the Appellant company under the foreign agency, the decision of the Second Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-1947) issued in Case No. (I -2021-55101) related to the tax assessment for the year 2019 AD , in the lawsuit filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following:

First: Rejection of the lawsuit regarding the clause of incorrect revenues added to the tax base for 2019 AD.

Second: Proof of the end of the dispute regarding the exclusion of expenses clause for the year 2019 AD .

Third: Rejection of the lawsuit regarding the clause of imposing a delay fine on the additional income tax liability for the year 2019 AD .

Whereas this decision was not accepted by the Taxpayer (branch of a company ... The Taxpayer's appeal lies on the clause (incorrect revenues added to the tax base for the year 2019 AD ). The Taxpayer clarifies that it does not agree to the Authority's treatment by adding revenues from contracts to the tax base for the following reasons: A-The Branch wishes to draw the attention of the esteemed Appeal Committee to Article (8) (1) of the Income Tax Law. B- The branch would like to inform the esteemed Appeal Committee that it has not concluded any new contracts since 2014. C- The branch carried out all work related to contracts signed with customers and disclosed the relevant revenues in the tax returns submitted annually. In this regard, the Branch is pleased to provide details of the contract revenue submitted to the Authority along with the annual tax returns up to 31 December 2014. D-The esteemed Appeal Committee will note that the branch has subjected its financial statements for 2019 to scrutiny. A copy of the audited financial statements is attached as Appendix B for ease of reference to the esteemed Appeal Committee. The esteemed Appeal Committee must be aware that the information disclosed in the audited financial statements is reliable and





approved by banks, government, suppliers as well as by the tax authorities. Accordingly, the Branch would like to inform the esteemed Appeal Committee that the audited financial statements do not disclose any revenues from any contracts during 2019. The Authority should have taken this fact into account. If there were any contract concluded between the branch and any customer, the branch would have to disclose that contract and its subsequent revenues and expenses in the audited financial statements and tax return. (c) In addition to the above, the branch would like to inform the Appeal Committee that the branch, through its lawyer, contacted the National Information Center and requested a letter stating that there is no ongoing contract between the National Information Center and the branch, based on the request of the Authority to provide confirmation from the National Information Center. H- Unfortunately, the NIC did not provide any positive response. g. Furthermore, the NIC Executive Management has informed the Branch Representative that they will approve this request (i.e. provide a confirmation statement on contracts) only if this request is made directly from government entities. A copy of this statement received by the Branch from its representative is attached as Annex C to facilitate the review of the esteemed Appeal Committee. (d) Because the authority is a governmental authority in the Kingdom of Saudi Arabia, the branch requests that the authority be directed to send a confirmation statement request from the National Information Center. Y- The branch understands the importance of the confirmation statement. Had the branch been able to obtain it from the National Information Center, we would have been pleased to provide that information to the esteemed Appeal Committee and the Authority. However, due to some difficulties in obtaining the confirmation statement from a governmental authority in the Kingdom of Saudi Arabia, it is totally unfair for the Branch to settle the additional taxes and delay fines for the revenues that the Branch has not implemented/collected in the Kingdom of Saudi Arabia. Accordingly, the Branch submits this modest request from the Authority in order to obtain this confirmation statement. T- The Branch has completed all signed contracts by 31 December 2016 and there is no pending works for any contract to be reported or taxed in the Kingdom of Saudi Arabia. The Branch would also like to submit to the esteemed Appeal Committee in Appendix D, a letter confirming the revenues related to the executed works that have been fully disclosed to the Authority. With regard to the clause (delay fine), the Taxpayer clarifies that the Authority must not impose any delay fine, because the additional tax obligation arose due to errors and technical differences in the point of view between the Taxpayer and the Authority. Paragraph (a) of Article (77) of the Income Tax Law provides for the imposition of a delay fine in the event of delay in the payment of income tax, withholding tax and accelerated tax. The delay fine shall be calculated from the due date of the tax until the date of payment. The branch wishes to inform the members of the esteemed committee that the tax due has been defined in paragraph (2) of Article (71) of the executive regulations of the system. The esteemed appellate committee notes that the regulations provide for the imposition of a delay fine under paragraph (a) of Article (77) of the Income Tax Law and Article (68) of the executive regulations. In the event of delay in paying the tax when it becomes final, whether after the Taxpayer accepts the assessment or the end of the objection procedures. Accordingly, the delay fine shall be imposed from the



date on which the obligation becomes final under the regulations. Furthermore, paragraph (a) of Article (77) of the Income Tax Law and Article (68) of the Executive Regulations did not intend to punish the Taxpayer for the delay in determining the amount of tax due as a result of the lengthy assessment procedures followed by the Authority. Based on the above, the branch believes that the delay fine cannot be imposed in this case in accordance with paragraph No. (2) of Article (71) of the Executive Regulations of the Income Tax Law. Furthermore, the Branch wishes to draw the attention of the esteemed Appeal Committee to a set of recent decisions issued by the Tax Appeal Committee (Decision No. 1333 of 1434 AH and Decision No. 1355 of 1435 AH), where the esteemed Committee acknowledged that the delay fine is calculated from the date of issuance of a final decision and not from the date of submitting the declaration. In light of the conditions set out in the circular, a delay fine must not be imposed on the branch, even in the event of a dispute between the Taxpayer and the authority, and it is required to accept its appeal and overturn the decision of the Adjudication Panel.

on Wednesday, 15/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and with regard to the Taxpayer's appeal on the clause (incorrect revenues added to the tax base for the year 2019 AD ), and where the Taxpayer's appeal lies in the fact that the audited financial statements do not disclose any revenues from any contracts during the year 2019, and based on paragraph (2) of Article (10) of the Executive Regulations of the Sharia Pleadings Law, which stipulates the following: "If it is necessary to write about a procedure or inquiry in the subject matter of the case , this shall be by a letter from the Panel , and it shall attach with it a copy of what it needs from the case file unless it is necessary to send the file." based on the above, the Panel 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 it did not conclude any new contracts since 2014 AD , and after reviewing the case file and the defenses and documents it contains, the Panel found that the Taxpayer submitted certified financial statements that did not disclose any revenues for any contracts during 2019 AD , 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 it 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 declaration and the Authority did not provide any evidence to prove the validity of its claim regarding these revenues, which leads the Panel to accept the Taxpayer's appeal and cancel the decision of the Panel of Adjudication.

With regard to the Taxpayer's appeal on the clause (delay fine), where the Taxpayer's appeal lies in the Authority's imposition of the delay fine, and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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, which includes delays in paying the tax required for withholding and accelerated payments, calculated from the date the tax is due to the date of payment."Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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", and based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law, which stipulates that "Unpaid tax means the difference between what the Taxpayer paid on the regular date, and the tax payable under the provisions of the Law. It includes the amendments made by the Authority, which have become final as stated in paragraph (2) of Article Seventy-one of these Regulations, including the cases objected to, where the fine is calculated from the date of the regular date of submission of the declaration and payment. Based on the foregoing, and where the delay fine is calculated from the date of the end of the period specified for submitting the declaration to the date of payment of the tax due arising under the application of the provisions of the system and the amendments made by the Authority, and where the dispute between the two parties is a documentary dispute, and did not arise from a significant difference in the interpretation of the statutory texts, and where the Panel's decision in the first clause (incorrect revenues added to the tax base for the year 2019 AD ) ended up accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel, and where what is related to it takes its judgment, which ends

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



### Decision:

1- Accepting the appeal procedurally of the Taxpayer's ... commercial Register No. (...), unique number (...), against the decision of the Second Panel 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 AD.

2- On the merits:

a- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (incorrect revenue added to the tax base for 2019 AD ).

b- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the (delay fine) clause.

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.



## Withholding Tax



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR-2024-191783

Case No. W-2023-191783

**Principle No. 6**

- The imposition of withholding tax on amounts paid to non-resident entities is triggered upon the occurrence of actual payment or its equivalent, such as settlements, offsets, or any other method.

**Facts**



The appeal filed on 09/04/2023 AD by the Zakat, Tax and Customs Authority against the decision of the Third Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (ITR-2023-92248) issued in Case No. (W-2022-92248) related to the tax assessment of withholding tax for the month of December 2016 AD was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel stipulated the following:

Acceptance of the plaintiff's objection/ Company ... Travel & Tourism (CR No ...) On the Defendant's/ ZATCA's decision procedurally terms, and on the merits to cancel the Defendant's decision.

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

The Authority objects to the decision of the Adjudication Panel in question. It claims that with regard to the clause (withholding tax on airline tickets or sea freight for the month of December 2016 AD), the Authority clarifies that it has imposed a withholding tax of (5%) on the amounts paid to the company ... In exchange for airline tickets, as the Taxpayer did not supply the tax on these amounts previously, and reported that through the documents submitted by the Taxpayer (the tax exemption agreement on the income realized from the international operation of ships and aircraft in addition to the agreement between the Taxpayer and the company ...) It was found that the Taxpayer did not comply with the application forms of the international agreement in accordance with the forms of the Authority (Form 7 (b) and (c)) in the examination and objection stages in addition to the failure to provide details of these amounts, and therefore the Taxpayer's objection was rejected based on Article (5) Paragraph (8), which states: "Income shall be deemed to be derived from a source in the Kingdom in any of the following cases, including amounts paid by a resident for services performed in whole or in part in the Kingdom." Article (68), paragraph (a), which stipulates: " Every resident, whether expensive or not, under this Law, and the



permanent establishment in the Kingdom of a non-resident, and the natural person, who pays an amount to a non-resident from a source in the Kingdom, shall deduct a tax from the amount paid in accordance with the following prices, including payments for airline tickets at a rate of 5%", and Article (63) Paragraph (a) of the Executive Regulations of the Tax Law, which stipulates: "A non-resident shall be subject to tax on any amount obtained from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following prices, including payments for airline tickets at a rate of 5%", and Article (57), paragraph (3), which states: "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 declaration, 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." With regard to the Authority's appeal on the clause (delay fine), the Authority clarified that the delay fine was imposed on the unpaid tax differences on the regular date based on Article No. (77), Paragraph (A) of the Income Tax Law, which stipulates: "In addition to the penalties 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, which includes the delay in paying the tax required for withholding and accelerated payments and is calculated from the date the tax is due to the date of payment", as well as based on Article 68 of paragraph (1/b) of the Executive Regulations of the Income Tax Law, which states: "The fines mentioned in the previous article shall be added (1%) of the unpaid tax for every thirty days of delay in the following cases, including the following: - (b) Delay in the payment of the tax due under the assessment of the Authority), which shall be calculated after the statutory date of submission of the declaration and not from the date of the assessment. The Authority's action was supported by Appeal Decision No. (1774) of 1438 AH. The Authority's action was also supported by the final judgment issued in Case No. (5245/1/S) of 1438 AH issued by the Nineteenth Administrative Panel of the Administrative Court in Riyadh and supported by the Second Administrative Panel of the Administrative Court of Appeal in Riyadh by Judgement No. (3404/S) of 1439 AH, which included the reasons for the judgment as follows: (With regard to the delay fine of (1%) on the output of the previous amendments, and where paragraph (a) of Article (77) of the Income Tax Law stipulates: (a) In addition to the fines mentioned in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay, and this includes the delay in paying the tax required to be withheld and the accelerated payments, calculated from the date the tax is due to the date of payment) and with reference to paragraph (b) of Clause (1) of Article (68) of the same Law, which stipulates: (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 assessment of the interest). The text in this regard is clear and explicit, and since the original is the validity of the administrative decision, and the plaintiff has not denied this, the original remains what it was, so the Panel ruled to reject the lawsuit), so the Authority adheres to the validity of its



action, and the Authority's action has been supported by several appeal decisions, including: Appellate Decision No. (1913) of 1439 AH, where the reasons for the decision included the following: (.. Upon the Committee's review of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH, it became evident that paragraph (a) of Article (77) stipulates: "In addition to the penalties mentioned in Article seventy-six of this Law and in paragraph (b) of this Article, the Taxpayer must pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay. This includes delays in paying withholding tax and advance payments, calculated from the tax due date to the payment date." In application of the aforementioned regulatory text, the Committee determines the imposition of a delay fine on the capital gains tax difference from the tax due date to the payment date. Accordingly, the Committee rejects the Taxpayer's appeal requesting that delay penalties not be calculated for capital gains tax payment. Similarly, Appeal Decision No. (1925) for the year 1439 AH establishes that it is settled and known to all Taxpayers, according to previous appellate committee jurisprudence, that delay penalties are imposed from the due date as clearly and explicitly stated in the regulatory articles. Therefore, the decision of the Panel under appeal has contradicted what was established by previous appellate committee jurisprudence without any regulatory basis for the disputed clauses that it ruled to cancel. Thus, the Authority maintains the correctness and validity of its procedures according to regulatory requirements. The decision of the First Adjudication Panel in Riyadh under appeal has indeed contradicted what was established by the jurisprudence of the First Appellate Panel for adjudicating income tax violations and disputes, according to Appeal Decision No. (IR-2020-28) in Case No. (ZIW -2018-1657), which included in its decision rationale: "Whereas it is established that the penalty is due from the tax due date until the payment date, and whereas the nature of the dispute between the parties is documentary in the disputed clauses and did not result in a considerable disagreement in interpreting the regulatory texts, and whereas the tax due date is the date of knowledge thereof or presumed knowledge thereof, so knowledge is presumed from its due date, accordingly the Panel determines the correctness of imposing penalties on the clauses for which the appeal was rejected from the regulatory tax due date." Since these clauses, from the Authority's perspective, are correct and remain valid and their basis has not fallen, on what regulatory grounds did the Panel contradict established practice, which renders the Panel's conclusion contrary to regulatory requirements. The Authority thus confirms the correctness and validity of its procedures. Accordingly, the Authority requests the annulment of the First Adjudication Panel's decision regarding the clauses under appeal for the aforementioned grounds.

on Sunday, on: 07/07/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.



## Grounds:



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

On the merits, and as for the Authority's appeal regarding the clause (withholding tax on air tickets or sea freight for the month of December 2016 AD ), and where the Authority's appeal lies in objecting to the decision of the Adjudication Panel regarding this clause, as it claims that the Taxpayer is not committed to submitting the application forms of the international agreement in accordance with the Authority's forms (Form 7 (b) and (c)) in the examination and objection stages. Based on paragraph (1) and paragraph (2) of the Convention on income from the international operation of ships and aircraft between the Kingdom and the United States of America, which states: "1. This Agreement shall apply to all taxes levied by either Contracting Party on income derived from the international operation of ships or aircraft irrespective of the manner in which such taxes are levied. 2- Taxes on income from the international operation of ships or aircraft shall be deemed all taxes imposed on the total of such income or on any of its elements", and based on paragraph (1) of Article (3) of the Convention on income from the international operation of ships and aircraft between the Kingdom and the United States of America, which stipulates: "Income from the international operation of ships or aircraft that is carried out by a company established in one of the contracting parties and operating in the international operation of ships or aircraft shall be exempt from tax on this income by the other contracting party," according to the circular issued by the Zakat, Tax and Customs Authority No. (5068/16/1434) dated 30/07/1434 AH, which includes the requirements for benefiting from the tax benefits contained in the provisions for the avoidance of double taxation, which reads as follows: "The resident entity (the withholding entity) shall have the right to withhold the tax and supply it to the authority in accordance with the prices specified in the applicable double taxation avoidance agreements, provided that the withholding entity complies with the following: Submitting the application form for the application of the agreement, including a residence certificate from the tax authority of the beneficiary according to Form No. (Q7/B) certified by the competent tax authority in the country of residence of the beneficiary stating that it is a resident in accordance with the provisions of Article IV of the Convention on the Avoidance of Double Taxation and is subject to tax in it, and submitting a declaration and commitment to bear and pay any tax amounts or fines owed by the non-resident beneficiary as a result of the incorrect information provided, a mathematical error or a misunderstanding in the interpretation of the provisions of the Agreement for the Avoidance of Double Taxation between the Kingdom and the other Contracting State in accordance with Form No. (Q7/C). 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 ... But not authenticated by the Embassy of the Kingdom of Saudi Arabia in the country of residence, given that 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 Panel's decision to accept Authority's appeal and annul the decision of the Adjudication Panel regarding this clause.

Regarding the Authority's appeal regarding the clause (delay fine), and based on paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 ." Based on the foregoing, and by reference to the case file and the defenses and documents contained therein, and since the Authority's appeal was accepted in the first clause, the Panel concludes with the acceptance of the Authority's appeal and the amendment of the decision of the Court of Cassation on this clause.

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

### Decision:

1- Accepting the appeal procedurally from the Appellant/Zakat, Tax and Customs Authority, against the decision of the Third Panel 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 canceling the decision of the Adjudication Panel regarding the clause (withholding tax on airline tickets or sea freight for December 2016 AD).



b- Accepting the Authority's appeal and amending the decision of the Adjudication Panel with regard to the delay fine clause.

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-171072

Case No. IW-2023-171072

### Principle No. 7

- The Authority is entitled to impose withholding tax on deemed dividend distributions in cases where no documentation is available to trace the profits of the entity.

### Facts

the appeal filed on 23/01/2023 AD , from/... National ID number: Lawyer License No .... as agent for the Appellant company under Agency No. (...) the appeal filed on 26/01/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Panel for Adjudicating Income Tax Violations and Disputes in Dammam City (IZD-2022-2478) issued in Case No. (IW-2021-72905) related to the tax assessment for the years 2015 AD to 2018 AD , in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, was considered, in which the decision of the Adjudication Panel ruled as follows:

First: With regard to the estimated assessment for the years from 2015 AD to 2018 AD :

- (a) Rejecting the plaintiff's objection related to the reconnection.
- (b) Rejecting the plaintiff's objection related to the discretionary assessment and its justifications.
- (c) Amending the Defendant's decision regarding the estimated profit rate.

Secondly: Cancel the Defendant's decision regarding the withholding tax clause in exchange for a discretionary dividend.

Third: Amendment of the Defendant's decision regarding the delay fine clause.

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

With regard to the Taxpayer's appeal against the decision of the Adjudication Panel, its appeal lies with regard to the clause (estimated assessment for the years from 2015 AD to 2018 AD - reconnection), the clause (estimated assessment for the years from 2015 AD to 2018 AD – estimated assessment and its justifications), and the clause (estimated assessment for the years from 2015 AD to 2018 AD – estimated profit rate).



The decision was also not accepted by the Zakat, Tax and Customs Authority with regard to the clause (5% withholding tax in exchange for estimated dividends), as the Appellant (the authority) demands the cancellation of the Panel's decision on this clause on the basis that the Panel issuing the decision subject to appeal has canceled the above clause and the authority replies that it does not agree with the conclusion of the Panel's decision in question, as the authority has calculated an estimated withholding tax of 5% as dividends, and upon studying the objection, the Taxpayer was estimated to be charged with a withholding tax of 5%. Accordingly, based on Article (68) Paragraph (a) of the tax system, which states: (Every resident, whether expensive or inexpensive under this Law, and the permanent establishment in the Kingdom for a non-resident who pays an amount to a non-resident from a source in the Kingdom shall deduct a tax from the amount paid and Article (63), paragraph (6), which states: Distributed profits means any distribution from a resident company to a non-meme shareholder and any profits transferred from a permanent establishment to related parties, taking into account the following: - Dividends in companies operating in the field of natural gas, oil or hydrocarbon investment are not subject to withholding tax. - Partial or full liquidation of the company in excess of the paid-up capital shall be considered as a distribution. The fact that the company is subject to income tax does not prevent the company from imposing withholding tax on the amounts distributed from it. The clause (estimated assessment for the years from 2015 AD to 2018 AD—estimated profit rate), and the clause (delay fine), as the Appellant (the Authority) demands the cancellation of the decision of the Panel on this clause on the basis that it imposed a delay fine on the difference in the tax due and unpaid, and since the Taxpayer's objection was partially accepted, the fine will be amended by the unpaid tax difference, as the tax was imposed according to clear texts contained in the tax system and the executive regulations, as the delay fine was imposed on the unpaid tax differences on the regular date based on Article No. (77) Paragraph (a) of the income tax system, as well as based on Article No. (68) Paragraph (1/b) of the executive regulations of the income tax system, which is calculated after the legal date of submitting the declaration and not from the date of the assessment. It submitted an appeal statement, which was reviewed by the Panel and included the incident that the Authority is demanding to accept its appeal and to overturn the decision of the Adjudication Panel.

on Monday, 06/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Panel decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Panel decided to close the pleadings and reserve the case for adjudication.

## Grounds:

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

On the merits, regarding the Taxpayer's appeal concerning the clause (estimated assessment for the years from 2015 AD to 2018 AD - reassessment), the clause (estimated assessment for the years from 2015 AD to 2018 AD - estimated assessment and its justifications), and the clause (estimated assessment for the years from 2015 AD to 2018 AD - estimated profit rate), since there is no reproach upon the Panel for adopting the reasons of the contested decision without adding to them, whenever it determines that those reasons are sufficient and obviate the need for presenting anything new, because in its endorsement of them with what those reasons contained, it is confirmed that it did not find in what was directed against the decision in terms of challenges anything that deserves a response beyond what those reasons included. Given this, and since it is established that the appealed decision regarding the dispute concerning the contested clauses came in accordance with the valid reasons upon which it was based and which are sufficient to support its ruling, as the Panel that issued it undertook to examine the core of the dispute therein and concluded regarding it with the result it reached in its operative part. Since this Panel has not observed anything that requires correction or comment regarding it in light of the defenses raised before it, this Panel concludes by rejecting the Taxpayer's appeal and upholding the adjudication Panel's decision under appeal in the result it reached regarding the clauses subject to the case, based on its reasons.

Whereas, regarding the Authority's appeal regarding the clause (5% withholding tax in exchange for a discretionary dividend), and 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 it 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 Panel should be canceled with regard to the clause (5% withholding tax for discretionary dividends).

Whereas, regarding the Authority's appeal on the clause (Estimated assessment for the years from 2015 AD to 2018 AD – Estimated profit percentage), and whereas Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement is executed before the case is filed, the content of the case and the answer must be examined before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject matter of the case or a part thereof is among those agreed upon." Based on the foregoing, and where this Panel has established the Authority's request to discontinue the appeal as stated in the letter issued by the Authority in the supplementary memorandum which states the following: "The Authority wishes to inform the Honorable Panel that its appeal regarding the above clause specifically and the procedures resulting from this clause was abandoned according to the decision of the Adjudication Panel...". Therefore, the Panel accepts the abandonment of the dispute.

Whereas, regarding the Authority's appeal regarding the clause (delay fine), and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 the payment of the tax due under the Authority's assessment " Based on the above, and by reference to the case file and the defenses and documents contained therein, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 a documentary dispute, and did not result in a significant difference in the interpretation of the statutory texts, which must partially accept the Authority's appeal and amend the decision of the Adjudication Panel to impose the delay fine from the date of maturity on the clauses in which the Authority's appeal was accepted and the Taxpayer's appeal was rejected, and the delay fine fell on the clauses in which the Authority's procedure was canceled due to the forfeiture of the original imposition of the tax.

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

### Decision:

1- Accepting the appeal from the Taxpayer / ...Company procedurally. Commercial registration (...), unique number (...) the appeal filed by the Zakat, Tax and Customs Authority against the decision of the First Panel for adjudication 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 AD to 2018 AD.

2- On the merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Panel regarding the clause (5% withholding tax for discretionary dividends).
- 2- Accepting the Authority's appeal in part and amending the decision of the Adjudication Panel with regard to the delay fine clause.
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (Estimated assessment for the years 2015 AD to 2018 AD - Re-assessment ing -).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (Estimated assessment for the years 2015 AD to 2018 AD - Estimated assessment and its justifications).
- 5- Regarding the parties' appeal on the clause (Estimated assessment for the years 2015 AD to 2018 AD - Estimated Profit Ratio):

a- accepting the abandonment of litigation regarding the Authority's appeal on the clause (Estimated assessment for the years 2015 AD to 2018 AD - Estimated Profit Rate).

b- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (Estimated assessment for the years 2015 AD to 2018 AD - Estimated Profit Percentage).

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-170647

Case No. IW-2023-170647

### Principle No. 8

- The nature of amounts related to consultancy services is subject to a 5% withholding tax.

### Principle No. 9

- The nature of amounts related to employee transportation, meals, and visa fees is not subject to withholding tax.

### Principle No. 10

- Withholding tax may not be imposed on services provided by entities resident in the Kingdom of Saudi Arabia, whether related parties or not.

### Facts



The appeal filed on 18/01/2023 AD by/ (...), in its capacity as the director of the Appellant company, the Zakat, Tax and Customs Authority, against the decision of the First Panel to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2475) issued in Case No. (IW-2021-80364) related to the assessment of withholding tax for the years from 2017 AD to 2019 AD, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled the following:

First: Modification of the Defendant's decision regarding withholding tax at 15% on transactions between related parties: Payments made by (Company A (Foreign)) to third parties on behalf of (Company B) Saudi Arabia for the years from 2017 AD to 2019 AD.

Secondly: Rejection of the plaintiff's objection regarding the payroll clause for 2019 AD.

Third: Rejection of the Plaintiff's objection regarding the 15% withholding tax assessment clause on transactions between related parties for 2019 AD.

Fourth: Rejection of the Plaintiff's objection regarding the 5% withholding tax assessment clause on transactions with third parties for the year 2019 AD.



Fifth: Amendment of the Defendant's decision regarding the delay fine clause.

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

With regard to the Taxpayer's appeal against the decision of the Adjudication Panel, its appeal is in relation to the clause (15% withholding tax on transactions between related parties, payments made by (a foreign company) to others on behalf of (a Saudi company) for years), the Taxpayer claims that it does not agree with the decision of the Adjudication Panel and submits its claims as follows: Impose withholding tax at a rate of 15% on bank guarantee fees of 12,422,913 riyals: In 2017, it was awarded (...) A construction contract to the consortium of companies consisting of (Company A) and (Company C (Foreign)). In implementation of the contract, (Company A) was established as a 100% owned limited liability company under the name of Company B - Saudi Arabia. In order to secure the Contract and commence the work, the Company was required to provide an advance payment and a performance bond (Performance Bond) issued by a Saudi bank for the duration of the Contract in the amount of SAR 262,500,000. Since the company was in the process of incorporation, a company contacted its bank in Turkey (...) to arrange a performance guarantee. The bank asked the ..... bank ... to issue a Performance Bond. The Turkish bank issued the letter of guarantee and requested Banque Saudi Fransi as the corDefendant bank to issue the bank guarantee. The..... bank provided the bank guarantee to the Authority .... Türkiye Bank issues Performance Bond invoices on a quarterly basis. Since the performance guarantee fees are similar to the loan fees, the company pays 5% withholding tax on these fees, the Taxpayer (company B) explains that the Turkish bank is not a related party to the company or company A, and therefore, the imposition of 15% withholding tax on these fees is clearly unfair. Consultancy fees paid to a non-resident and unrelated party SAR 6,976,650: The Taxpayer indicates that (...) is a consulting company based in Turkey and is an unrelated party. (...) Providing consulting services, and has signed a contract with the company to modernize the taxi corridor at King Khalid International Airport in Riyadh and the Red Sea Airport in Jeddah. Company (...) and Company (B) signed a contract and Company (B) issues invoices directly to the company providing the above services. Whereas, the technical services provided by a non-resident party and unrelated to an establishment in the Kingdom of Saudi Arabia are subject to 5% withholding tax in accordance with the tax regulations. Various other payments to unrelated non-resident parties SAR 615,725: The imposition of a 15% withholding tax is not valid according to the tax regulations, and there are various other payments made to non-resident and unrelated parties, which are not subject to withholding tax due to their nature. Accordingly, it requests to cancel the 15% withholding tax calculation. Payments to (...) Law Firm – a company residing in Saudi Arabia SAR 721,000: The Taxpayer explains that in 2017, (Company A) decided to establish a subsidiary (Company B) in the Kingdom of Saudi Arabia. Accordingly, it appointed an attorney to assist in the establishment of the legal entity in the Kingdom of Saudi Arabia. Company B recorded after including these expenses in its books as part of the pre-establishment expenses and accordingly, the actual



beneficiary of the services provided by the law firm is Company B. No withholding tax should be imposed on the advance payment to the resident Saudi entity for its services. Various other payments to unrelated parties residing in the Kingdom of Saudi Arabia SAR 1,305,241: The Taxpayer indicates that the amount of SAR 1,305,241 relates to daily business expenses (i.e., travel cost, other personnel-related costs, etc.) and consultancy services provided by companies residing in the Kingdom of Saudi Arabia, and since the services were provided by resident parties not associated with Company B. Hence, it is not valid to impose withholding tax on the advance payment to the resident Saudi entity for the services. In this regard, the Taxpayer would like to point out that the amount of SAR 1,305,241 includes the services provided by various resident suppliers. The volume of supporting documents (i.e. invoices and agreements) is huge. Accordingly, the Assignee attached in Appendix 12 a summary of the Services provided by the Resident Suppliers together with the nature of the Services and a sample of invoices. With regard to the clause (delay fine), the Taxpayer does not agree with the Authority; as it relied on paragraph (a) of Article 77 of the Income Tax Law, the aforementioned condition in the Income Tax Law does not apply to the case of the Taxpayer because the aforementioned condition applies only to the delay in the payment of taxes. Thus, it does not apply with regard to the tax assessment, as we highlight to Your Excellency that in Article 71 (1) and(2) of the Executive Regulations it is expressly stipulated that the tax shall be payable when the assessment of the Authority becomes final, and with regard to the clause (withholding tax of 15% on the salaries paid to the employees of B – 478,536 riyals), the Taxpayer claims that the expenses in dispute represent payments to the employees of the Company. And that all employees work in accordance with the employment agreement with the company, in addition to the salaries of the company's employees were paid locally in accordance with the contract of employment with the company, and in connection with the clause (withholding tax of 15% on payments to the parties is not related), the Taxpayer claims that (...) and (...) They are unrelated parties to Company B. Accordingly, and in accordance with the regulations of the Kingdom of Saudi Arabia, payments to a non-resident and unrelated party for consulting services are subject to a withholding tax of (5%). The company paid a withholding tax of (5%) at the time. With regard to the clause (withholding tax of 5% on payments to unrelated parties), the Taxpayer claims that the full name of the company (...) is (...), which is a non-resident and unrelated party. Whereas the company (the Taxpayer) reported the transaction in the name of (...) and paid a withholding tax of (5%) at the time of payment to (...) Therefore, it is not valid to impose a withholding tax of (5%), and therefore the Taxpayer requests to overturn the decision of the Adjudication Panel on the clauses subject of appeal for the above reasons.

The decision was also not accepted by the Zakat, Tax and Customs Authority, which appealed the objectionable decision under an appeal regulation that included its objection to the clause (withholding tax of 15% on transactions between related parties, payments made by Company A to others on behalf of Company B Saudi Arabia ) and the clause (delay fine). Accordingly, the Authority adheres to the validity and safety of its action and requests that the decision of the Adjudication Panel on the appealed clauses be overturned for the reasons provided.

on Thursday, 13/06/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Panel decided that the case has become ready for adjudication and issuing the decision On the merits, so the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and as for the Taxpayer's appeal regarding the clause (15% withholding tax on transactions between related parties, payments made by (Company A) to third parties on behalf of (Company B) Saudi Arabia ), and where Article (5) of the Income Tax Law stipulates: (a) Income is considered accrued in the Kingdom in any of the following cases: (1) If it is derived from an activity which occurs in the Kingdom. (7) Amounts paid against services rendered by a resident company to the company's head office or to an affiliated company. (8) Amounts paid by a resident against services performed in whole or in part in the Kingdom. (b) The place of payment of income is not considered to determine its source."Article (5) of the Executive Regulations of the Income Tax Law stipulates the following: "The following types of income are considered to have arisen from an activity carried out in the Kingdom, and therefore verified from a source in the Kingdom: 1-The proceeds of the loan to a non-resident in one of the following cases: a- If the debt is secured by movable or immovable property located in the Kingdom. (b) If the borrower is a resident of the Kingdom. Loan proceeds means any amounts realized in return for the use of money, including income from lending operations, of any kind, whether collateralized or unsecured, and whether or not granted the right to participate in the debtor's profits, including income from government and non-government bonds. (With the exception of loan proceeds resulting from interbank deposits "... If the deposits remain with the resident presumptive bank for a maximum period of ninety days, provided that it submits an annual statement approved by the Saudi Arabian Monetary Agency indicating the names and addresses of the lending banks, the duration of the loan and the amount of loan proceeds paid." Article (63) of the Executive Regulations of the Income Tax Law 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..." 20% management fees. 15% royalty or royalty, payments for technical or consulting services or international telephone communication services paid to the head office or an

associated company. 5% Technical or consultancy services, or international telephone services other than payments made to the head office or an affiliated company, rent, airline tickets or air or sea freight, distributed profits, loan interest, insurance or reinsurance premiums. 15% Any other payments."Based on the above, the Panel found the following:

A- Imposing a withholding tax of (15%) on the bank guarantee fees (12,422,913 riyals), the Taxpayer claims that the bank (...) It is not a party associated with the company or the parent company, Company A, and therefore the imposition of a percentage of (15%) is incorrect, and it is explained that the payment of these expenses by Company A is due to the fact that this transaction of the performance guarantee arrangement was before the establishment of the company (February 14, 2017) and therefore it was not possible for the company to pay directly to Bank (...) for this arrangement, and by reviewing the documents submitted, it is clear that the Taxpayer submitted a translation of the invoices issued by Bank (...), and also provided a copy in English of the bank guarantee issued by Banque Saudi Fransi and the bank guarantee fees charged by Bank (...), and since the nature of the amounts paid is to pay the fees of the letter of guarantee (i.e. the proceeds of loans) to the bank (... Al-Turki), which is a non-resident party through the parent company (Company A) on behalf of the Taxpayer. The Taxpayer also states that it has paid the withholding tax on the amounts in dispute, and reviewed a copy of the additional withholding tax returns for the years 2017 AD, 2018 AD and 2019 AD submitted in Appendix (7). It is clear that the Taxpayer has already deducted (5%) from the amount of the dispute with a value of (12,422,913 riyals), and accordingly, the Panel ends up accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (imposing a withholding tax of 15% on the bank guarantee fees).

B- Consultancy fees paid to a non-resident and unrelated party (6,976,650 riyals), and since the nature of the transaction is that they are consulting services provided by a non-resident company (...). It is a Turkey-based facility that provides consulting services related to the upgrading and rehabilitation of the taxi corridor at King Khalid International Airport in Riyadh, which means that the amounts paid to the company are from a source of income in the Kingdom, and since the Taxpayer explained that it signed a company (...) Company B (the Taxpayer) contract, the company (...) By issuing invoices directly to the company for which you provide services, and the Taxpayer attached the agreement signed with the company (...) Whereas the Taxpayer indicated in its regulation that the parent company A paid on its behalf and the Taxpayer compensates Company A for the consulting fees provided by (...) Therefore, the transaction with a related party is not considered as the consulting services are provided by the company (...), with which the Panel ends up accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (consultancy fees paid to a non-resident and unrelated party).

C- Various other payments to non-resident unrelated parties (SAR 615,725):

1- Air tickets in the amount of (435,004 riyals) for the years 2017 AD and 2019 AD: With reference to the supplementary memorandum of the Authority, it was found that by reviewing the invoices submitted, it



was found that they related to the year 2018 AD, while the dispute for the years 2017 AD and 2019 AD, and by reviewing the supplementary response memorandum submitted by the Taxpayer, it was found that it did not address the clause in dispute, nor did it respond to the Authority's arguments regarding the fact that the air ticket invoices related to the year 2018 AD, and it did not submit the supporting documents, which ends with the Panel rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (air tickets for the years 2017 AD and 2019 AD).

2- Consultation fees (102,682) riyals for the year 2017 AD: By reviewing the attached documents, it is clear that the Taxpayer submitted a copy of the invoices related to the consultancy services. He also attached the withholding tax declarations, through which it was found that the Taxpayer paid the withholding tax for the amounts in dispute. Whereas, the nature of these amounts is subject to withholding tax at a rate of 5% in accordance with Article (63) of the Executive Regulations of the Income Tax Law, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (consulting fees for the year 2017 AD).

3- Non-taxable services: Transportation of employees and meals (63,638) riyals and visa fees and other fees (14,410) riyals for 2017 AD: By reviewing the documents attached to the case file, it becomes clear that the nature of these services is not subject to withholding tax. The Taxpayer also attached a sample of invoices in Appendix No. (6) to it, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (non-taxable services: Transportation of staff, meals, visa fees and other fees for the year 2017 AD).

D- Payments to a company (....) Law Firm – a company residing in Saudi Arabia in the amount of (721,000 riyals), and since the nature of the service is legal services and advice to establish a company (Company B) a new construction company with limited liability in the Kingdom of Saudi Arabia, as in 2017 AD, Company A decided to establish a subsidiary (which is Company B), and by reviewing the attached documents, it is clear that the Taxpayer submitted the agreement and invoices submitted by the Office of (....) and its law partners, and therefore it is clear that the actual beneficiary of the services provided by the office of (....) The law firm is Company B (the Taxpayer), which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (payments to (....) Law Firm – a company residing in Saudi Arabia).

E- Various other payments to unrelated parties residing in the Kingdom of Saudi Arabia, and since the Taxpayer indicated that the amounts in dispute relate to daily business expenses, that is, the cost of travel and other costs related to employees, and consultancy services provided by companies residing in the Kingdom of Saudi Arabia, and therefore it is not valid to impose a withholding tax on the services provided by resident parties unrelated to Company B, and by reviewing the documents attached to the lawsuit file, it becomes clear that the Taxpayer submits a lease contract for the office of Company ... He also submitted a statement of account in Appendix F in the amount of 30,000 riyals. Whereas, those amounts paid to an



entity residing in the Kingdom are not subject to withholding tax, which leads the Panel to partially accept the Taxpayer's appeal regarding the amount of (30,000) riyals and amend the decision of the Adjudication Panel regarding the clause (various other payments to unrelated parties residing in the Kingdom of Saudi Arabia).

Whereas, with regard to the Taxpayer's appeal regarding an clause (withholding tax of 15% on the salaries paid to the employees of B Company – 478,536 riyals), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel towards this clause, as it claims that the disputed expenses represent payments to the company's employees and that all employees work in accordance with the employment agreement with the company, in addition to the salaries of the company's employees were paid locally in accordance with the contract of employment with the company. Whereas Article (63) of the Executive Regulations of the Income Tax Law 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..." 20% management fees. 15% royalty or royalty, payments for technical or consulting services or international telephone communication services paid to the head office or an associated company. 5% Technical or consultancy services, or international telephone services other than payments made to the head office or an affiliated company, rent, airline tickets or air or sea freight, distributed profits, loan interest, insurance or reinsurance premiums. 15% Any other payments." Circular No. (8922/9/1438) dated 03/01/1438 AH stipulates in paragraph No. (2) that salaries and wages are not subject to withholding tax if the controls for considering the contract an employment contract are met, as follows: "2. Or in return for a work wage resulting from an employment relationship for specific work contracts (whether the contract is for a period of one year or less). This income is not taxable in the Kingdom as salaries and wages. The contract shall be classified as an employment contract if it meets the following controls: - The authority of the employer to monitor the manner and performance of the work. - Determining the working hours and monitoring its times and schedules by the employer. - Determining the place of performance of the service by the employer. - Identify work tools and other relevant facilities. - Receive work-related guidance from the employer. - Disbursing their fees and wages on specific dates. Based on the foregoing, and where the basis for rejecting the objection of the Taxpayer not to provide residence permits and contracts and to prove the payment of salaries to employees from the Taxpayer directly, and by reviewing the documents attached to the case file, it is clear that the Taxpayer attaches the details of salary expenses with the form of employment contracts for employees and residencies, and also attaches the receipts of salaries, and where it was proven that the salaries were paid by the Taxpayer and that these amounts represent the salaries and wages of employees working in the Kingdom of Saudi Arabia and not in exchange for services provided by the head office of the branch, which ends with the Panel accepting the Taxpayer's appeal and canceling the withholding tax on employees' salaries.





Whereas, with regard to the Taxpayer's appeal on the clause (5% withholding tax on payments to unrelated parties), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel regarding this clause, as it claims that the full name of the company ((...) (Short name)) is ( (...) (Unabridged name) which is a non-resident and unrelated party. The company (the Taxpayer) reported the transaction in the name of (the abbreviated name) and paid a withholding tax of (5%) at the time of payment to ((...)). Therefore, it is not valid to impose a withholding tax of (5%). Whereas Article (63) Paragraph (1) of the Executive Regulations of the Income Tax Law stipulates that: "The non-resident shall be subject to tax for any amount obtained from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following prices, including royalty or royalty, payments for services paid to the head office or an associated company at a rate of 15%." Based on the above, and since the Authority stated that it reviewed the annual withholding tax statement for 2019 and it was not found that the Taxpayer paid the withholding tax on the amounts paid to (...) He also claims that it found the same amount in the annual deduction but for other companies and not(...), while the Taxpayer clarified in its appeal that the full name of the company (...) (...) By reviewing the withholding tax statement for 2019 AD in Appendix (7), it is clear that the amount in dispute belongs to the company (...), which leads the Panel to accept the Taxpayer's appeal and cancel the Panel's decision.

Whereas, with regard to the Taxpayer's appeal on the clause (delay fine), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel regarding this clause, it claims that Article (71) of the executive regulations explicitly stipulates that the tax shall be payable when the association of the authority becomes final. Whereas paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states that: "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 11/06/1425 AH, 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 what the Taxpayer paid on the regular date, and the tax payable under the provisions of the Law. It includes the amendments made by the Authority, which have become final as stated in paragraph (2) of Article Seventy-one of these Regulations, including the cases objected to, where the fine is calculated from the date of the regular date of submission of the declaration and payment. Based on the foregoing, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, which ends with the Panel amending the Panel's decision to impose the delay fine from the due date on the clauses in which





the Taxpayer's appeal was rejected, and the delay fine falls on the clauses in which the Taxpayer's appeal was accepted.

Whereas, regarding the Authority's appeal regarding the clause (15% withholding tax on transactions between related parties, payments made by (Company A) to others on behalf of B Saudi Arabia Limited) and the clause (delay fine), and whereas Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Panel has established the Authority's request to abandon the appeal as stated in the letter issued by it in the supplementary memorandum containing the following: "The Authority would like to inform the esteemed Panel to abandon its appeal in relation to the above clause and the procedures resulting from the Authority's appeal, according to the findings of the decision of the Adjudication Panel in terms of the merits, with the Authority upholding its right regarding the fines imposed on the other clauses in dispute." Therefore, the Panel accepts the abandonment of the dispute.

Regarding the remaining clauses subject to the lawsuit, there is no fault with the Panel in adopting the reasons of the decision under appeal without adding to them when it deemed that those reasons are sufficient without mentioning anything new, because in its endorsement of them with what those reasons contained, it is confirmed that it did not find in what was directed against the decision by way of appeals anything that deserves a response with more than what those reasons contained. Since this is the case, and it is established that the decision subject to appeal regarding the dispute concerning the clauses under appeal came in accordance with the valid reasons on which it was based and which are sufficient to support its judgment, as the Panel that issued it undertook to examine the essence of the dispute therein and concluded regarding it with the result it reached in its operative part. Since this Panel did not observe anything that calls for correction or comment regarding it in light of what was presented by way of defenses raised before it, this leads this Panel to reject the Taxpayer's appeal and uphold the Resolution Panel's decision subject to appeal in what it concluded as a result in the remaining clauses subject to the lawsuit, based on its grounds.

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



## Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the First Panel to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2475) issued in Case No.(IW-2021-80364) related to the assessment of withholding tax for the years from 2017 AD to 2019 AD.

Second: On the merits:

1-With regard to the Taxpayer's appeal on the clause (15% withholding tax on transactions between related parties, payments made by them. Company A for third parties on behalf of Saudi Arabia Company Limited):

(a) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (imposing withholding tax at a rate of 15% on the bank guarantee fees).

(b) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (consultancy fees paid to a non-resident and unrelated party).

2- With regard to the Taxpayer's appeal on an clause (various other payments to non-resident unrelated parties):

A- Rejection of the Taxpayer's appeal and support of the decision of the Adjudication Panel with regard to the clause (airline tickets for the years 2017 AD and 2019 AD).

B-Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (Consultation fees for the year 2017 AD).

C-Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (non-taxable services: Transportation of staff, meals, visa fees and other fees for the year 2017 AD).

D- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (payments to the company .... Law Firm – a company residing in Saudi Arabia).

E- Accepting the partially assigned appeal and amending the decision of the Adjudication Panel regarding clause (various other payments to unrelated parties residing in the Kingdom of Saudi Arabia).

3- Acceptance of the abandonment of the litigation in relation to the Authority's appeal on an clause (withholding tax of 15% on transactions between related parties, payments made by Company A – to third parties on behalf of Company B Saudi Arabia Limited).

4- Accepting the abandonment of the litigation with regard to the Authority's appeal on the clause (delay fine).



5- Accepting the Taxpayer's appeal and canceling the Adjudication Panel's decision regarding the clause (15% withholding tax on the salaries paid to the employees of Company B).

6- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding an clause (withholding tax of 15% on payments to the parties is not related).

7- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (5% withholding tax on payments to unrelated parties).

8- Amending the decision of the Adjudication Panel regarding (delay fine).

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 Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR-2024-180339

Case No. I-2023-180339

**Principle No. 11**

- The Authority is entitled to apply a deemed profit rate of no less than 15% if the taxpayer is engaged in activities classified under 'other activities,' which are subject to a deemed profit rate of 15%.

**Facts**



The submitted appeal was heard on: 26/02/2023 AD; from/ the Zakat, Tax and Customs Authority (ZTA), on the decision of the Second Panel for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6708) issued in Case No. (I-2021-57543) regarding the tax assessment for the years 2015 AD to 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows: The Taxpayer's claim was filed by the Taxpayer against the Zakat, Tax and Customs Authority:

First: Rejection of the plaintiff's objection regarding the clause (considering the Taxpayer a tax evader).

Secondly: Amending the Defendant's decision with other objections.

Whereas this decision was not accepted by the Appellant (Zakat, Tax and Customs Authority), it submitted an appeal regulation that was reviewed by the Panel, where the appeal of the Authority lies on the clause (the Taxpayer is considered subject to income tax as a resident company or a permanent establishment), the Authority considered the Taxpayer as a permanent establishment based on what is established in the financial statements and what is listed under the name of the company in the financial statements as (a foreign company operating in the Kingdom of Saudi Arabia through a permanent establishment), and thus the company is included among the taxable persons as it exercises the activity in the Kingdom through a permanent establishment based on clause 1) of the executive regulations of the income tax system. Upon studying the objection, the financial statements were reviewed and it was found that the phrase (a foreign company operating in the Kingdom of Saudi Arabia through a permanent establishment) was included under the name of the company, a legal classification that was confirmed by the Taxpayer in the lists. Accordingly, the objection of the Taxpayer was rejected and it was considered a person subject to income tax based on clause (c) of the Executive Regulations of the Income Tax Law, which stipulated (Article 2:



Taxable Persons: (c) A nonresident who conducts business in the Kingdom through a permanent establishment. Based on Article Five, Paragraph (10/a), which stipulates: Article Five: 10/A If the income belongs to a permanent establishment of a non-resident located in the Kingdom, including income from sales in the Kingdom of goods of the same type or similar to goods sold by the non-resident through the permanent establishment, and income arising from providing services or performing other activities in the Kingdom of the same nature as the activity performed by the non-resident through the permanent establishment, or similar activity thereto). The Panel that issued the appealed decision modified the Authority's decision since the dispute lies in applying a different estimated net profit rate from the mentioned rates. The Authority responds to this by stating that based on what the Taxpayer submitted in terms of defenses and documents for the referred clause, and what was stated in the reasoning of the adjudication Panel's decision regarding the application of the estimated profit rate by the Authority at (40%), that it has no basis in the rates approved in Article (16/Paragraph 4) of the Executive Regulation of the Income Tax Law, as the company's activity centers on general trade, import and export. Therefore, the Authority confirms that according to Paragraph (4) of Article (16) of the Executive Regulation of the Income Tax Law, no higher rate for estimated net profit was specified, but rather the regulatory paragraph mentioned that it shall not be less than, and its text is as follows: "4. The estimated net profit shall be determined according to the available evidence, facts or indicators related to the activity of the Taxpayer, its nature and the circumstances surrounding it, and in all cases not less than the rates coming from the Taxpayer's revenues (according to the table referred to in the regulation)." Based on the above, the Authority confirms that the estimated profit rate (40%) imposed on the Taxpayer is commensurate with its activity. With regard to the Authority's appeal regarding the clause (withholding tax on dividends), the Authority calculated a withholding tax on the estimated profits after excluding the income tax calculated as dividends in accordance with Article (16), paragraph (3) of the Executive Regulations of the Income Tax Law due to the lack of accounting records and books for the years under examination. Upon studying the objection, it was found that the Taxpayer does not have accounting books and records according to the statement of the chartered accountant in the objection submitted and the report of the chartered accountant in the financial statements, in which it was proven that it refrained from expressing an opinion because it was unable to examine and verify the validity of the accounts. The financial statements approved by the company's management and submitted by the Taxpayer show that the income of the year is closed annually in the current account of the head office, which confirms that the income of the permanent establishment is closed first in the books in the accounts of the head office, and therefore this is one of the means of payment and the like, which confirms that the estimated profits must be subject to withholding tax, after deducting the corresponding income tax. This is supported by the decision of the Appeal Committee No. (1586) of 1437AH in Appeal No. (1490/z) of 1434 AH, which rejected the Taxpayer's appeal in its request not to calculate a withholding tax on the estimated profits distributed, which gave the Authority the right to account the Taxpayer in a discretionary manner to reduce cases of evasion in accordance with the cases

stipulated in Article (16) Paragraph (3) of the Executive Regulations of the Income Tax Law, which stipulates: (The Authority has the right to oblige Taxpayers to comply with the statutory requirements and to reduce tax evasion cases C – The Taxpayer was unable to prove the validity of the declaration information under supporting documents, taking into account what was stated in paragraph (3) of the previous and fifty article of this regulation ). Accordingly, the Taxpayer's objection was rejected, and the Panel issuing the decision subject of appeal amended the decision of the Authority because the imposition of the withholding tax is assessment ed to the payment process and the like, such as the settlement between the accounts and the clearing. The Authority answers that based on the Taxpayer's defenses and documents for the aforementioned clause, the reasons for the decision of the Panel to accept the Authority's procedure in imposing withholding tax on the estimated profits, and as long as the plaintiff did not submit the supporting documents, including the account of the head office, which is considered the closure of the profits of the year in the account of the head office as payment, and as a result of the soundness of the Authority's procedure on clause (II) by imposing the prescribed percentage on the Taxpayer of the estimated net profit by (40%) and the correlation of the resulting estimated profit of clause (II). Accordingly, the Authority affirms the validity and soundness of its proceedings and requests that its appeal be accepted and that the decision of the Adjudication Panel regarding the clauses subject to appeal be revoked.

on Tuesday, 16/04/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes met via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Panel did not find it necessary for the parties to the appeal to be present, the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, with regard to the Authority's appeal on the clause (considering the Taxpayer subject to income tax as a resident company or permanent establishment), where the Authority's appeal lies in the appeal on the acceptance of the Adjudication Panel of the Taxpayer's objection to the clause in dispute, as it claims that the Taxpayer carries out the activity in the Kingdom through a permanent establishment in it. Based on Article (2) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH, which

stipulated the taxable persons: A non-resident person who carries out the activity in the Kingdom through a permanent establishment. " Whereas Paragraph(4) of Article (16) of the Implementing Regulations of Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH 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%. Whereas Paragraph(3) of Article (57) of the Implementing Regulations of Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH 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 declaration, 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." Based on the above, it is clear that the Authority's appeal is limited to the estimated profit rate it imposed on the Taxpayer, and by reviewing the outcome of the adjudication decision, it is clear that it considered that the Taxpayer is subject to other activities, which are subject to an estimated profit rate of (15%), and by referring to Article (16) Paragraph (4) of the Income Tax Regulations, it is clear that it gave the Authority the right to estimate the estimated percentage on the discretionary Taxpayer, at least the percentage stipulated, and therefore, since the Taxpayer is from other activities, which are subject to a percentage of (15%), the Authority has the right to impose an estimated profit rate of not less than (15%) , which leads the Panel to accept the Authority's appeal and cancel the decision of the Adjudication Panel on this clause.

With regard to the Authority's appeal on the clause (withholding tax on dividends), where the Authority's appeal lies in the appeal on the Adjudication Panel's acceptance of the Taxpayer's objection to the disputed clause, as it claims that the withholding tax was calculated after excluding the income tax calculated as dividends. Based on paragraph No. (3) of Article (57), which stipulates the following: "The burden of proving that the income, expenses, and any other data contained in the Taxpayer's tax return are correct lies with the Taxpayer. 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 tax 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 link 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, it is clear that the Authority's appeal is based on the adjudication decision, which ended with amending the Authority's decision to impose withholding tax by adopting the amendment that became (15%) instead of (40%), and accordingly, where the opinion in the above clause ended up accepting the Authority's appeal in imposing an estimated profit of (40%), which necessitates amending the imposition of withholding tax on the net profit after amending the percentage to (40%) applied in the above clause, which leads the Panel to accept the Authority's appeal and cancel the decision of the Adjudication Panel on this clause.



with regard to the Authority's appeal regarding the clause (Payments from customers), the Panel has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Panel did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Panel concludes to reject the Authority's appeal and uphold the decision of the Adjudication Panel with respect to the outcome of the clauses at issue in the case, based on the grounds for the decision. On the basis of the above and for the reasons stated, the Panel unanimously decided as follows:

### Decision:

1- Accepting the appeal procedurally from the Zakat, Tax and Customs Authority, against the decision of the Second Panel for adjudicating income tax violations and disputes in Riyadh, No. (IFR-2022-6708) issued in Case No. (I-2021-57543) related to zakat fees for the years 2015 AD to 2018 AD.

2- On the merits:

A- Accepting the appeal of the authority and canceling the decision of the Adjudication Panel regarding the clause (considering the Taxpayer subject to income tax as a resident company or permanent establishment).

B- Accepting the appeal of the authority and canceling the decision of the Adjudication Panel regarding the clause (withholding tax on dividends).

C- Rejecting the Authority's appeal and upholding the decision of the Adjudication Panel with regard to the delay fine clause.

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.





## Salaries and Insurance



## Appellate Committee for Tax Violations and Disputes First Appellate Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR -2024-171899

Case No. I-2023-171899

### Principle No. 12

- Allowable deductible expenses may be deducted in determining the taxable income if the taxpayer provides supporting documents evidencing the incurrence of such expenses during the year.

### Facts

The appeal submitted on 26/01/2023 AD, by/ ..., ID No. (...), in its capacity as a legal representative of the Appellant company under the Commercial Register, against the decision of the Third Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-6301) issued in Case No. (I -2022-96973) related to income tax for the year 2017AD, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following: accept the plaintiff's objection..... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority is upheld procedurally and rejected on the merits.

Whereas this decision was not accepted by the Taxpayer (...), the Taxpayer submitted an appeal regulation that was reviewed by the Panel, where the appeal of the Taxpayer lies on the clause (basic salary differences and housing allowance for 2017 AD in the amount of 590,736.7 riyals), the Taxpayer confirms that it provided the Authority with the details of the basic salary differences and housing allowance clause and provided screenshots for all years of the plaintiff's file for social insurance. The Taxpayer also objects to the Authority's procedure for comparing salaries according to insurance for 2017 with the same amount for 2016 AD. The Taxpayer also submitted additional documents to prove the correctness of its submission through the audited financial statements in addition to the statement submitted by the legal accountant of the differences in salaries and wages between the accounts of the plaintiff and the social insurance registrar for the year 2017 AD, and the differences in salaries and wages between the accounts of the plaintiff and the social insurance registrar (240,104). The Taxpayer also has no objection in the event that the Authority requests a field examination to take each person With regard to the clause (delay fine for the year 2017 AD), the Taxpayer requests the cancellation of the income tax amendment (assessment ing the Authority) and the late payment fines, and demands the acceptance of its appeal and the reversal of the decision of the Adjudication Panel.



on Wednesday, 08/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and with regard to the Taxpayer's appeal on the clause (basic salary differences and housing allowance for 2017 AD in the amount of 590,736.7 riyals), where the Taxpayer's appeal lies in the company providing the Authority with the details of the basic salary differences and housing allowance clause, and based on paragraph No. (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, regarding 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- It is not of a capitalist nature". Based on the foregoing, the Panel found that the Taxpayer submitted the supporting documents by attaching a report from a chartered accountant in which it clarified all the differences and allowances, including education, insurance and transportation allowance, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel in this clause.

With regard to the Taxpayer's appeal on the clause (delay fine for the year 2017 AD), where the Taxpayer's appeal lies in the Authority's imposition of the delay fine, and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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, which includes delays in paying the tax required for withholding and accelerated payments, calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425

AH, which 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 ." based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law: "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 Panel 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 above, and since the Panel concluded in the first clause (the difference in basic salaries and housing allowance for 2017 AD in the amount of 590,736.7 riyals) to accept the Taxpayer's appeal and cancel the decision of the Adjudication Panel, and since this clause is affiliated with the first clause, and since the delay fine resulted from that, what is related to it takes its judgment, which ends with the Panel partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Panel in this clause.

Regarding the Taxpayer's appeal on the clause (basic salary difference and housing allowance for 2017 AD in the amount of (240,104) riyals), and based on paragraph No. (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, regarding 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- It is not of a capitalist nature". Based on the above , and since the Taxpayer is demanding the adoption of differences in favor of the authority shown in the report of the chartered accountant, and the authority has calculated and taken the difference between the basic salary and the housing allowance in the statement and the basic salaries in the amount of (830,840.70) riyals, and by reviewing the attached documents, the Panel found that what the Taxpayer is demanding according to the reports of the chartered accountant, and found that the difference reached by the chartered accountant is (240,104) riyals, and that what the authority added in its response note is (830,840.70) riyals, which ends with the end of the dispute between the Taxpayer and the authority by accepting the Taxpayer is (240,104) riyals in this clause.

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



### Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Commercial Registration No. (...), unique number (...), against the decision of the Third Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-6301) issued in Case No. (I -2022-96973) related to income tax for the year 2017 AD.

Second: On the merits:

1-Regarding the Taxpayer's appeal on the clause (basic salary difference and housing allowance for 2017 AD):

A- Proof of the end of the dispute regarding the Taxpayer's appeal on the clause (basic salary difference and housing allowance for 2017 AD in the amount of (240,104) riyals).

B- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (basic salary difference and housing allowance for the year 2017 AD in the amount of 590,736.7 riyals).

2- Accepting the appeal of the partially Taxpayer and amending the decision of the Adjudication Panel regarding the clause (delay fine for the year 2017 AD).

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



## Appellate Committee for Tax Violations and Disputes First Appellate Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR -2024-171059

Case No. I-2023-171059

### Principle No. 13

- The taxpayer's failure to provide supporting documentation for salary payments—such as bank transfer records or salary receipt vouchers—results in the rejection of their objection regarding the deduction of such expenses in determining taxable income.

### Facts



the appeal filed on 23/01/2023 AD, from (...), National ID No. (...) In its capacity as the owner of the appellate institution under the Commercial Register, and the appeal submitted on 29/01/2023 AD by the Zakat, Tax and Customs Authority, against the decision of the First Panel to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2485) issued in Case No. (I- 2021-67705) related to the tax assessment for the years from 2009 AD to 2016 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled the following:

First: Proof of the end of the dispute over the accumulated losses clause for 2009 AD.

Second: Reject the plaintiff's objection to the clause of undeclared revenues for the years 2010 AD to 2015 AD.

Third: Reject the plaintiff's objection to the clause of salaries charged with the increase for the years 2012 AD and 2013 AD .

Fourth: Accepting the plaintiff's objection to the salary clause loaded with the increase for the year 2014 AD.

Fifth : Modify Defendant's action on a delay fine clause; in accordance with the merits of the decision.

sixth: Reject the plaintiff's objection to the concealment fine clause for the years in dispute.

Whereas this decision was not accepted by the Taxpayer (institution ...), it submitted an appeal regulation that was reviewed by the Panel, where the Taxpayer's appeal lies on the clause (delay fine), so the Taxpayer clarifies that the Authority's action is invalid because it did not fully implement the income tax executive regulations. he requests that its appeal be accepted and the decision of the Adjudication Panel be reversed.



This decision was also not accepted by the Appellant (Zakat, Tax and Customs Authority), so it submitted an appeal regulation reviewed by the Panel, where the appeal of the Authority lies on the clause (salaries loaded with the increase for the year 2014 AD). The Authority clarifies that it did not accept the objection of the Taxpayer with regard to the clause of salary differences for the years from 2011 AD to 2014 AD. By matching the marches with the budget and by referring to the contributions for social insurance, it became clear that most of the hired workers are not sponsored by the plaintiff and there are no contracts concluded with labor rental companies. Therefore, the differences were not approved because they are not supported by documents, based on what was stipulated in paragraph (1/a) of Article (9) of the Income Tax Executive Regulations. The Authority also stated that a manpower supply agreement (with an institution ...) It is the second party in the labor hire agreement (the supplier of the hired labor), and the submitted data clarify the agreement between the two parties and do not prove the occurrence and disbursement of salaries, as it did not provide the disbursement documents represented by bank transfers or salary receipt documents. With regard to the clause (delay fine), the Authority clarifies that it has imposed a delay fine on unpaid tax differences on the regular date. it asks that its appeal be accepted and that the decision of the Adjudication Panel be reversed.

on Monday, 13/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and with regard to the Authority's appeal on the clause (salaries loaded with the increase for the year 2014 AD), and where the Authority's appeal lies that it did not accept the objection of the Taxpayer with regard to the clause of salary difference for the years from 2011 AD to 2014 AD, and based on what is stipulated in paragraph (1/a) of Article (9) of the Executive Regulations of the Income Tax Law that: "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. As well as based on what is stipulated in paragraph (3) of Article (57) of the Executive Regulations of the Income Tax Law, provided that: " 3-The burden of proving that the income, expenses, and any other data contained in the Taxpayer's tax return are correct lies with the Taxpayer. 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 tax 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 link 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 where the Authority appeals that most of the hired workers are not on the plaintiff's sponsorship and there are no contracts concluded with labor leasing companies, and therefore the differences were not approved because they are not supported documentarily, while the Taxpayer appeals its objection to the non-acceptance of the years 2012 AD and 2013 AD in order to submit the supporting documents, although the Panel accepted our objection for the year 2014 AD , and by reviewing the documents submitted, the Panel found that their acceptance for the years 2012 AD and 2013 AD is correct. As for the year 2014 AD, it became clear that the Authority paid in its supplementary memorandum that the Taxpayer did not submit the documents supporting the payment of salaries represented in bank transfers or salary receipt vouchers, and that by reviewing the documents submitted, the Panel found the correctness of what the Authority paid in its supplementary response memorandum, which ends with the Panel accepting the Authority's appeal for the year 2014 AD.

With regard to the appeal of the Taxpayer and the Authority on the clause (delay fine), and based on Article No. (77), Paragraph (A) of the Income Tax Law, which stipulates : (In addition to the fines mentioned in Article 76 of this Law and in paragraph (b) of this Article , the Taxpayer shall pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay , and this includes the delay in the payment of the tax required to be withheld and the accelerated payments calculated from the date of tax due to the date of payment( as well as based on Article (68) Paragraph (1/b) of the Executive Regulations of the Income Tax Law, which stipulates: (To the fines mentioned in the previous Article (1%) of the unpaid tax for every thirty days shall be added in the following cases, including what is stated in the paragraph: - b- Delay in the payment of the tax due under the assessment of the Authority)), which shall be calculated after the legal date of submitting the declaration and not from the date of assessment." . Based on the foregoing, and since the imposition of the delay fine is a consequence of the clauses, and since the Panel's decision ended with the rejection of the Taxpayer's appeal in the delay fine for the clause (salaries loaded with increase for the years 2012 AD and 2013 AD) and the acceptance of the Authority's appeal in the delay fine for the clause (salaries loaded with increase for the year 2014 AD), which ends with the Panel amending the decision of the Adjudication Panel regarding the appeal of the parties regarding this clause.



with regard to the Taxpayer's and the Authority's appeal on the remaining clauses, the Panel has no fault in adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting them with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Panel did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Panel concludes to reject the appeal of the Taxpayer and the Authority and uphold the decision of the Adjudication Panel in its conclusion on the remaining clauses, based on the grounds for the decision.

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

### Decision:

1- Acceptance of the appeal procedurally from the applicant/ ... corporation Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the first adjudication committee regarding violations and disputes of income tax in Jeddah province with number (IZJ-2022-2485) issued in case number (I -2021-67705) related to the tax assessment for the years from 2009 AD to 2016 AD.

2- On the merits:

A- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding an clause (undeclared revenues from 2010 AD to 2015 AD).

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

C- Rejecting the appeal of the two parties and supporting the decision of the Adjudication Panel regarding the clause (salaries charged with the increase for the years 2012 AD and 2013 AD).

d- Accepting the appeal of the Authority and canceling the decision of the Adjudication Panel regarding the clause (salaries loaded with the increase for the year 2014 AD).

e- The decision of the Appeals Committee regarding the appeals of both parties concerning the clause (late payment penalty) was amended.

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR -2024-192819

Case No. IW-2023-192819

Principal No. 14

- If the taxpayer provides evidence substantiating the validity of salary and benefit payments made to the employee, the Authority's action in excluding such salaries and benefits shall be deemed invalid.

### Facts

The appeal submitted on 26/04/2023 AD by/ ..., in its capacity as Chief Executive Officer under the decision of the Board of Directors and the Zakat, Tax and Customs Authority, against the decision of the Third Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (ITR-2023-73104) issued in Case No. (IW-73104-2021) related to the tax assessment for the year 2015 AD was considered in the lawsuit filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following:

First: accepting the objection as a matter of form.

Secondly: On the merits:

- 1- Cancel the Defendant's decision regarding the clause of unauthorized revenues.
- 2- Amending the Defendant's decision regarding the exclusion clause of employees' salaries.
- 3- Amending the Defendant's decision regarding the delay fine clause.
- 4-Rejection of the plaintiff's objection to the remaining clauses.

Whereas this decision was not accepted by the Taxpayer (the company ...), it submitted an appeal statement that was reviewed by the Panel, where its appeal lies in relation to the clause (salaries and benefits (...)) The Taxpayer explains that the Authority has excluded the aforementioned clause since the company has proven the validity of these payments. With regard to the clause (withholding tax), the Appellant demands the cancellation of the Panel's decision on this clause, because the said amount is not related to payments made to any non-resident suppliers or non-resident related parties, while the amount is represented in non-



cash transactions recorded in the books and records locally in exchange for the "restricted stock unit" program granted to the company's employees, which are merely in-kind benefits for employees who benefit from them when meeting certain employment requirements in accordance with the global employment policy of Lazard Group. With regard to the clause (failure to take into account the accumulated losses carried over from previous tax years), where the Taxpayer demands the deduction of the losses carried forward for the years in dispute, due to the disclosure of adjusted losses in its approval for the year in dispute, and therefore it demands the acceptance of its appeal and the reversal of the decision of the Adjudication Panel on the clauses in appeal.

This decision was also not accepted by the Appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list that was reviewed by the Panel and included what happened that the authority is demanding to accept its appeal and to overturn the decision of the Adjudication Panel on the clauses subject to its appeal.

on Tuesday, on: 13/02/2024 AD, The First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote visual litigation; Based on what was stated in Clause No.: (2) Article 15 of the Rules of Work of the Committees for the Settlement of Tax Violations and Disputes issued by Royal Order No. (26040) dated 21/04/1441 AH; and by appeal to the litigants, attended/ ... National ID No. (...), in its capacity as the plaintiff's legal representative under the Memorandum of Association attached to the case file, and attended ... (National ID No....), in its capacity as the representative of the Defendant/Zakat, Tax and Customs Authority, pursuant to an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (.../.../1445) dated 19/03/1445 AH, and by asking the representative of the Defendant what it would like to add, it stated that it adheres to what was previously submitted in this case, and by presenting this to the representative of the Plaintiff, it replied by adhering to what was previously submitted in this case, and by asking the parties what they would like to add, they answered in the negative, and accordingly the Panel decided to close the pleadings and deliberation.

### Grounds:

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

On the merits, and with regard to the Taxpayer's appeal on the clause (salaries and benefits (...), where the Taxpayer's appeal is limited to the Authority excluding the salaries and benefits paid to the employee above, since the company has proven the validity of these payments. Based on the foregoing, the Taxpayer has



attached the employment contract and an analytical statement showing the salaries and benefits paid (...), in addition to the bank statement indicating the amounts paid, which leads the Panel to accept the Taxpayer's appeal regarding this clause.

Regarding the Taxpayer's appeal on the clause (withholding tax), where the Taxpayer's appeal is limited to the Authority imposing withholding tax on the receivable of a related party (company)... This is in exchange for compensation for the deferred remuneration paid by the associated company to the Taxpayer's employees, as the company confirms that the said amount is not related to payments made to any non-resident suppliers or non-resident related parties, on the contrary, the amount is represented in non-cash transactions recorded in the books and records locally against the "restricted stock unit" program granted to the company's employees. Based on the above, it is clear that the Taxpayer attached a copy of the contracts of the employees benefiting from the deferred remuneration with a copy of the agreements signed between (... - ...) and employees of the Taxpayer, as it was found through the agreements that (... - ...) Employees are granted bonus shares on behalf of the Taxpayer in accordance with the terms and conditions set out in the agreement, and since the Taxpayer attached documents supporting its point of view that the amounts in dispute do not relate to any services provided by related parties, which ends with the Panel accepting the Taxpayer's appeal and canceling the adjudication decision on this clause.

Regarding the Authority's appeal regarding the clause (assessment ing to additional revenues) and the clause (salaries and benefits)... Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement is executed before the case is filed, the content of the case and the answer must be examined before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject matter of the case or a part thereof is among those agreed upon." Based on the foregoing, and where this Panel has established the Authority's request to discontinue the appeal as stated in the letter issued by the Authority in the supplementary memorandum which states the following: "The Authority wishes to inform the Honorable Panel that its appeal regarding the above clause specifically and the procedures resulting from this clause was abandoned according to the decision of the Adjudication Panel...". This requires the Panel to accept the abandonment of the litigation on these clauses.

Regarding the appeal of the Authority and the Taxpayer on the clause (delay fine), "and based on paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 " Based on the foregoing, and by reference to the case file and the defenses and documents contained therein, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, and since the dispute between the two parties is a documentary dispute, and did not arise from a significant difference in the interpretation of the statutory texts, and since the fine is assessment ed to the existence and non-existence of acceptance or rejection of the clause related to it, the Panel ends up amending the decision of the Adjudication Panel regarding the delay fine by dropping the fine for the clauses in which the Authority left its appeal, and the clauses in which the taxp's appeal was accepted due to the fall of its origin, and the validity of imposing fines on the clauses in which the appeal was rejected."

With regard to the Taxpayer's appeal on the clause (not taking into account the accumulated losses carried over from previous tax years), where the Taxpayer's appeal lies in the claim to deduct the losses carried forward for the years in dispute, due to its disclosure of adjusted losses in its approval for the year in dispute. Based on paragraph (1) of Article (11) of the Executive Regulations of the Income Tax Law related to the posting of losses, which stipulates the following: "The Taxpayer has the right to carry forward the adjusted operating losses, according to the controls of the system and these regulations for tax purposes, to the tax years following the year of loss by reducing the profits of the following years until the full accumulated operating losses are recovered, without being limited to a specific period, provided that the maximum allowed deduction in each tax year does not exceed (25%) of the annual profit in accordance with the Taxpayer's declaration." Based on the above, and since the Taxpayer's appeal on this clause is related to the result of the Authority's appeal on the clause of additional revenues from contracts, and since the Authority has left its appeal thereon, therefore, there is no need for the Taxpayer to claim the deduction of the losses carried forward for the years in dispute, due to its disclosure of adjusted losses in its approval of the year in dispute, which ends with the Panel dismissing this clause.

Regarding the Taxpayer's appeal regarding the clause of salaries and benefits (...and... Since there is no reproach upon the Panel for adopting the reasons of the contested decision without adding to them, whenever it determines that those reasons are sufficient and obviate the need for presenting anything new, because in its endorsement of them with what those reasons contained, it is confirmed that it did not find in what was directed against the decision in terms of challenges anything that deserves a response beyond what those reasons included. Given this, and since it is established that the appealed decision regarding the



dispute concerning the contested clauses came in accordance with the valid reasons upon which it was based and which are sufficient to support its ruling, as the Panel that issued it undertook to examine the core of the dispute therein and concluded regarding it with the result it reached in its operative part. Since this Panel has not observed anything that requires correction or comment regarding it in light of the defenses raised before it, this Panel concludes by rejecting the Taxpayer's appeal and upholding the decision of the adjudication Panel under appeal in the result it reached, based on its reasons.

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

### Decision:

1- Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first Panel regarding violations and disputes of income tax in the city of Dammam with number (ITR-2023-73104) issued in case number (IW-2021-73104) related to the tax assessment for the year 2015 AD.

2- On the merits:

1- Acceptance of the abandonment of the litigation in connection with the Authority's appeal on an clause (assessment to additional revenues)

2- With regard to the parties' appeal on an clause (salaries and benefits):

A- Acceptance of the abandonment of the litigation in relation to the Authority's appeal on the clause (salaries and benefits) (... -...- ...).

B- Rejection of the Taxpayer's appeal and support of the decision of the Adjudication Panel regarding the clause (salaries and benefits)... F.

C- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (salaries and benefits (...)).

3- Amending the decision of the Adjudication Panel regarding the appeal of the two parties on the clause (delay fine).

4-To disregard what is related to the Taxpayer's appeal on the clause (not taking into account the accumulated losses carried over from previous tax years).

5- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (withholding tax).

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.



## Tax Base and Tax Rates



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR -2024-173124

Case No. I-2023-173124

**Principle No. 15**

- The import statement issued by the General Authority of Customs constitutes a primary presumption from a neutral third party.

**Facts**



The appeal submitted on 29/01/2023 AD by/ ..., in its capacity as the general manager of the Appellant company, and the appeal submitted by the Zakat, Tax and Customs Authority on 31/01/2023 AD, against the decision of the First Panel to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZ)-2022-2601) issued in Case No. (I-2021-78094) related to the tax assessment for the year 2015 AD, was considered in the lawsuit filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following:

First: Modify the Defendant's action on an external procurement differences clause; in accordance with the merits of the decision.

Secondly: Accept the Plaintiff's objection to the non-approval of the advanced payments paid.

Third: Modify the Defendant's action on the delay fine clause; in accordance with the merits of the decision.

Since this decision was not accepted by the Taxpayer (... Company), he submitted an appeal brief which the Panel reviewed. The Taxpayer's appeal concerns the clause (differences in external purchases (services from related companies erroneously declared under external purchases)). The Taxpayer referred to what was previously clarified in the company's response memorandum that part of the external purchase differences are in fact services provided by non-resident related companies totaling (26,871,778) Saudi riyals and are not purchases, (as they were included under the external purchases category in the return by mistake) and which were subject to withholding tax as shown in the annual withholding tax return for 2015 AD, where the amounts paid to non-resident related parties for services withheld during the year appear, and part of them in the above amount were declared under the external purchases clause in the company's return by mistake. The company provided an analytical statement for the above clause in addition to supporting invoices alongside reconciliation with the annual withholding tax return. Regarding what the adjudication





committee mentioned in its decision about the non-matching of the value of the analytical statement submitted and the total amount appearing in the annual withholding tax return, the company is surprised by what the adjudication committee argued, as the company had previously clarified in its submitted response memorandum that the reason for the difference is due to the fact that part and not the total of the amounts appearing and highlighted in the annual withholding tax return represent the amount of services that were classified as external purchases in the company's return by mistake, where the company provided an analytical statement explaining the part included in the annual withholding tax return that relates to the amount of the above clause. Accordingly, it is clear that the amount of the above clause represents services that were subjected to withholding tax and actually declared in the annual withholding tax return. Therefore, what was mentioned in the First Panel's decision about the non-matching of the annual withholding tax return with the amount of the above clause is incorrect. In view of the data and documents submitted, the company believes that there is no regulatory reason to reject this clause as it has provided everything necessary to resolve the documentary dispute regarding it. The company also objects to the decision of the First Panel of the adjudication committee, as it did not study the company's objection and escalation defenses regarding this clause. The company repeatedly clarified that part of the amounts paid from abroad for services were disclosed among external purchases, and provided the analytical statement for that clause as well as withholding forms. However, the First Panel rejected approving the clause on the grounds of its non-matching with the withholding forms. The company is surprised by the First Panel's procedure, as part of those amounts in the withholding forms were classified as external purchases and not all of them, and therefore the value of the clause will not match the amounts declared in the withholding forms. Accordingly, it is clear what confirms the settlement data provided by the company, as the main reason for the difference is the incorrect classification of those expenses in the company's declaration as external purchases, while they represent services provided by external parties and were subject to withholding tax in the monthly withholding forms as shown in the annual withholding tax form. Accordingly, the company considers the validity of this expense as being deductible by a system and documentary corroborator. With regard to the Taxpayer's appeal on the clause (local purchases that were mistakenly included in the foreign purchases), the Taxpayer explained that the company included local purchases worth (5,760,627) Saudi riyals in the clause of foreign purchases in its approval for the year 2015 AD by mistake, and submitted the list of local suppliers that were dealt with, the analytical statement of those purchases, and a sample of supporting documents, the largest part of which represents what belongs to the institution .... for contracting, which confirms that the above amount represents local purchases. However, the First Panel concluded in its decision to accept only part of the value of the above amount according to the value of the sample documents submitted by the company valued at (3,909,441) Saudi riyals and rejected the remaining value of the clause on the grounds of not providing related documents. The company is surprised by what came in the Panel's decision, as previously clarified, the submitted documents represent a sample of the entire value of the clause, and it is likely that when examining any



settlement clause, a sample of documents and invoices is provided to confirm the validity of what came in the settlement and not all documents related to the clause, due to the large number of invoices related to those purchases. Therefore, a sample of documents is provided to prove the validity of the clause and that it is documentarily supported, knowing that the company confirmed to the Authority that it is ready to provide any additional documents that the Authority may request regarding the above settlement and asked the Authority to select any other sample from the analytical statement provided for those purchases so that the company can provide related invoices. However, the Authority ignored the company's request and what it provided of documents and did not select any additional sample. Accordingly, there is no doubt that the company has complied with what came in paragraph (3) of Article (57) of the Executive Regulation mentioned in the decision in proving the validity of what was stated in its return, and therefore the Authority as well as the adjudication committee may not approve the entire value of the clause on the grounds of not providing all documents. It is logical that the total amount of supporting documents does not match the total value of the clause given that the submitted documents represent only a sample of documents and not all supporting documents, and it is customary for the Authority to examine a sample of documents to prove the validity of any expense. It should be noted that the company provided a sample of invoices from the supplier that represents the largest part of the value of that clause, and accordingly, the entire value of the above clause should be accepted based on the sample documents provided, which were verified by the adjudication committee. Referring to what the adjudication committee mentioned about the company not providing the trial balance to confirm matching regarding that clause, the company clarifies that it was never previously requested to provide what was mentioned above, and the company has no knowledge about the reason for the Authority's rejection of that clause. When referring to the Authority's response memorandum previously submitted, it is clear that the Authority did not detail the grounds for its rejection of the above clause and did not request any specific document or sample of documents, but only argued that the submitted documents were insufficient without mentioning what is lacking to prove the validity of that clause. Despite what was mentioned above, the company is surprised by what the adjudication committee argued above, as how is the trial balance linked to confirming that the above amount represents local purchases, as it is not necessary for the accounting system to allocate separate accounts for both local and foreign purchases, but both are classified as purchases without specifying the type of purchases as local or foreign in the details of each transaction when recorded in the system. With regard to the Taxpayer's appeal on the clause (delay fine), where the decision of the Adjudication Committee decided to amend the Authority's calculation of the delay fine clause on the unassisted tax difference according to what was decided on the clause of foreign purchases, as the delay fine is originally assessment ed, that is, the tax, and lapses with the loss of its original, in accordance with paragraph (1) of Article Sixty-Eight of the Executive Regulations of the Income Tax Law. In this regard, the company wishes to note that the Authority has imposed a delay fine of (1%) for each (30) days of delay calculated from the date of the statutory date of filing the declaration until the date of payment, based on Article (77), paragraph (1) of the current tax



system. Accordingly, the company clarifies that the Authority is not entitled to impose a delay fine on the company in accordance with the text of Article (68), paragraph (1) of the Executive Regulations of the Income Tax Law, which states 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: (a) Delay in paying the tax due under the declaration. B-Delay in paying the tax due under the Authority's assessment..." In this regard, the Company clarifies that paragraph (a) of Article (168) of the Executive Regulations of the Law does not apply to the case of the Company, as it has paid the tax due on it under its tax returns for the year in question submitted to the Authority, and paragraph (b) of the same article does not also apply, as the Company objects to the Authority's claim under its objection letter submitted, which represents the original in imposing the delay fine, and since the Company has rejected and objected to the original, the branch is implicitly rejected. In addition, it must be noted that the Company has approved the tax claim issued by the Authority, the delay fine must be from the date of the Authority's claim and not from the date of submitting the declaration in accordance with Article (68) Paragraph (2) of the Executive Regulations, which states the following: "No, the fine of 1% of the unpaid tax must be calculated if the delay period is not completed thirty days from the due date." Therefore, the due date is the date of issuance of the Authority's claim in the event that the Company approves the claim. In addition, the Company objects to the late payment fine because of a difference in views between the Authority and the Company. The Company believes that the assessment clauses are not subject to tax for the reasons mentioned above. In this regard, the Company would like to confirm that many decisions have been issued in this regard, including, but not limited to, the following: The extraordinary decision No. (968) of 1431 AH and the preliminary decision No. (29) of 1432 AH, and since those above decisions supported the Taxpayer in not imposing a fine for delaying payment, there is a fundamental difference of views. Many decisions were issued under the new tax system, which supported the Taxpayer in the absence of a fine for delaying payment in the event of a real difference of views with the Authority, and the absence of any indication of bad faith on the part of the Taxpayer. It should be noted that many decisions were issued that ruled to calculate the fine for delaying payment starting from the date of the final decision and not from the date of submitting the declaration. Several judgments were also issued by the Board of Grievances that confirmed the inadmissibility of imposing a fine for delaying payment based on the provisions of Sharia and the system of government in the Kingdom. Such judgments include, but are not limited to, the judgment of the Board of Grievances in Administrative Case No. (899/1/S) of 1437 AH. Accordingly, the Taxpayer demands the acceptance of its appeal and the reversal of the decision of the Panel of Settlement of the clauses subject of its appeal. This decision was also not accepted by the Authority, so it submitted an appeal regulation that was reviewed by the Panel, where the Authority's appeal lies on the clause (delay fine). The Authority clarified that the delay fine was imposed on unpaid tax differences on the regular date based on Article No. (77), Paragraph (A) of the Income Tax Law, which stipulates : (In addition to the fines mentioned in Article 76 of this Law and in paragraph (b) of this Article , the Taxpayer shall pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay, and this includes the delay



in the payment of the tax required to be withheld and the accelerated payments calculated from the date the tax is due to the date of payment), as well as based on Article (68) Paragraph (1/b) of the Executive Regulations of the Income Tax Law, which stipulates: (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, including what is stated in the paragraph: - b- Delay in the payment of the tax due under the assessment of the Authority), and accordingly, the Authority demands the acceptance of its appeal and the reversal of the decision of the Adjudication Panel regarding this clause.

on Sunday, on: 17/03/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Panel decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Panel found nothing to require the presence of the parties to the case, the Panel decided to close the pleadings and reserve the case for adjudication.

#### Grounds:

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

On the merits, and with regard to the Taxpayer's appeal on the clause (differences in external purchases (services from associated companies that were mistakenly declared within external purchases)), where the Taxpayer's appeal lies in the appeal of the Adjudication Panel's rejection of its objection to the clause in dispute, as it claims that the differences in external purchases are in fact services provided by non-resident associated companies and not purchases. Based on paragraph No. (3) of Article (57) of the Executive Regulations of the Income Tax Law, 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 declaration, 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." Based on the foregoing, the statement of imports issued by the General Authority of Customs is a basic presumption from a neutral third party, and by looking at the case file, it becomes clear that the Authority's action to amend the results of the Taxpayer's business is due to differences in the value of imports listed in



the Taxpayer's declaration compared to imports according to the customs statement, and by looking at the case documents and the defenses they contain, it becomes clear that the Taxpayer submitted an analytical statement that included the amounts that the Taxpayer indicated as amounts that were wrongly declared within foreign purchases and paid the withholding tax for them. By comparing the analytical statement with the withholding tax declaration attached to the same file, it becomes clear that it submitted its declaration of withholding tax and it attached samples of invoices in the amount of (744,606) US dollars, or an amount of (2,793,277.72) Saudi riy, and an invoice in the amount of (4,195,267) US dollars, or an amount of (15,747,914) Saudi riyal, and by comparing the attached analysis with the with the with the withholding tax declaration submitted by the Taxpayer, it was found that they were already declared in the annual return, where it became clear that the main reason for the difference is the incorrect classification of those expenses in the company's return as external purchases. This is not affected by the Authority's argument regarding the non-matching of the value of the submitted analytical statement with the total amount shown in the return, as it is possible that part of the amounts shown in the return represent the amount of services that were misclassified as evidenced in the invoice samples. Consequently, the Panel concludes by accepting the Taxpayer's appeal and canceling the Adjudication Panel's decision regarding this clause.

With regard to the Taxpayer's appeal on the clause (local procurement was mistakenly included in the foreign procurement), where the Taxpayer's appeal lies in the appeal against the dismissal of its objection on the clause in dispute, as it claims that the company included local procurement under the clause Foreign procurement in its approval for 2015 AD by mistake. Based on the above, the statement of imports issued by the Zakat, Tax and Customs Authority is a basic presumption from a neutral third party, and by reviewing the case file, it becomes clear that the Authority's action to amend the results of the Taxpayer's work is due to differences in the value of imports listed in the Taxpayer's declaration compared to imports according to the customs statement, and by reviewing the documents attached to the case file, it becomes clear that the Taxpayer submitted a statement of the names of local suppliers and the amounts of expenses related to them, as it submitted samples of the invoices of the Zakat, Tax and Customs Authority... Contracting with an amount of (1,204,782.90) riyals, and an amount of (646,402) riyals. It is logical that the total amount of invoices submitted does not match the total value of the clause by virtue of the fact that the invoices represent the same, knowing that the Authority, after reviewing the documents, acknowledged the validity of the invoices, and where the adjudication decision ended by rejecting the objection of the Taxpayer for not submitting the trial balance, knowing that the accounting system does not necessarily allocate separate accounts for both local and foreign purchases, but rather both are classified as purchases. Accordingly, and where the Taxpayer submitted the detailed statement and a sample of invoices identical to the bulk of the value of the clause, which ends with the Panel partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Panel regarding this clause.

with regard to the Taxpayer's and the Authority's appeal on the (delay fine) clause, and based on the text of paragraph (a) of Article 77 of the Income Tax Law promulgated by Royal Decree No. M/1 dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 ." based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law: "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 Panel that have become final as stated in paragraph (2) of Article 71 of these regulations, including cases that are contested, where the penalty is calculated from the date of the statutory deadline for submission of the return and payment." Based on the foregoing, and by reference to the case file and the defenses and documents contained therein, and since the delay fine is calculated from the end date of the period specified for submitting the declaration 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 Authority, and since the dispute between the parties is a documentary dispute, and it did not arise from a significant difference in the interpretation of the statutory texts, which ends with the Panel amending the decision of the Adjudication Panel regarding this clause.

Regarding the Taxpayer's and the Authority's appeals concerning the remaining clauses subject to the case, since there is no reproach upon the Panel for adopting the reasons of the contested decision without adding to them, whenever it determines that those reasons are sufficient and obviate the need for presenting anything new, because in its endorsement of them with what those reasons contained, it is confirmed that it did not find in what was directed against the decision in terms of challenges anything that deserves a response beyond what those reasons included. Given this, and since it is established that the appealed decision regarding the dispute concerning the contested clauses came in accordance with the valid reasons upon which it was based and which are sufficient to support its ruling, as the Panel that issued it undertook to examine the core of the dispute therein and concluded regarding it with the result it reached in its operative part. Since this Panel has not observed anything that requires correction or comment regarding it in light of the defenses raised before it, this Panel concludes by rejecting the Taxpayer's appeal and rejecting the Authority's appeal and upholding the adjudication Panel's decision under appeal in the result it reached regarding the remaining clauses subject to the case, based on its reasons.

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



## Decision:

First: Accepting the appeal procedurally from the Taxpayer/ Company..., commercial registration (...) , unique number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first Panel regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2601) issued in case number (I-2021-78094) related to the tax assessment for the year 2015 AD.

Second: On the merits:

1- With regard to the Taxpayer's appeal on the clause (external procurement differences):

(a) Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (foreign purchases made in the name of the customer).

(b) Accepting the appeal of the partially assigned person and amending the decision of the Adjudication Panel regarding the clause (services from associated companies that were mistakenly declared within foreign procurement).

2- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (purchases and other expenses).

3- Accepting the partially Taxpayer's appeal and amending the decision of the Adjudication Panel and rejecting the Authority's appeal in relation to the clause (local procurement was mistakenly included in the foreign procurement).

4- Amending the decision of the Adjudication Panel regarding the clause (delay fine).

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 Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR-2024-171167

Case No. W-2023-171167

**Principal No. 16**

- Withholding tax is imposed on interest from loans; however, if the taxpayer proves that the financing was provided at cost, the Authority is not entitled to impose withholding tax.

**Facts**

The submitted appeal was heard on: 24 /01/2023 AD, of/ (...), National ID No. (...) as an agent for the Appellant company under agency No. (...), on the decision of the Second Panel for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-2252) issued in Case No. (W-2021-68600) regarding the Zakat fees for the years 2016 AD, 2017 AD and 2018 AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

First: Defendant/Zakat, Tax and Customs Authority's decision against the plaintiff is overturned/ ..... Unique number (...). Related to the withholding tax clause at a rate of (15%), unlike the works in progress in the subject matter of the lawsuit.

Secondly: plaintiff's other objections are dismissed/(.....) Unique number (...). On the decisions of the Defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

Since this decision was not accepted by the Taxpayer (...), he submitted an appeal petition which the Panel reviewed, where the Taxpayer's appeal concerns the clause (letter of credit payments). The Taxpayer clarified that the Authority subjected letter of credit payments to withholding tax, where the company provided several supporting documents for this clause such as the auditor's report clarifying the nature of transactions related to letter of credit payments that were made with company (...), and letters of credit issued by the bank for each transaction, and confirmation statement from local suppliers, and invoices issued by local suppliers that support the purchases, and a detailed statement showing details of documentary credit amounts, suppliers, related invoices, payment dates, and amounts for each transaction. These submitted documents are sufficient to prove that the company paid the principal amount and there is no consideration for this financing (interest). He indicated that the company entered into a turnkey project with company (...), where within the scope of work, mobile network towers were supplied and



installed. Since the project was of great value and the tower supply included huge investments, (...) company for contracting and technology agreed with tower supplier and other material/goods suppliers to open a "Letter of Credit" for them and the suppliers agreed to this. Since the company (...) Contracting and Technology did not have any banking facilities in the Kingdom of Saudi Arabia, the company has agreed with its sister company in Lebanon, a company (...) Which has good banking facilities from banks in Lebanon to open a letter of credit from Lebanese banks to local material/goods suppliers in Saudi Arabia. Accordingly, (Lebanese sister company) opened a letter of credit to all suppliers and agreed to make payments on behalf of (...). Later, the company (...) For contracting and Technology Invoices from local suppliers When payments are made through the letter of credit, the company settles the local suppliers with a credit balance of (...), and upon collection from the company (...) The value of the invoices of local suppliers shall be settled with the account of the relevant authority (...) at the cost price, and the company shall not bear or pay any interest to the non-resident entity as indicated in the agreement. In addition, the company has provided the authority with a full series of transactions starting from the purchase order from the company (...), and L/C documents for local suppliers along with invoices and statement of accounts, in addition to debit notes from (...) to LC payments. With regard to the Taxpayer's appeal on the clause (settlement for 2018 AD), the Taxpayer explained that the Authority subject the settlement of accounts to withholding tax, as this movement in the trial balance is a corresponding restriction for the reclassification of accounts and the movements of the credit balance from supply accounts. This was just a reclassification of balances from supply accounts using the corresponding entries, by transferring balances of SAR (1,305,776.21) from account No. (...) To Account No. (...) And a balance of (406,965) Saudi riyals from account No. (...) To Account No. (...), to pay a local supplier on behalf of (...) The amount of (31,772.90) Saudi riyals and the payment of visit visa stamp fees in the amount of (4,500) Saudi riyals according to the trial balance and the movement of related parties presented. Documents supporting this credit balance for the supply of goods have been previously submitted to the Authority. With regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer stated that the Authority imposed a delay fine on the unpaid tax differences on the regular date based on paragraph (a) of Article (77) of the Income Tax Law. Whereas, it explained that the matters discussed above are the subject of a technical dispute between the Taxpayer and the Authority, and therefore any additional withholding tax arising from it must not be subject to the delay fine, and therefore the Taxpayer is required to accept its appeal and reverse the decision of the Adjudication Panel on the clauses subject to appeal.

on Wednesday, 28/02/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation, based on the provisions of Article 15, Clause 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Panel did not find it necessary



for the parties to the appeal to be present, the Panel decided to close the pleadings and reserve the case for adjudication.

The submitted appeal was heard on: 24 /01/2023 AD, of/ (...), National ID No. (...) as an agent for the Appellant company under agency No. (...), on the decision of the Second Panel for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-2252) issued in Case No. (W-2021-68600) regarding the Zakat fees for the years 2016 AD, 2017 AD and 2018 AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

First: Defendant/Zakat, Tax and Customs Authority's decision against the plaintiff is overturned/ ..... Unique number (...). Related to the withholding tax clause at a rate of (15%), unlike the works in progress in the subject matter of the lawsuit.

Secondly: plaintiff's other objections are dismissed/(.....) Unique number (...). On the decisions of the Defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

Since this decision was not accepted by the Taxpayer (...), he submitted an appeal petition which the Panel reviewed, where the Taxpayer's appeal concerns the clause (letter of credit payments). The Taxpayer clarified that the Authority subjected letter of credit payments to withholding tax, where the company provided several supporting documents for this clause such as the auditor's report clarifying the nature of transactions related to letter of credit payments that were made with company (...), and letters of credit issued by the bank for each transaction, and confirmation statement from local suppliers, and invoices issued by local suppliers that support the purchases, and a detailed statement showing details of documentary credit amounts, suppliers, related invoices, payment dates, and amounts for each transaction. These submitted documents are sufficient to prove that the company paid the principal amount and there is no consideration for this financing (interest). He indicated that the company entered into a turnkey project with company (...), where within the scope of work, mobile network towers were supplied and installed. Since the project was of great value and the tower supply included huge investments, (...) company for contracting and technology agreed with tower supplier and other material/goods suppliers to open a "Letter of Credit" for them and the suppliers agreed to this. Since the company (...) Contracting and Technology did not have any banking facilities in the Kingdom of Saudi Arabia, the company has agreed with its sister company in Lebanon, a company (...) that has good banking facilities from banks in Lebanon to open a letter of credit from Lebanese banks to local suppliers of materials/goods in Saudi Arabia. Accordingly, I opened (...) Letter of Credit for all suppliers and agreed to make payments on behalf of (...) Contracting & Technology. Later, the company (...) Contracting and Technology has invoices from local suppliers and when payments are made through the letter of credit, the company settles the local suppliers with a credit balance (...), and upon collection from the company (...) The value of the invoices of local suppliers shall be settled with the account of the relevant authority (...) At the cost price, the Company shall not bear or pay any interest to the non-resident entity as indicated in the Agreement. In addition, the



Company has provided the Authority with a complete series of transactions starting from the purchase order from (...) Company, and the letter of credit documents for local suppliers along with invoices and statement of accounts, in addition to the debit notes from (...) to LC payments. With regard to the Taxpayer's appeal on the clause (settlement for 2018 AD), the Taxpayer explained that the Authority subject the settlement of accounts to withholding tax, as this movement in the trial balance is a corresponding restriction for the reclassification of accounts and the movements of the credit balance from supply accounts. This was just a reclassification of balances from supply accounts using the corresponding entries, by transferring balances of SAR (1,305,776.21) from account No. (...) To Account No. (...) And a balance of (406,965) Saudi riyals from account No. (...) To Account No. (...), to pay a local supplier on behalf of Company (...) The amount of (31,772.90) Saudi riyals and the payment of visit visa stamp fees in the amount of (4,500) Saudi riyals according to the trial balance and the movement of related parties presented. Documents supporting this credit balance for the supply of goods have been previously submitted to the Authority. With regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer stated that the Authority imposed a delay fine on the unpaid tax differences on the regular date based on paragraph (a) of Article (77) of the Income Tax Law. Whereas, it explained that the matters discussed above are the subject of a technical dispute between the Taxpayer and the Authority, and therefore any additional withholding tax arising from it must not be subject to the delay fine, and therefore the Taxpayer is required to accept its appeal and reverse the decision of the Adjudication Panel on the clauses subject to appeal.

on Wednesday, 28/02/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation, based on the provisions of Article 15, Clause 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Panel did not find it necessary for the parties to the appeal to be present, the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and with regard to the Taxpayer's appeal on the clause (payments of letters of credit), where the Taxpayer's appeal lies on the financing provided by the sister company in Lebanon (Company (...)) to open a letter of credit for them. Based on paragraph (a) of Article Sixty-Eight of the Income Tax Law, which



stipulates: "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: Loan yields (5%) ". Based on paragraph No. (1) of Article (63) of the Executive Regulations of the Income Tax Law, which states: "A non-resident shall be subject to tax on any amount obtained from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following prices: Loan yields (5%) ". Based on the above, it becomes clear that the Taxpayer's appeal on the financing provided by the sister company in Lebanon is a company (...) for the assignee to open a letter of credit for them. Accordingly, I opened (...) Letter of credit for all suppliers and agreed to make payments on behalf of (...) Contracting & Technology. The Taxpayer settles the local suppliers with a credit balance for me (...) Upon collection from the company (...), the value of the invoices of the local suppliers shall be settled with the account of the relevant authority (...) At cost. Accordingly, by reviewing the documents submitted, it is clear that the Taxpayer submitted the financing agreement with the sister company and by reviewing Article No. (7), which stipulates that "the loan financed by (...) shall be repaid upon receipt of payments from customers at the cost at which the same invoice was issued by the local supplier without adding interest to the lending party." Accordingly, it is clear that the Taxpayer did not bear any interest or additional cost, and since the withholding tax is imposed only on the returns of loans, and where the Taxpayer proved that the financing is at cost, which shows that the Authority is not entitled to impose the withholding tax, and since the Authority did not provide evidence that the Taxpayer bears the returns or interest of the loans. (the Taxpayer), resulting in the Panel's decision to accept the Taxpayer's appeal and annul the decision of the Adjudication Panel on this clause.

With regard to the Taxpayer's appeal on the clause (Settlement for the year 2018 AD), where the Taxpayer's appeal lies on the Authority subjecting the settlement of accounts to withholding tax. Article No. (68) of the Income Tax Law stipulates that: "Every resident, whether expensive or not, under this Law, and the permanent establishment in the Kingdom of a non-resident, and the natural person, who pays an amount to a non-resident from a source in the Kingdom, shall deduct a tax from the amount paid." Based on paragraph (3) of Article (57) of the Executive Regulations of Income Tax, 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 declaration, 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." Based on the above, it is clear that the Authority has imposed withholding tax on settlements because the Taxpayer has not clarified the amounts paid to non-resident companies and whether they are in return for services provided inside the Kingdom or not. While the Taxpayer explained that the amounts are related to the payment to a local supplier on behalf of the sister company and the payment of the visit visa stamping fees and the reclassification of accounts by transferring them from one account to another. Accordingly, by reviewing the case file and the documents submitted, it



becomes clear that the Taxpayer submitted a debit note (Appendix 16\_p 12,13), from which it became clear that the amount of (31,772.90) riyals related to a payment to a local supplier, and also submitted a debit note in the amount of (4,500) riyals to pay a visa fee on it, which is not subject to withholding tax. As for the remaining amount, the Taxpayer did not provide a breakdown of the nature of the amounts, although there were services provided, as it only submitted the trial balance and daily entries, which did not clarify the nature of the relationship of the related parties. The matter with which the Panel ends up partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Panel to deduct an amount of (36,272.20) riyals.

with regard to the Taxpayer's and the Authority's appeal on the (delay fine) clause, and based on the text of paragraph (a) of Article 77 of the Income Tax Law promulgated by Royal Decree No. M/1 dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 " Based on the foregoing, and by reference to the case file and the defenses and documents contained therein, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, and since the dispute between the two parties is a documentary dispute, and did not arise from a significant difference in the interpretation of the statutory texts, and since the fine is assessment ed to the existence and non-existence of acceptance or rejection of the clause related to it, and therefore the Panel ends up partially accepting the Taxpayer's appeal on this clause and amending the decision of the Adjudication Panel regarding the delay fine by dropping the fine from the clauses in which the taxp's appeal was accepted due to the loss of its origin, and the validity of imposing fines on the clauses in which the appeal was rejected to prove its origin.

with regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Panel is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Panel did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Panel concludes to reject the Taxpayer's appeal



and uphold the decision of the Adjudication Panel with respect to the outcome it reached on the clauses at issue in the case, based on the grounds for the decision.

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

### Decision:

First: Acceptance of the appeal procedurally from the Appellant, the company (...), commercial registration (...), unique number (...). Against the decision of the First Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-2252) issued in Case No. (W-2021-68600) related to the tax assessment for the years 2016 AD, 2017 AD, 2018 AD.

Second: On the merits:

1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (payments of letters of credit).

2- With regard to the Taxpayer's appeal on the clause (account settlements):

(a) Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the settlement for the year 2017 AD.

(b) Accepting the appeal of the partially Taxpayer and amending the decision of the Adjudication Panel in relation to (the 2018 AD settlement clause).

3- accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Panel with regard to the delay fine clause.

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 Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR -2024-171482

Case No. I-2023-171482

Principal No. 17

- Local purchase expenses are considered deductible if it is proven that they are actual expenditures supported by proper documentation.

**Facts**

the appeal filed on 26/01/2023 AD, from (...), National ID No. (...) In its capacity as a legal representative of the Appellant company under the Memorandum of Association, on the decision of the Second Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-1854) issued in Case No. (I -2021-73793) related to the tax assessment for the year 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled the following:

First: accepting the lawsuit filed by the plaintiff / Company ..., Commercial Registration No. (...), against the Defendant / Zakat, Tax and Customs Authority, procedurally.

Secondly: On the merits:

- 1- Rejection of the lawsuit in relation to an internal procurement clause.
- 2- Rejection of the lawsuit in relation to another clause of expenses.
- 3- With regard to the clause (basic salaries and housing allowance), the amendment of the Defendant's procedure to accept the deduction of additional wage expenses in the amount of (1,340,333) riyals. He rejected the lawsuit regarding the expenses of salaries, wages, bonuses and the like in the amount of (4,372,693) riyals and the expenses of allowances in the amount of (1,773,854) riyals.
- 4- With regard to the clause (other benefits for employees), the amendment of the Defendant's procedure to accept the deduction of leave expenses in the amount of (356,856) riyals, and the rejection of the lawsuit in relation to insurance expenses in the amount of (296,352) riyals.

Whereas this decision was not accepted by the Taxpayer (the company ...), it submitted an appeal regulation reviewed by the Panel, where the Taxpayer's appeal lies on the clause (internal procurement), the Taxpayer explains that the Panel rejected the objection due to the difference in the value of locally purchased

materials between the financial statements and the statements submitted and what it claims to resolve in accordance with the declaration, and would like to emphasize that the account of locally purchased amounting to (5,365,767.19 riyals) (Local Procurement Analysis Facility) corresponds to what was claimed in the tax return under the clause of local procurement (attached), and as for what the Panel indicated regarding the discrepancy and the value of local procurement in the tax return and the statements submitted with clarification No. (18) The cost of revenues from the financial statements has been clarified by the Taxpayer that the clarification includes the cost of revenues consisting of local procurement and external procurement, which is consistent with what was submitted in the tax return in the amount of (8,123,113 riyals). With regard to clause (other expenses), the Taxpayer explains that the Panel rejected the objection due to the failure to submit any statements of accounts extracted from the accounting system for the disputed expenses, and that the Taxpayer requests to see Appendix No. (2) (attached), which includes the statement of account for other expenses in addition to the supporting documents for each clause separately.

With regard to the clause (basic salaries and housing allowance), the Taxpayer explains that the Panel has rejected the lawsuit regarding the expenses of salaries, wages, bonuses and the like in the amount of (4,372,693 riyals) and the expenses of allowances in the amount of (1,773,854 riyals) for not submitting supporting documents to prove the expense. The Taxpayer confirms that all what was claimed in the tax return under the clause of salaries, wages and bonuses corresponds, and the accounting statements and their possession of the documents and invoices supporting the above clauses. Accordingly, the Taxpayer requests to see Appendix No. (3), which includes an account statement of the salary expenses and the like, in addition to the supporting documents for each clause separately. With regard to the clause (other benefits for employees), the Taxpayer explains that the Panel rejected the lawsuit regarding the insurance expense in the amount of (296,352 riyals) for not submitting any supporting documents to prove the expense. The Taxpayer confirms that all that was claimed in the tax return under the insurance expense clause is identical, and the accounting statements and their possession of the documents and invoices supporting the clause. Accordingly, the Taxpayer demands to see Appendix No. (4), which includes a statement of account for the insurance expense in addition to the supporting documents, and demands to accept its appeal and overturn the decision of the Adjudication Panel.

on Wednesday, 13/03/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.





## Grounds:



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

On the merits, and with regard to the Taxpayer's appeal on the clause (internal procurement), and where the Taxpayer's appeal lies that the local procurement account corresponds to what was claimed in the tax return under the clause of local procurement, and based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D- It is not of a capitalist nature." Based on the foregoing, these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and since the dispute over this clause is a documentary dispute, and by reviewing the attached documents in the case file, it was found that the Taxpayer attached (approved financial statements for 2018 AD - analysis of local purchases - statement of account for each clause - sample of invoices and bank receipts), and given the statements of accounts and invoice samples, it is clear that these expenses were incurred in addition to the attached tax return in the cost of goods sold, which shows that local purchases were detailed in the amount of (5,365,767.19 riyals), which explains the reasons for the discrepancy of the amounts attached in the financial statements with the tax return, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel in this clause.

With regard to the Taxpayer's appeal on clause (other expenses), where the Taxpayer's appeal lies in its submission of the statement of account of other expenses in addition to the supporting documents for each clause separately, and based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D- It is not of a capitalist nature.", and based on paragraph No. (3) of Article



(57) of the Executive Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/6/1425 AH, which stipulates the following: "3. The burden of proving the validity of the revenues, expenses and any other data stated in the Taxpayer's declaration shall fall on the Taxpayer. In the event that the Taxpayer is unable to prove the validity of what is stated in its declaration, the Authority may, in addition to applying any other statutory sanctions, not allow the expenditure whose validity is not proven by the Taxpayer or make an estimated assessment in accordance with the point of view of the Authority in the light of the circumstances and facts related to the case and the information available to the Authority." Based on the foregoing, these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and since the dispute over this clause is a documentary dispute, and by reviewing the documents attached to the case file, it was found that the Taxpayer attached (approved financial statements - analytical statement for another expenses clause - invoices for electricity, water, stationery and publications - cleaning and buffet - government fees - transportation and transportation - mail and telephones - visas and residencies and transfer of sponsorship - professional fees and consultations), which

With regard to the Taxpayer's appeal on the clause (basic salaries and housing allowance), and where the Taxpayer's appeal lies in its assertion that all that was claimed in the tax return under the clause of salaries, wages and bonuses are identical, and based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D- It is not of a capitalist nature." Based on the foregoing, these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and since the dispute over this clause is a documentary dispute, and by reviewing the attached documents in the case file, it was found that the Taxpayer attached (the approved financial statements - a detailed statement of salary expenses and bank transfers in the amount of (4,372,693) riyals and the clause of allowances in the amount of (1,773,854) riyals), and by comparing the attached documents for each month separately with the bank statement for each month, it became clear to the Panel that the balances match, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel in this clause.

With regard to the Taxpayer's appeal on the clause (other benefits for employees), and where the Taxpayer's appeal lies in its assertion that all that was claimed in the tax return under the insurance expense clause is identical, and based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law, which stipulates the following: "The expenses that may be deducted to determine taxable income are: 1- All



ordinary and necessary expenses to achieve taxable income, whether paid or due, 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- It is not of a capitalist nature."Based on the foregoing, these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and since the dispute over this clause is a documentary dispute, and by reviewing the documents attached to the case file, it was found that the Taxpayer attached (the approved financial statements for the year 2018 AD- an account statement extracted from the accounting system for insurance expenses for the year 2018 AD- in addition to bank transfers) and after matching the statement of account and bank transfers prove that the Taxpayer incurred those expenses, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel in this clause.

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

### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company commercial Register No. (...), unique number (...), against the decision of the Second Panel for Adjudicating Income Tax Violations and Disputes in Riyadh City (ISR-2022-1854) issued in Case No. (I-2021- 73793) related to the tax assessment for 2018 AD.

Second: On the merits:

- (a) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (internal procurement).
- (b) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding an clause (other expenses).
- (c) Accepting the appeal of the Taxpayer and canceling the decision of the Adjudication Panel regarding the clause (basic salaries and housing allowance).
- (d) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding an clause (other benefits for employees).

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.



## Income-generating expenses



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR -2024-194470

Case No. I-2023-194470

**Principal No. 18**

- Consultancy fees are considered deductible expenses if it is proven that they are actual expenditures supported by appropriate documentation. When the taxpayer submits supporting evidence for consultancy expenses—such as relevant documentation, a detailed analytical breakdown of the expenses, and proof of payment samples via email, this entitles the taxpayer to deduct the amounts for which substantiating evidence has been provided.

**Facts**



The submitted appeal was heard on: 04/05/2023 AD from/ branch of a company..., Commercial Register (...), on the decision of the First Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2023-95300) issued in Case No. (I-2022-95300) related to the tax assessment for the year 2016 AD , in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following:

First: Proof of the end of the dispute of the plaintiff/ branch of a company ... (unique number...) With the Defendant/Zakat, Tax and Customs Authority, related to the clause of salaries and wages related to an amount of (55,934,230) fifty-five million nine hundred and thirty-four thousand two hundred and thirty riyals, by the Defendant's acceptance of the Plaintiff's requests in this regard.

Secondly: Proof of the end of the dispute of the plaintiff/ branch of a company ... (unique number...) With the Defendant/Zakat, Tax and Customs Authority, related to the clause of seized amounts in the subject of the lawsuit, by the Defendant's acceptance of the Plaintiff's requests in this regard.

Third: modification of the Defendant/Zakat, Tax and Customs Authority's action against the Plaintiff/...Company. (...) related to the delay fine clause in question, as explained in the reasons.

Fourth: Rejection of the other objections of the plaintiff/ branch of a company ... (unique number...) on the decision of the Defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

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

The Taxpayer objects to the decision of the Adjudication Panel in question, it claims that with regard to the clause (salaries and wages), the Taxpayer claims to cancel the Panel's decision on this clause on the basis that its rejection of its objection without giving objective reasons, except that the salaries and wages mentioned in the tax return differ from the salaries in the financial statements. It was not taken into account that the tax return was reclassified where the net income matches between the financial statements and the tax return, and confirms that the salaries and wages were recorded in the books and supported by documents and data and were confirmed by an approved audit office in the Kingdom. Regarding the clause (rental expenses), the Taxpayer requests cancellation of the Panel's decision concerning this clause, on the basis that rental expenses appeared in the trial balance for the fiscal year ending 31/12/2016 AD in the amount of (9,618,625) riyals, all of which are rental expenses related to the branch's activity and these expenses appeared in the financial statements and in the trial balance under account number (630910). The Authority requested a sample of those expenses in the amount of (1,066,270) riyals within the additional data it requested from him, which the branch provided to the Authority. The Authority rejected an amount of (8,611,650) riyals (the difference between the total expense balance as shown in the statements and the sample amount requested by the Authority), despite his ability to prove the amount. Based on the above, he does not agree with the Authority's assessment on this clause and requests to review the detailed statement showing all rental payments and concluded contracts supported by proof of payment of the amounts shown totaling (16,588,468) riyals. As is known, rental expense is linked to the contract period, and accordingly he calculated what pertains to the year 2016 AD from the total amount paid, which amounts to (9,618,625) riyals. With regard to the clause (Consultancy fees expenses), the Taxpayer requests to cancel the Panel's decision on this clause, on the basis of submitting the supporting documents and attaching the analytical statement related to those expenses and the available supporting documents amounting to (5,049,947) riyals. With regard to the clause (the cost of subcontractors), the Taxpayer claims to cancel the decision of the Panel on this clause, provided that the value of the cost of subcontractors according to the accounts and the trial balance amounted to (17,949,371) riyals and amounted to (20,899,775) riyals in the tax return. The difference was in the amount of (2,950,404) riyals, and it relates to projects inside the Kingdom and is implemented by subcontractors on its behalf, and it is implemented by local and non-local entities that complete these projects implemented with the government, in addition to their cost. The Authority refunded them to the tax base and considered them undiscountable expenses, despite the fact that the net income declared in the tax return corresponds to the net income declared in the financial statements. With regard to the clause (delay fine), the Taxpayer requests to cancel the decision of the Panel on this clause on the basis that the additional tax obligations have arisen due to some amendments made by the Authority and not as a result of its failure to pay the amount of tax due on the due date of the tax return.



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

### Grounds:



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

On the merits, and as for the Taxpayer's appeal regarding the clause (salaries and wages), and based on Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH, it is: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the lawsuit is seized, it is necessary to monitor the content of the lawsuit and respond before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of a court or another Panel, provided that the subject of the lawsuit or some of it is among the agreed upon," and based on the foregoing, and where the Taxpayer's appeal is on an amount of (17,188,490) riyals, and where the decision of the Panel to end the dispute on an amount of (55,934,230) riyals, which was accepted by the Authority, and the rejection of the difference contained between the wages and salaries loaded with the tax return and a certificate from the legal accountant of (4,094,895) riyals, and where the Taxpayer submitted its response with its desire to remove any ambiguity regarding this clause, as it was clearly indicated that the Authority's last action was accepted, which the Panel ends up to prove the end of the dispute regarding the Taxpayer's appeal on the clause (salaries and wages). Whereas, regarding the Taxpayer's appeal regarding the clause (amounts seized from external suppliers) and based on Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH, it is: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document

to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the lawsuit is seized, it is necessary to monitor the content of the lawsuit and respond before the agreement is recorded, taking into account that the original lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject of the lawsuit or some of it is among the agreed upon." Based on the foregoing, the Taxpayer referred to the decision of the Adjudication Panel to prove the end of the dispute regarding the refund of seized amounts from suppliers in the amount of (6,790,245) riyals, by accepting the Taxpayer to the procedure of the authority, and since the Taxpayer only referred to the clause in its appeal list, and commented in its response by referring to the decision of the Adjudication Panel to the end of the dispute, with which the Panel ends up dismissing the appeal of the Taxpayer on the clause (amounts seized from external suppliers).

Whereas, with regard to the Taxpayer's appeal regarding the clause (rental expenses), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel regarding this clause, it claims that the rental expenses appeared in the trial balance for the fiscal year ending on 31/12/2016 AD in the amount of (9,618,625) riyals, all of which are rental expenses related to the branch's activity. These expenses appeared in the financial statements and in the trial balance in account No. (630910), and the Authority requested a sample of these expenses in the amount of (1,066,270) riyals within the additional data it requested from him, which the branch provided to the Authority. The Authority refunded an amount of (8,611,650) riyals (the difference between the total balance of the expense as shown in the lists and the amount of the sample required by the Authority), despite its ability to prove the amount and based on the foregoing, it does not agree to assessment the Authority in this clause. Based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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. It must be related to the tax year. D - Not to be of a capital nature ", and based on the foregoing, as these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and by informing the Panel of the case file, it was found that the Taxpayer submitted within its appeal list an analytical statement of the total rental expenses and submitted the supporting samples for payment to several real estate companies, and where the Authority did not address in its response memorandum to the documents submitted in the appeal file, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (rental expenses).



Whereas, with regard to the Taxpayer's appeal regarding the clause (consulting fees expenses), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel regarding this clause; on the basis of submitting the supporting documents and attaching the analytical statement related to those expenses and the available supporting documents amounting to (5,049,947) riyals. Based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D- Not to be of a capital nature ", and based on the foregoing, as these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and by informing the Panel of the case file, it was found that the Taxpayer submitted within its appeal list an analytical statement of the total expenses of consulting fees in the amount of (5,049,947) riyals, and it attached the supporting samples to be paid in the e-mail, and where the Authority did not address in its response memorandum to the documents submitted in the appeal file, which ends with the Panel partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Panel regarding the clause (consulting fees expenses), by deducting the amounts for which the taxpayer submitted evidence supporting its disbursement.

Whereas, with regard to the Taxpayer's appeal on the clause (the cost of subcontractors), the Taxpayer requests to cancel the decision of the Panel on this clause, provided that the value of the cost of subcontractors according to the accounts and the trial balance amounted to (17,949,371) riyals and amounted in the tax return to (20,899,775) riyals and the difference was (2,950,404) riyals, which belong to projects within the Kingdom and are implemented by subcontractors on its behalf, and are implemented by local and non-local entities that complete these projects implemented with the government, in addition to their cost, the expenses and the transfer price difference, as the Authority refunded them to the tax base and considered them undiscountable expenses, despite the fact that the net income declared in the tax return corresponds to the net income declared in the financial statements. Based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D - Not to be of a capital nature ", and based on the foregoing, as these expenses are considered a deduction award if it is proven that it is an actual expense and supported by



supporting documents, and by informing the Panel of the case file, it was found that the Taxpayer submitted within its appeal list an analytical statement with a total of (2,950,404.66) riyals and it submitted the supporting samples to pay them, and where the Authority did not address in its response memorandum to the documents submitted in the appeal file, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (the cost of subcontractors).

Whereas, with regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer claims to cancel the decision of the Panel on this clause on the basis that the additional tax obligations have arisen due to some amendments made by the Authority and not as a result of its failure to pay the amount of tax due on the due date of the tax return. Based on paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which states: "In addition to the fines mentioned in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay, and this includes the delay in the payment of the tax required to be withheld and the accelerated payments, calculated from the date the tax is due to the date of payment." Based on the foregoing, it is clear from the statutory texts that the delay fine is imposed on the Taxpayer as a result of the delay in the payment of the tax due on him, and where the dispute ended in the clauses (salaries and wages) and (amounts reserved from external suppliers), and the acceptance of the Taxpayer's appeal in the clauses (rental expenses) and (the cost of subcontractors), and the amendment of the Panel's decision in the clause (consultancy fees), and therefore what is related to it takes its judgment, and accordingly the matter with which the Panel ends up accepting the Taxpayer's appeal in part by dropping the delay fine on the clauses in which the Taxpayer's appeal was accepted,

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



### Decision:

1- Acceptance of the appeal procedurally of the applicant/ branch of the company ..., commercial register (...), unique number (...), on the decision of the First Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2023-95300) issued in Case No. (I-2022-95300) related to the tax assessment for the year 2016 AD.

2- On the merits:

- (a) Proof of the end of the dispute regarding the Taxpayer's appeal on the clause ( salaries and wages).
- (b) Disregarding the Taxpayer's appeal against the clause (amounts seized from external suppliers).
- (c) Accepting the appeal of the Taxpayer and canceling the decision of the Adjudication Panel regarding the clause (rental expenses).
- (d) Accepting the appeal of the partially Taxpayer and amending the decision of the Adjudication Panel regarding the clause (consulting fees expenses).
- (e) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause ( cost of subcontractors).
- (F) accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Panel with regard to the delay fine clause.

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-171149

Case No. I-2023-171149

### Principal No. 19

- Travel expenses recharged from the company's various branches and subsequently paid to the head office in accordance with the executed agreement may be deductible, provided they are substantiated with supporting documentation.

### Facts



the appeal filed on 24/01/2023 AD, from/... National ID number (...) as an agent for the Appellant company under agency No. (...), on the decision of the First Panel for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2509) issued in Case No. (I- 2021-66762) related to the 2015 AD tax assessment, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

- 1- Rejection of the plaintiff's objection to the clause of not allowing the deduction of travel expenses.
- 2- Rejection of the plaintiff's objection to the clause of not allowing the deduction of other allowances (salaries and wages).
- 3- Rejection of the plaintiff's objection to the clause not to allow the deduction of gift expenses.
- 4- Accepting the plaintiff's objection to the clause of the incorrect amount of tax allowed by the Authority in exchange for what is paid by the branch.
- 5- The Plaintiff's objection to the delay fine clause was rejected.

Whereas this decision was not accepted by the Taxpayer (branch of the company ...), the Taxpayer submitted an appeal statement, which was reviewed by the Panel, where its appeal lies with regard to the clause (travel expenses for the year 2015 AD), the Taxpayer explains that the Authority did not approve, during the assessment ing procedure, the travel expenses in the amount of (33,151,314) riyals for the year 2015 AD on the pretext of not submitting the supporting documents, where in reference to the adjudication decision, the Taxpayer submitted the Arabic translation of the agreement for the payment of expenses between the branches, through which it is noted that it is consistent with the policies of the company group in charge of incurring expenses on behalf of the assigned company and reloading them on an actual basis,



in addition to an analysis of the expenses charged by the subsidiaries to prove the validity of the expenses. He also submitted a copy of the management invoices from the subsidiary in exchange for reloading. The Taxpayer states that the travel expenses were stated in its tax return for the year 2015 AD, which is supported by sufficient documents such as agreements and invoices, in addition to It is a widely known international group in the field of management consulting and implementation of operations in many countries, where the branch in charge of concluding contracts with various clients in the Kingdom of Saudi Arabia to provide services according to its licensed activities. Due to the nature of the specialized contracts, the assigned branch requests assistance from the offices of the company ... outside the Kingdom of Saudi Arabia to carry out services with a short duration in nature, and requires them to travel to various locations including the Kingdom of Saudi Arabia, and bear a facility ... that sells / buys services from facilities ... Other, including the branch located in Saudi Arabia, travel costs for these consultants from Monsha 'at ... Other, as these services are for the technical services provided. These costs are reimbursed on the basis of actual documents provided by visiting employees of affiliates or third parties on an actual basis. With this in mind, the branch bears the actual cost (or travel costs) of visiting consultants from offices outside the Kingdom of Saudi Arabia as this travel is necessary to provide technical and consulting services under the branch's contracts in the Kingdom of Saudi Arabia, as these expenses consist of various expenses such as the purchase of air tickets, accommodation, hotel expenses, taxi fares, meals, etc., as these expenses were reimbursed at the cost price of the subsidiary in accordance with its agreement with the group companies, and this arrangement is in line with the group's transaction pricing policies. Accordingly, the cost incurred on customer engagements in Saudi Arabia consists of two elements: a) Time fees spent by employees of subsidiaries of Saudi projects (and represents a source of income for the Group) as the branch paid withholding tax of (15%) on income earned by subsidiaries (non-resident companies) as technical and advisory services. The branch also wishes to inform the Authority that the services provided during 2015 by non-resident subsidiaries amounted to SAR (191,757,262), and the branch deposited a withholding tax of SAR (28,763,589) on the above services by the subsidiaries. b) Services provided by third parties, such as airlines, travel agents, hotels, taxi companies... Etc. (representing a source of income for third parties), which are travel expenses and other expenses as mentioned above, as the branch of a company ... In Saudi Arabia part of an international organization, it collects its resources from subsidiaries when providing services to Saudi clients as required under branch contracts. Visiting consultants from various affiliates are required to arrange travel (e.g. visas, hotels, taxi fare, airline tickets.... Etc.) and the visiting staff shall recover those expenses from the concerned offices. Subsequently, the concerned offices recharge the cost of non-margin travel to the branch in the Kingdom of Saudi Arabia as these costs are related to the Saudi contracts of the branch in the Kingdom of Saudi Arabia. The Branch would also like to inform the Authority that there is no motive to make any income from these arrangements. The cost of travel is generally incurred as follows: (1) In respect of hotels/accommodation, taxis, meals...etc. are directly incurred / reimbursed by the Visiting Technical Advisors and mainly to resident Saudi suppliers and recovered by the Visiting Advisor from their



parent office i.e. the companies associated with the Branch. These costs are charged to the office of ... in the Kingdom of Saudi Arabia by the associated offshore company under the original invoices. (2) With regard to travel tickets, they are purchased directly from the contracting travel agents, noting that in some cases the travel tickets are purchased by the visiting technical advisors and recovered from their home office. These costs are charged to the office of ... in the Kingdom of Saudi Arabia by the associated offshore company under the original invoices. The branch also confirms that these expenses are documentary and considered necessary for the activity and related to the achievement of the taxable income of the branch and must be approved as actual expenses that are entitled to be deducted under Article (12) of the Income Tax Law and Article (9) of the Executive Regulations of the Income Tax Law. The assigned branch also reports that it paid the withholding tax imposed on the above-mentioned travel expenses amounting to SAR (33,151,314) recharged to subsidiaries during 2015. Accordingly, the branch requests, without prejudice to its views, against the Authority's treatment of not approving travel expenses, but it must allow the branch to adopt the deduction of the withholding tax paid on travel expenses in order to avoid double taxation. Accordingly, it demands the acceptance of its appeal and the reversal of the decision of the Adjudication Panel in the clauses subject to its appeal.

on Wednesday, 28/02/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

#### Grounds:

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

On the merits, and with regard to the Taxpayer's appeal on the clause (travel expenses for the year 2015 AD), where the Taxpayer's appeal lies in addressing the Authority's failure to approve the deduction of travel expenses, and based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulated 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- It must be related to the tax year. D- It is not of a capitalist nature.", and based on paragraph No. (3) of Article (57) of the Executive Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/6/1425 AH, which stipulates the following: "3- 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 declaration, 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." Based on the foregoing, it becomes clear that the dispute between the parties lies in the Authority's refusal to deduct travel expenses due to the failure to provide supporting documents, while the Taxpayer argues that these expenses constitute travel expenses recharged from different company branches and subsequently paid to the head office in accordance with the concluded agreement. The Taxpayer also states that he paid withholding tax at a rate of (15%) on the amounts paid to the subsidiary company for the services provided, represented by the disputed clause, where he demands the deduction of the paid withholding tax from the due income tax. Based on the foregoing, such expenses are considered allowable for deduction if it is proven that they are actual expenses supported by documentary evidence. Since the dispute regarding this clause is a documentary dispute, and upon reviewing the documents attached to the case file, it appears that the Taxpayer has attached (the certified Arabic translation of the expense payment agreement between branches, Annex No. 6), which shows through paragraph No. 2, which states: "When the company incurs any expenses for non-clients for the common benefit of more than one company, each beneficiary company is obligated to compensate that company in proportion to the benefit it derived..." The Taxpayer also submitted an analysis of expenses recharged by the subsidiary companies (Annex No. 7), in addition to copies of invoices issued by the subsidiary companies for the recharge of the full amount of travel expenses in dispute (Annex 8A), where samples No. (Q4-9), No. (Q2-11), and No. (Q1-9) mentioned in the Excel file (Annex 9) were taken and matched with the invoices issued by other parties to the subsidiary companies, which contained sufficient description of the service provided. It also shows the matching of subsidiary company balances with the invoices they issued to the Taxpayer through (Annex 8A). Based on the above, and since it is legally established that expenses incurred by the Taxpayer may be deducted when proven by documentary evidence as mentioned, and it is worth noting that the Authority did not present evidence contradicting what the Taxpayer presented and acknowledged, the Panel decides to accept the Taxpayer's appeal regarding the deduction of travel expenses for the year in dispute.

As for the withholding tax paid on it, the Panel confirms that the proper treatment is to deduct the withholding tax paid to the head office from the income tax due in the event that the same expense is subject to withholding and income tax taxes (in the event that the deduction of the expense is not allowed from the



income tax return) in order to avoid double taxation, as the deduction of travel expenses (as mentioned above) contained in the income tax return has been accepted, so the Taxpayer is not entitled to deduct the withholding tax from the income tax due in order to avoid double deduction and in accordance with what was clarified in the aforementioned treatment, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding this clause.

With regard to the Taxpayer's appeal on the clause (delay fine), and where Article (70) of the Law of Sharia Pleadings issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the lawsuit is seized, it is necessary to monitor the content of the lawsuit and respond before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject of the lawsuit or some of it is among the agreed upon," and based on the foregoing, and where it was proven that the dispute ended with the Authority's acceptance of the plaintiff's requests according to the attached e-mail (Annex 17) sent by the Authority on 27/11/2022 AD, which includes: "You can benefit from the initiative of exemption from fines and continue your case in the General Secretariat of Tax, Zakat and Customs Committees. Note that this procedure does not conflict with the existing lawsuit. " As a result, the Panel concludes that dispute over this clause has been resolved.

With regard to the Taxpayer's appeal against the clause (other allowances (salaries and wages), and the clause (gift expenses), and where Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the lawsuit is seized, it is necessary to monitor the content of the lawsuit and respond before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject of the lawsuit or some of it is among the agreed upon," and based on the above, and where it was proven that the dispute ended by the Taxpayer's acceptance of the Authority's procedure, in order to end its position on the aforementioned clauses in accordance with what is stated in its appeal regulation issued on 23/1/2023 AD, which includes: " The Branch would like to state with all respect that it does not agree with the decisions of the First Panel of the Committee for the Resolution of the following Tax Violations and Disputes contained in its above-mentioned decision: Rejection of the Plaintiff's





objection to the non-approval of the deduction of other allowances (salaries and wages), Rejection of the Plaintiff's objection to the non-approval of the deduction of gift expenses. However, in order to terminate its position on the above clauses for the year, the Branch accepts the decisions of the First Panel of the Tax Violations and Disputes Adjudication Committee "with protest" and reserves the right to appeal such remedies in the coming years." The matter with which the Panel ends up proving the end of the dispute in these clauses.

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

### Decision:

1- Accepting the appeal procedurally of the Taxpayer's ... Commercial Registration No. (...), unique number (...), against the decision of the First Panel to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2509) issued in Case No. (I -2021-66762) related to the tax assessment for the year 2015 AD.

2- On the merits:

(A) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (travel expenses for the year 2015 AD).

(b) Proof of the end of the dispute regarding the Taxpayer's appeal against the (delay fine) clause.

(c) Proof of the end of the dispute regarding the Taxpayer's appeal on the clause (other allowances (salaries and wages)).

(d) Proof of the end of the dispute regarding the Taxpayer's appeal against the clause (gift expenses).

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR -2024-194470

Case No. I-2023-194470

### Principle No. 20

- Rental expenses are considered deductible if it is proven that they are actual expenditures supported by proper documentation.

### Facts

The submitted appeal was heard on: 04/05/2023 AD, from/ branch of a company..., Commercial Register (...), on the decision of the First Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2023-95300) issued in Case No. (I-2022-95300) related to the tax assessment for the year 2016 AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following:

First: Proof of the end of the dispute of the plaintiff/ branch of a company ... (unique number...) With the Defendant/Zakat, Tax and Customs Authority, related to the clause of salaries and wages related to an amount of (55,934,230) fifty-five million nine hundred and thirty-four thousand two hundred and thirty riyals, by the Defendant's acceptance of the Plaintiff's requests in this regard.

Secondly: Proof of the end of the dispute of the plaintiff/ branch of a company ... (unique number...) With the Defendant/Zakat, Tax and Customs Authority, related to the clause of seized amounts in the subject of the lawsuit, by the Defendant's acceptance of the Plaintiff's requests in this regard.

Third: modification of the Defendant/Zakat, Tax and Customs Authority's action against the Plaintiff/...Company. (...) related to the delay fine clause in question, as explained in the reasons.

Fourth: Rejection of the other objections of the plaintiff/ branch of a company ... (unique number...) on the decision of the Defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

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

The Taxpayer objects to the decision of the Adjudication Panel in question, it claims that with regard to the clause (salaries and wages), the Taxpayer claims to cancel the Panel's decision on this clause on the basis that its rejection of its objection without giving objective reasons, except that the salaries and wages



mentioned in the tax return differ from the salaries in the financial statements. It was not taken into account that the tax return was reclassified where the net income matches between the financial statements and the tax return, and confirms that the salaries and wages were recorded in the books and supported by documents and data and were confirmed by an approved audit office in the Kingdom. Regarding the clause (rental expenses), the Taxpayer requests cancellation of the Panel's decision concerning this clause, on the basis that rental expenses appeared in the trial balance for the fiscal year ending 31/12/2016 AD in the amount of (9,618,625) riyals, all of which are rental expenses related to the branch's activity and these expenses appeared in the financial statements and in the trial balance under account number (630910). The Authority requested a sample of those expenses in the amount of (1,066,270) riyals within the additional data it requested from him, which the branch provided to the Authority. The Authority rejected an amount of (8,611,650) riyals (the difference between the total expense balance as shown in the statements and the sample amount requested by the Authority), despite his ability to prove the amount. Based on the above, he does not agree with the Authority's assessment on this clause and requests to review the detailed statement showing all rental payments and concluded contracts supported by proof of payment of the amounts shown totaling (16,588,468) riyals. As is known, rental expense is linked to the contract period, and accordingly he calculated what pertains to the year 2016 from the total amount paid, which amounts to (9,618,625) riyals. With regard to the clause (Consultancy fees expenses), the Taxpayer requests to cancel the Panel's decision on this clause, on the basis of submitting the supporting documents and attaching the analytical statement related to those expenses and the available supporting documents amounting to (5,049,947) riyals. With regard to the clause (the cost of subcontractors), the Taxpayer claims to cancel the decision of the Panel on this clause, provided that the value of the cost of subcontractors according to the accounts and the trial balance amounted to (17,949,371) riyals and amounted to (20,899,775) riyals in the tax return. The difference was in the amount of (2,950,404) riyals, and it relates to projects inside the Kingdom and is implemented by subcontractors on its behalf, and it is implemented by local and non-local entities that complete these projects implemented with the government, in addition to their cost. The Authority refunded them to the tax base and considered them undiscountable expenses, despite the fact that the net income declared in the tax return corresponds to the net income declared in the financial statements. With regard to the clause (delay fine), the Taxpayer requests to cancel the decision of the Panel on this clause on the basis that the additional tax obligations have arisen due to some amendments made by the Authority and not as a result of its failure to pay the amount of tax due on the due date of the tax return.

On Sunday, 04/08/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the

papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and as for the Taxpayer's appeal regarding the clause (salaries and wages), and based on Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH, it is: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the lawsuit is seized, it is necessary to monitor the content of the lawsuit and respond before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of a court or another Panel, provided that the subject of the lawsuit or some of it is among the agreed upon," and based on the foregoing, and where the Taxpayer's appeal is on an amount of (17,188,490) riyals, and where the decision of the Panel to end the dispute on an amount of (55,934,230) riyals, which was accepted by the Authority, and the rejection of the difference contained between the wages and salaries loaded with the tax return and a certificate from the legal accountant of (4,094,895) riyals, and where the Taxpayer submitted its response with its desire to remove any ambiguity regarding this clause, as it was clearly indicated that the Authority's last action was accepted, which the Panel ends up to prove the end of the dispute regarding the Taxpayer's appeal on the clause (salaries and wages). Whereas, regarding the Taxpayer's appeal regarding the clause (amounts seized from external suppliers) and based on Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH, it is: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the lawsuit is seized, it is necessary to monitor the content of the lawsuit and respond before the agreement is recorded, taking into account that the original lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject of the lawsuit or some of it is among the agreed upon." Based on the foregoing, the Taxpayer referred



to the decision of the Adjudication Panel to prove the end of the dispute regarding the refund of seized amounts from suppliers in the amount of (6,790,245) riyals, by accepting the Taxpayer to the procedure of the authority, and since the Taxpayer only referred to the clause in its appeal list, and commented in its response by referring to the decision of the Adjudication Panel to the end of the dispute, with which the Panel ends up dismissing the appeal of the Taxpayer on the clause (amounts seized from external suppliers).

Whereas, with regard to the Taxpayer's appeal regarding the clause (rental expenses), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel regarding this clause, it claims that the rental expenses appeared in the trial balance for the fiscal year ending on 31/12/2016 AD in the amount of (9,618,625) riyals, all of which are rental expenses related to the branch's activity. These expenses appeared in the financial statements and in the trial balance in account No. (630910), and the Authority requested a sample of these expenses in the amount of (1,066,270) riyals within the additional data it requested from him, which the branch provided to the Authority. The Authority refunded an amount of (8,611,650) riyals (the difference between the total balance of the expense as shown in the lists and the amount of the sample required by the Authority), despite its ability to prove the amount and based on the foregoing, it does not agree to assessment the Authority in this clause. Based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D - Not to be of a capital nature ", and based on the foregoing, as these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and by informing the Panel of the case file, it was found that the Taxpayer submitted within its appeal list an analytical statement of the total rental expenses and submitted the supporting samples for payment to several real estate companies, and where the Authority did not address in its response memorandum to the documents submitted in the appeal file, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (rental expenses).

Whereas, with regard to the Taxpayer's appeal regarding the clause (consulting fees expenses), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Panel regarding this clause; on the basis of submitting the supporting documents and attaching the analytical statement related to those expenses and the available supporting documents amounting to (5,049,947) riyals. Based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D- Not to be of a capital nature ", and based on the foregoing, as these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and by informing the Panel of the case file, it was found that the Taxpayer submitted within its appeal list an analytical statement of the total expenses of consulting fees in the amount of (5,049,947) riyals, and it attached the supporting samples to be paid in the e-mail, and where the Authority did not address in its response memorandum to the documents submitted in the appeal file, which ends with the Panel partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Panel regarding the clause (consulting fees expenses), by deducting the amounts for which the taxpayer submitted evidence supporting its disbursement.

Whereas, with regard to the Taxpayer's appeal on the clause (the cost of subcontractors), the Taxpayer requests to cancel the decision of the Panel on this clause, provided that the value of the cost of subcontractors according to the accounts and the trial balance amounted to (17,949,371) riyals and amounted in the tax return to (20,899,775) riyals and the difference was (2,950,404) riyals, which belong to projects within the Kingdom and are implemented by subcontractors on its behalf, and are implemented by local and non-local entities that complete these projects implemented with the government, in addition to their cost, the expenses and the transfer price difference, as the Authority refunded them to the tax base and considered them undiscountable expenses, despite the fact that the net income declared in the tax return corresponds to the net income declared in the financial statements. Based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D - Not to be of a capital nature ", and based on the foregoing, as these expenses are considered a deduction award if it is proven that it is an actual expense and supported by supporting documents, and by informing the Panel of the case file, it was found that the Taxpayer submitted within its appeal list an analytical statement with a total of (2,950,404.66) riyals and it submitted the supporting samples to pay them, and where the Authority did not address in its response memorandum to the documents submitted in the appeal file, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (the cost of subcontractors).

Whereas, with regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer claims to cancel the decision of the Panel on this clause on the basis that the additional tax obligations have arisen due to some



amendments made by the Authority and not as a result of its failure to pay the amount of tax due on the due date of the tax return. Based on paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which states: "In addition to the fines mentioned in Article 76 of this Law and in paragraph (b) of this Article, the Taxpayer shall pay a delay fine of one percent (1%) of the unpaid tax for every thirty days of delay, and this includes the delay in the payment of the tax required to be withheld and the accelerated payments, calculated from the date the tax is due to the date of payment." Based on the foregoing, it is clear from the statutory texts that the delay fine is imposed on the Taxpayer as a result of the delay in the payment of the tax due on him, and where the dispute ended in the clauses (salaries and wages) and (amounts reserved from external suppliers), and the acceptance of the Taxpayer's appeal in the clauses (rental expenses) and (the cost of subcontractors), and the amendment of the Panel's decision in the clause (consultancy fees), and therefore what is related to it takes its judgment, and accordingly the matter with which the Panel ends up accepting the Taxpayer's appeal in part by dropping the delay fine on the clauses in which the Taxpayer's appeal was accepted,

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

#### Decision:

1- Acceptance of the appeal procedurally of the applicant/ branch of the company ..., commercial register (...), unique number (...), on the decision of the First Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2023-95300) issued in Case No. (I-2022-95300) related to the tax assessment for the year 2016 AD.

2- On the merits:

- (a) Proof of the end of the dispute regarding the Taxpayer's appeal on the clause ( salaries and wages).
- (b) Disregarding the Taxpayer's appeal against the clause (amounts seized from external suppliers).
- (c) Accepting the appeal of the Taxpayer and canceling the decision of the Adjudication Panel regarding the clause (rental expenses).
- (d) Accepting the appeal of the partially Taxpayer and amending the decision of the Adjudication Panel regarding the clause (consulting fees expenses).
- (e) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause ( cost of subcontractors).
- (F) accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Panel with regard to the delay fine clause.

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR -2024-173730

Case No. I-2023-173730

### Principal No. 21

- When the head office allocates operating-related costs to the branch in the Kingdom of Saudi Arabia, such expenses are deemed to be related to the taxable activity.

### Facts

The submitted appeal was heard on: 30/01/2023 AD of/... Residence number (...). In its capacity as an agent under the notarized foreign power of attorney No. (...) Issued by ... In its capacity as the Company's duly authorized representative of the Branch of the Company ... Area in its capacity as the statutory representative, on the decision of the First Panel for Adjudicating Income Tax Violations and Disputes in the city of Dammam No. (IZD-2022-2584) issued in Case No. (I-2021-75537) related to the 2015 AD tax assessment, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

1. Reject the plaintiff's objection regarding the clause of expenses not related to the activity.
2. Proof of the end of the dispute in relation to the social insurance teams clause.
3. Modify the Defendant's decision regarding the delay fine clause.

since this decision was not accepted by the Taxpayer (... Foundation), it filed a list of appeals, which included the following:

The Taxpayer objects to the decision of the Adjudication Panel in question, it claims that with regard to the clause (expenses not related to the activity), as the Appellant (the Taxpayer) demands the cancellation of the Panel's decision on this clause on the basis that the Taxpayer believes that the Adjudication Committee rejected the objection due to the lack of an agreement signed between the branch of the Kingdom of Saudi Arabia and the owner of the excavator, and only samples of documents that were submitted at the objection stage were submitted, and the Taxpayer states that it attaches the certified translation of the agreement signed between the branch of the Kingdom and the owner of the excavator, and also submits invoices and debit notes 100% issued by a third party and re-collected by the company "... (holding company)" on behalf of the owner of the excavator to the branch of the Kingdom, and based on the attached diagram and table





informs the Taxpayer that the suppliers provide their services to the actual owner of the excavator (company ...) And Saudia branch (branch of the company...— Free Zone, where the parties have agreed under the agreement concluded that the operating cost will be charged to the branch and the cost of the project will be charged to the owner of the platform ..., the supplier issued "the company ... (...)" Invoice addressed to the holding company "Company ..." On behalf of the actual owner of the Rig "Company..." In exchange for the transfer of the rig to the shipyard for maintenance and replacement of parts, the total invoice value amounted to \$4,599,452, equivalent to (17,247,945) riyals related to operating expenses, which were charged to the accounts of the Saudi branch. As for miscellaneous expenses from other suppliers, invoices were issued to the Holding Company (Company...) On behalf of the Saudi branch (the supporting documents are attached), and therefore these expenses should be allowed to be deducted based on Article (12) of the Tax Law, and Article (9) Paragraph (1) of the Executive Regulations of the Income Tax Law. While it was stated in the Defendant's response (the Authority) that after reviewing the documents submitted by the plaintiff, it became clear that the invoices are not in the name of the company and therefore those expenses were amended, and based on the foregoing, the Authority adheres to the validity and integrity of its procedure based on what is stipulated in paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law and the provisions of paragraph (3) of Article (57) of the same Regulations, and from this point of view, whenever the decision issued by the Authority is in accordance with the statutory texts and within the limits of the authority and powers delegated to it by law, and based on the information and documents available to it, its decision is valid and consistent with the relevant statutory texts; therefore, we request Your Excellency to reject the plaintiff's appeal. With regard to the clause (delay fine), as the Appellant (the Taxpayer) demands the cancellation of the decision of the Panel on this clause on the basis that the delay fines result from technical differences between the branch and the Authority, and if due, they are due from the date on which the assessment becomes final, and the Taxpayer is based on Article (77/a) of the Tax Law and Article (68/a) of the Executive Regulations of the Income Tax Law. While it was stated in the response of the Defendant (the Authority) that it imposed a delay penalty on unpaid tax differences not settled within the statutory deadline based on paragraph (a) of Article (77) of the Income Tax Law, as well as based on paragraph (1/b) of Article (68) of the Executive Regulations of the Income Tax Law. The Authority's procedure is also supported by Appellate Decision No. (1774) for the year 1438 AH and Appellate Decision No. (1913) for the year 1439 AH, as well as Appellate Decision No. (1925) for the year 1439 AH. The Authority's procedure is also supported by the final judgment issued in Case No. (5245/1/Q) for the year 1438 AH issued by the Nineteenth Administrative Panel at the Administrative Court in Riyadh and upheld by the Second Administrative Panel at the Administrative Court of Appeal in Riyadh with judgment (3404/Q) for the year 1439 AH. The jurisprudence of the First Appellate Panel for Adjudication of Income Tax Violations and Disputes has consistently upheld the Authority according to Appellate Decision No. (IR-2020-28) in Case No. (ZIW -2018-1657). It is therefore established and known to all Taxpayers according to the jurisprudence of the appellate committees that delay penalties are imposed



according to what the statutory provisions clearly and explicitly stipulated. Therefore, the Authority maintains the correctness and validity of its procedure in accordance with statutory requirements.

On Tuesday, 16/04/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes met via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Panel did not find it necessary for the parties to the appeal to be present, the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:



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

On the merits, and as for the Taxpayer's appeal regarding the clause (expenses not related to the activity), and based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH, which stipulates 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- It must be related to the tax year. D- It is not of a capitalist nature". Based on the above, and since the focus of the dispute lies in the failure of the Taxpayer to submit the agreement between the branch of the Kingdom of Saudi Arabia and the main branch containing the obligations of the parties, and by reference to the case file, it becomes clear that the Taxpayer submits the agreement signed between the branch of the Kingdom of Saudi Arabia and the main branch, through which it becomes clear that the main branch charges the operating costs to the branch of the Kingdom of Saudi Arabia. Therefore, the expenses referred to are considered expenses related to the activity, and since the dispute is documentary and where the Taxpayer submitted proof of the validity of its defenses, which shows that the expenses in dispute are actual expenses related to the activity, which must accept the Taxpayer's appeal and cancel the Panel's decision in this clause.

Whereas, regarding the Taxpayer's appeal regarding the clause (delay fine), and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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, which includes delays in paying the tax required for withholding and accelerated payments, calculated from the date the tax is due to the date of payment."Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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", and based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law, which stipulates that "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 Panel that have become final as stated in paragraph (2) of Article 71 of these regulations, including cases that are contested, where the penalty is calculated from the date of the statutory deadline for submission of the return and payment." Based on the above, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, which must cancel the decision of the Panel to impose the delay fine from the due date on the clause in which the Taxpayer's appeal was accepted.

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

#### Decision:

1- Accepting the appeal procedurally of the Taxpayer's ... commercial Register (...), unique number (...), against the decision of the First Panel for the Resolution of Income Tax Violations and Disputes in Dammam City (IZD-2022-2584) issued in Case No. (I-2021-75537) related to the tax assessment for 2015AD

2- On the merits:

A- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding an clause (expenses not related to the activity).

B- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the (delay fine) clause.

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 Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR-2024-173946

Case No. I-2023-173946

Principal No. 22

- The certificate issued by the General Organization for Social Insurance is considered one of the key and neutral documents used to verify the accuracy and fairness of salaries and wages charged to the accounts.

**Facts**



The submitted appeal was heard on: 31/01/2023 AD, of/ ..., Resident ID No. (...), in its capacity as the legal representative of the Appellant company under its Memorandum of Association, on the decision of the First Panel to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2604) issued in Case No. (I-2021-74886) related to the tax assessment for 2015 AD, in the lawsuit filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication Panel ruled the following:

First: The Plaintiff's objection to the customs duties clause was rejected.

Secondly: The Plaintiff's objection to the external procurement differences clause was rejected.

Third: The Claimant's objection to a revenue clause from an improperly traded joint venture was rejected to the tax base.

Fourth: Rejection of the Plaintiff's objection to the clause not to allow a deduction of (60%) of the share in the net loss of joint ventures.

Fifth: Reject the plaintiff's objection to the clause of not allowing the deduction of social insurance expenses.

Sixth: The Plaintiff's objection to the clause not allowing the adjustment of the gains from the sale of fixed assets was rejected.

Whereas this decision was not accepted by the Taxpayer (the company ...), it submitted an appeal regulation reviewed by the Panel, where the Taxpayer's appeal lies on the clause (foreign procurement differences for the year 2015 AD), the Taxpayer explained that the Authority, in assessment ing the adjusted for the year 2015, calculated an estimated profit of 15% on the difference between foreign purchases with a value of



(408824,128) Saudi riyals, and the company concluded a contract with the company ... For Electricity Production (Company ...), Commercial Registration No. (...) For the implementation and completion of all procurement, construction, commissioning, operation and other necessary works within the Kingdom of Saudi Arabia,... As the owner of the contract to purchase materials, construction equipment and spare parts from its supplier residing outside the Kingdom, the Committee will note that the company as a contractor is responsible for clearing goods at the port of import, completing customs documents and transporting all materials, equipment and spare parts to the construction site, based on the above facts, we would like to clarify to the esteemed committee that the external procurement differences of (408824,128) Saudi riyals related to materials, construction equipment and caliber parts purchased on behalf of the company ... The Company would also like to inform the esteemed Committee that these purchases have not been recorded by the Company in its books of account (not owned by the Company but owned by the Company ...) It was declared directly by a company ... In its books, the Company has imports with a value of SAR (3,244,294) which were duly recorded in the books and recorded in line (10402) of the amended tax return for the year 2015. The esteemed committee will also agree that the company does not have access to the tax return of the company ... which is a top secret document. Accordingly, the Company is not in a position to provide proof that the purchases have been recorded by the Company ... In its tax return, therefore, the Company requests the esteemed Committee to kindly direct the Authority to verify this matter as it has access to the Company's tax return.... We attach the customs data against the total foreign purchases amounting to (412,068,422) Saudi riyals and the letter of confirmation of foreign purchases made by the company ... In its view, the Authority stated that the total purchases for 2015 according to the confirmation letter is only (63,504,378) US dollars/ (238,441,421) Saudi riyals, and the company does not agree with the above statement of the Authority and wishes to inform the esteemed committee that on page (1) of the confirmation letter on June 8, 2021, the company submitted the list of imports made on behalf of the company ... And I asked a company ... Confirmation that the value of the imported goods is (408,824,128) Saudi riyals, which the company ... confirm it. As the esteemed committee will note from the confirmation letter that the company ... It has confirmed that it has recorded a total of foreign purchases of (454,123,733) Saudi riyals (121,009,662 US dollars), which includes purchases cleared by the company ... On behalf of the company ... With a value of (400,824,1200) Saudi riyals. The confirmation (confirming an amount of SAR 454,123,733 which includes SAR 400,524,128) also provides details of the amount if recorded in 2015 and 2016 i.e. SAR (238,441,421) in 2015 and SAR (215,716,061) in 2016 (cleared by the company from customs in 2015 and received by the company ... In 2016) respectively, in light of the above, the Honourable Committee will agree that the External Procurement has been properly matched in principle and amount as confirmed by the Company ... Accordingly, the statement of the Authority and the First Panel that no conformity has been submitted is incorrect and does not comply with the regulations in force in Saudi Arabia. The company would like to inform the esteemed committee that the external purchases according to the books of accounts of the company ... Customs records do not necessarily correspond to different



reasons such as different timing of goods cleared by customs on a certain date and received by a company ... On a different date (as mentioned in its confirmation), the company would like to inform the esteemed committee that foreign purchases worth (215,716,061) Saudi riyals (57,524,283.05 USD) were cleared from customs in 2015, but the goods were received by the company ... In the first three months of 2016 and was later registered by the company ... In 2016. With regard to the Taxpayer's appeal regarding the clause (not allowing the deduction of social insurance expenses for 2015 AD), the Taxpayer stated that the company does not agree with the Authority's view, as the company has submitted the documents supporting its objection. In its revised assessment, the Authority did not allow the deduction of the social insurance expense of (139,192) Saudi riyals in its adjusted assessment without providing any basis. The company wishes to inform the esteemed committee that it is not aware of the basis on which the Authority relied to reach the above amount, which the Authority did not allow. Therefore, the company is pleased to attach the social insurance certificate and match the amount of social insurance with the company's tax return for the year 2015. The esteemed committee will note from the above that the company has declared the amount of social insurance according to the salaries mentioned in the social insurance certificate and there was no difference. With regard to the Taxpayer's appeal regarding the clause (delay fines on the company's additional obligation for the year 2015 AD), the Taxpayer explained that the company has correctly complied with the income tax law and its executive regulations. The company wishes to inform the esteemed committee that it has always paid the income tax due in accordance with the provisions of the income tax law and its executive regulations. Accordingly, since the company has always complied with its financial obligations in accordance with the provisions of the income tax law and its executive regulations, there is no justification for the authority to impose any delay fine on the additional income tax imposed, especially when this additional income tax was not accepted by the company and was objected to in the appeal. Accordingly, the Taxpayer demands that its appeal be accepted and the decision of the Adjudication Panel on the clauses subject of its appeal be overturned.

on Thursday, 23/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

#### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Panel found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated



in the relevant laws, regulations and decisions, which means that the appeal request is accepted procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, and with regard to the Taxpayer's appeal on the clause (Foreign Procurement Differences for the year 2015 AD), where the Taxpayer's appeal lies in the appeal against the dismissal of the Adjudication Panel's objection to the disputed clause, as it claims that it is importing on behalf of the company (...). Based on the above, the statement of imports issued by the Zakat, Tax and Customs Authority is a basic presumption from a third party and neutral to prove the validity of imports, and by looking at the case file, it becomes clear that the Authority's action is to amend the results of the Taxpayer's business due to differences in the value of imports listed in its tax return compared to imports according to the customs statement, where the Taxpayer argues that the differences have arisen in light of its imports made on behalf of a company ..., and by looking at the documents submitted in the case file represented by the agreement concluded between the Taxpayer and a company ... Which stated in its content that the Taxpayer bears the imports on behalf of the company ..., and as the Taxpayer submitted a letter from the company ... Which is confirmed by a company ... Receipt and use of equipment during the years 2015 AD and 2016 AD, and where it was found that the total amounts amounted to (454,123,733) riyals (121,099,662 US dollars). To verify the letter, the submitted list was referred to and a sample was taken from it and the sample was matched with the submitted invoices, in addition to the customs statement so that the registered sample was matched with the customs invoice number (...) Within the statement submitted with the invoice on page (25) amounting to (112,693.79) US dollars, and the registered sample was matched with the customs invoice number (...) In the amount of (14,392,502.40) US dollars within the statement submitted with the invoice contained on page (29) in addition to the customs clearance contained in the same document, and from this it becomes clear that the Taxpayer's arguments are correct that it is importing on behalf of the company ... Where the company ... Certainly, and the matter with which the Panel ends up accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel on this clause.

With regard to the Taxpayer's appeal regarding the clause (not allowing the deduction of social insurance expenses for the year 2015 AD), where the Taxpayer's appeal lies in the appeal against the dismissal of its objection to the disputed clause, as it claims to have submitted the supporting documents. based on paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, 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- It is not of a capitalist nature.", and based on paragraph No. (3) of Article (57) of the Income Tax Executive Regulations issued by



Ministerial Decision No. (1535) dated 11/06/1425 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 declaration, 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." Based on the foregoing, it becomes clear that the dispute concerns the non-allowance of deducting the difference in social insurance expenses stated in the declaration from what is stated in the social insurance certificate. Accordingly, the certificate issued by the General Organization for Social Insurance is considered one of the important and neutral documents used to verify the accuracy and fairness of salaries and wages charged to the accounts. After reviewing the case file and the defenses and documents it contained, it was found that the Taxpayer had declared total social insurance expenses according to a declaration in the amount of (1,195,929) for the Saudi side and the foreign side. Upon reference to the social insurance certificate, it was found that the total amount of social insurance expenses amounts to (1,194,752) riyals for both the Saudi side and the foreign side, where the difference between what is stated in the declaration and the certificate amounts to (1,177) riyals, which necessitates an addition to the adjusted net profit (regarding which the Taxpayer provided no reasons), and not the amount indicated by the Authority. The Authority failed to notice the error in classification according to the Taxpayer's declaration submitted to it, where what was included in the declaration for the Saudi side was the expense related to the foreign side. To avoid this erroneous treatment, the entire insurance expense stated in the declaration was taken and matched against the social insurance certificate, which resulted in a difference of only (1,177) riyals as mentioned above. Accordingly, the Panel concludes by partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Panel regarding this clause.

With regard to the Taxpayer's appeal regarding the clause (delay fines on the company's additional obligation for the year 2015 AD), and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 ." based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law: "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 Panel that have become final as stated in paragraph (2) of Article 71 of these regulations, including cases that are contested, where the penalty is



calculated from the date of the statutory deadline for submission of the return and payment." Based on the foregoing, and since the Taxpayer did not submit its objection on this clause before the adjudication committee in the first place, which ends with the Panel dismissing the Taxpayer's appeal on this clause.

with regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Panel is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Panel did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Panel concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Panel with respect to the remaining clauses at issue in the case, based on the grounds for the decision.

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

#### Decision:

1- Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), unique number (...) Against the decision of the first Panel for adjudicating violations and disputes of income tax in Jeddah Province with number (IZJ-2022-2604) issued in case number (I-2021-74886) related to the tax assessment for the year 2015 AD.

2- On the merits:

A- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (customs duties for the year 2015 AD).

B- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (foreign procurement differences for the year 2015 AD).

C- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding an clause (revenues from an improperly traded joint venture to the tax base).

D- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (not allowing the deduction of 60% of the share in the net loss of joint ventures).

E- Accepting the appeal of the partially Taxpayer and amending the decision of the Adjudication Panel regarding the clause (not allowing the deduction of the social insurance expense for the year 2015 AD).

F- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (not allowing the adjustment of the gains from the sale of fixed assets for the year 2015 AD).

G- To dismiss the Taxpayer's appeal regarding the clause (delay fines on the company's additional commitment for the year 2015 AD).

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



## Appellate Committee for Tax Violations and Disputes First Appellate Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-192725

Case No. I-2023-192725

### Principal No. 23

- The tax base is calculated based on the taxpayer's return, and the taxpayer is required to provide supporting evidence for that return. The financial statements represent the primary supporting basis for determining the tax base, and to be considered valid, they must be complete in terms of preparation, measurement, presentation, and disclosure.

### Principle No. 24

- Since the Authority's decision has not attained finality, the taxpayer is entitled to submit documents that reflect the actual circumstances at the time of assessment, to ensure a fair and accurate fulfillment of the obligation—provided that the authenticity of the submitted documents has not been challenged by the Authority.

### Facts



the appeal filed on 25/04/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Panel for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2023-152688) issued in Case No. (I-2022-152688) related to the tax assessment for the year 2016 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

First: Acceptance of the lawsuit filed by the plaintiff/ company ..., unique number (...), against the Defendant/Zakat, Tax and Customs Authority, procedurally.

Second: On the merits: Cancel the Defendant's action in relation to the provision of any tax assessment costs or expenses for the year 2016 AD, according to the reasons.

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



The Authority objects to the decision of the Adjudication Panel under appeal, where it claims that regarding the clause (non-approval of any expenses or costs related to the tax activity for the year 2016 AD), the Authority clarifies that it rejected the entire activity expenses in the amount of (15,159,462) riyals due to the Taxpayer's failure to respond to the data request sent by the Authority on 11/11/2021 AD and failure to provide documentary evidence supporting the following clauses: direct costs, purchases from abroad (imports) with attachment of customs clearance, rents, other expenses, and if the clause represents multiple invoices, it is required to provide a detailed statement of the clauses so that the sample can be selected and determined, provision of a copy of the social insurance certificate, analytical statement of direct and indirect salaries and wages with matching to what was declared in the declaration. The above requests include all activity expenses. The Authority reminded the Taxpayer through mail several times, and due to the Taxpayer's non-response and lack of cooperation for five months from the first demand, all expenses were rejected as being documentarily unsubstantiated expenses, and assessment was made based on available data. During the objection stage, the Taxpayer's declaration was reviewed and it was found that the expenses were included in a total amount of (15,159,462) riyals under the clause of other direct expenses (Table 3-A) with no details provided in the financial statements. Regarding the reasons cited by the Taxpayer in the objection memorandum, the Authority states firstly: On the procedural side, the technical problem referred to by the Taxpayer due to the failure of the company to receive information request notices is misplaced, as the Authority notified the data requestor through the mail and sent it to the mail registered with the Authority. Second: the merits aspect, which is the non-approval of any costs or expenses related to the activity for the year 2016 AD, where the Authority rejected all expenses due to their lack of supporting documentary evidence. The Taxpayer was requested to provide documentary proof on 11/11/2021 AD, and the Taxpayer was given an opportunity to submit data until the assessment date on 20/06/2022 AD. In response to the Taxpayer's memorandum that estimated accounting was conducted for the year 2016 AD, the Authority states that it did not assess the Taxpayer on an estimated basis, but rather assessed him in the regular manner according to the data based on his declaration. All expenses were rejected due to lack of proof, and revenues were not subjected to a profit percentage. Regarding the accounting for the year 2016 AD without applying the matching principle by deducting estimated expenses, the Authority states that it did not adopt the estimated method in assessing the Taxpayer, considering that the Taxpayer is assessed regularly and his accounts were not disregarded. Regarding the failure to review supporting documents for the company's costs and expenses, the Taxpayer stated that the company possesses all supporting documents that prove the accuracy of the information included in the declaration and financial statements. He provided a statement of expense clauses which is included in the objection memorandum, and he states that he provided samples for all clauses mentioned in the said statement. Upon reviewing the objection attachments, the mentioned attachment for expense samples was not provided. Accordingly, the Authority sent an email to the Taxpayer on 16/08/2022 AD requesting him to provide the data and samples as he stated in the objection memorandum. He was also asked about the reasons for not responding to the



previous data request sent during the examination phase. The email was responded to and the mentioned samples were provided according to his objection. He stated that the reason for not responding to previous requests was because "the branch is a permanent establishment as a non-independent agent, so there is no actual presence of company personnel in the Kingdom, and the contact number was outside the Kingdom, with company personnel having no knowledge of the Arabic language or the Authority's procedures." Given the Taxpayer's response through the certified public accountant's office... and submitting some documents and samples for expenses. The scope of the examination has been expanded to verify the existence of regular accounting books and to verify that the samples submitted to them are a reference for accounting registration. Accordingly, on 29/08/2022 AD, the Taxpayer was requested to provide the following data: 1- The detailed trial balance for 2016 AD. 2- A ledger account at the cost of cement products in the amount of (8,727,027) riyals. 3- The account of the manager of the managers' salaries in the amount of (401,869) riyals. 4- The account of the professor of tax services in the amount of (62,370) riyals. With the identification of financial operations from the accounts of the master, for which samples have been submitted previously. The Taxpayer replied on 30/08/2022 AD and the following data were submitted in English: 1- Total trial balance. 2- Detailed payroll. 3- Calculating the cost of cement products. 4- A statement of account for tax services. 5- Calculating the managers' salaries. Accordingly, the total trial balance was matched with the financial statements, which is identical because it is a total balance that does not contain any details about the clauses. The calculation of cement products was matched with the submitted samples, and the Authority was unable to match their amount, as the statement and invoices were in the US dollar currency and it was unable to match the invoice samples with the submitted statement, and the total was transferred to the Saudi riyal only. The statement of account of the tax services and the submitted sample for the period ending on 31/12/2015 AD were reviewed, so the Authority was unable to match them because they were not present in the 2016 AD statement of account, and the managers' salaries were calculated: It is evident from this that directors' salaries are charged every six months with a single entry at the end of the year. Due to the inability to match the data, communication was made with the certified public accountant's office and clarification was requested regarding the recording methods. He stated that he did not know and that he would communicate with the company in Britain and contact us, but no response was received until the date of 06/09/2022 AD. Based on the foregoing data, it is clear that there is no actual presence of the company's personnel in the Kingdom, which proves the absence of accounting books maintained within the Kingdom in Arabic. The Taxpayer maintains its books through computer from outside the Kingdom and does not have employees within the Kingdom through whom data can be obtained. The Authority was unable to trace and verify the matching of the submitted samples with the account statements. Therefore, the submitted data cannot be relied upon. Furthermore, the company did not comply with the controls for maintaining accounting books and records approved by Article Fifty-Six of the Executive Regulations of the Income Tax Law. Accordingly, and in accordance with the aforementioned reasons and regulatory grounds, the Taxpayer's objection was rejected because the submitted data does not reflect the reality of the company

and the financial statements, and the Taxpayer's failure to provide documentary evidence for expenses that meet the conditions for permissible expense deduction contained in Article Nine, paragraph (1) of the Executive Regulations of the Income Tax Law. It added that the Panel that issued the decision under appeal annulled the Authority's decision, reasoning that it is not reasonable for the Authority to take part of the financial statements represented by revenues without taking the expenses contained in the same statements. The Authority responds to this by stating that after reviewing the documents submitted in the case, it was found that they are the same data submitted during the objection stage, which consist of a collection of goods and services invoices in foreign currency distributed in folders with expense and cost designations, and do not include analytical ledger statements for expenses or summary statements that can be matched with the cost of sales contained in the financial statements. Additionally, the submitted invoices are not translated into local currency. Furthermore, when these invoices are translated and converted to local currency and detailed according to the folder names in which they were submitted, they cannot be compared with the expenses in the financial statements due to the absence of details in the financial statement notes. Regarding what the decision-issuing Panel relied upon in annulling the Authority's decision - namely that it is not reasonable for the Authority to take part of the financial statements without the other part, which is the revenues - the Authority confirms that it acted in accordance with what was approved by the Executive Regulations of the Income Tax Law in paragraph (1) of its Article Five regarding the acceptance of expense deductions to determine taxable income, where the submitted data "as we indicated above" cannot be accepted as documentary evidence of the validity of cost of sales. Accordingly, the Authority confirms the correctness and soundness of its procedure and requests the reversal of the Adjudication Panel's decision on the clauses under appeal for the aforementioned reasons.

on Thursday, 27/06/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Panel found nothing to require the presence of the parties to the appeal, the Panel decided that the case has become ready for adjudication and issuing a decision on its subject, so the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Authority, the Panel found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the appeal request is accepted

procedurally, as it was submitted by a person with standing, and within the statutory period prescribed for its conduct.

On the merits, and where the appeal of the Authority regarding the clause (not to approve any expenses or costs related to the tax activity for the year 2016 AD), and where its appeal lies that it rejected all the expenses of the activity in the amount of (15,159,462) riyals due to the failure of the Taxpayer to respond to the request for data sent by the Authority on 11/11/2021 AD and the failure to provide supporting documentary evidence. Whereas Paragraph (1) of Article (9) of the Executive Regulations of the Income Tax Law issued by the Minister of Finance Resolution No. (1535) dated 11/06/1425 AH stipulates that: "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- It must be related to the tax year. D- It shall not be of a capitalistic nature." Whereas Article (23) of the Sharia Pleadings Law relating to interlocutory applications stipulates that: "The Arabic language is the official language of the courts, and the court hears the statements of litigants, witnesses, and the like who are non-Arabic speakers through an interpreter, and provides a certified translation from an office licensed in Arabic for papers written in a foreign language." Article (58) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH related to expenses related to books and records stipulates that: "The Authority shall have the right to refuse to charge any expense if the Taxpayer fails without reasonable cause to submit the document related to the expense or the evidence supporting the validity of the claim." Paragraph (3) of Article (57) of the Income Tax Executive Regulations also 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 declaration, 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." Based on the foregoing, and since the dispute lies in the fact that the Authority rejected all the expenses of the activity because the Taxpayer did not submit the documents supporting the financial statements with a value of (15,159,462) riyals, and the Taxpayer is required to approve the deduction of the expenses related to the activity and to support what was mentioned in the adjudication decision, because it is a documentary supporting expenses, and the Taxpayer states that it did not receive any notices from the Authority requesting additional information, while the Authority paid that it notified the Taxpayer by e-mail on 11/11/2021 AD and gave him a deadline until 29/08/2022 AD, where the Taxpayer submitted copies of the correspondence that took place between him and the Authority with its objection list before the Adjudication Committee on 04/06/2023 AD, and after reviewing the submitted e-mail correspondence; it turns out that the Taxpayer responded to the Authority and submitted the required documents, and the Authority stated that after receiving the documents, it examined more widely within the statutory deadline



given to the Taxpayer by the Authority On the merits: The Authority clarified that it did not disregard the Taxpayer's accounts and assess him on an estimated basis, but rather rejected the deduction of expenses as they were not supported by documentation. Accordingly, while the Authority matched the samples with the submitted statements, the dispute arises when amounts are converted to Saudi Riyals, showing differences resulting from currency conversion that do not match the approved financial statements, which assume that the amounts recorded therein are in Saudi Riyal currency. Some samples were not present in the submitted account statements, and some submitted samples were for accounts recorded with a single entry at the end of the year. The Authority verified the accounts through the certified public accountant, who in turn did not clarify to the Authority the methods of recording accounts and the details of accounting operations that took place during the year. In application of Article (23) of the Sharia Pleadings Law relating to incidental applications, which clarifies the obligation of Taxpayers to maintain accounting books and records in Arabic language, and through the submitted documents, it appears that the Taxpayer submitted documents in foreign language and non-Saudi currency. The Authority exercised its right to verify the validity of expenses contained in the submitted documents and financial statements in terms of their acceptance or rejection regarding its procedure of taking part of the financial statements (revenues) and omitting part (expenses) in application of Article (9) paragraph (1) of the Income Tax Law. Meanwhile, the Taxpayer did not provide a trial balance or general ledger extracted from the accounting system and matching the statements for tracking and matching the submitted invoices, where the Taxpayer mentioned that accounts are recorded through a local service provider through a local terminal unit, and the Taxpayer electronically provides all necessary data to the service provider. The Taxpayer did not provide any document regarding what was mentioned above. As stated in the tax law, the calculation of the tax base is based on the Taxpayer's declaration, and he is required to provide supporting evidence for that declaration, so that the financial statements represent the basic supporting option for calculating the tax base. For them to be relied upon, they must be complete in terms of preparation, measurement, presentation, and disclosure, which was not achieved in the Taxpayer's financial statements, as it was not clear that their components were complete. This is not affected by the non-acceptance of any document that was not submitted to the Authority during the assessment procedure, as this is a statement that is inconsistent with the regulatory texts governing objections to decisions issued by administrative bodies. The Law of Pleadings before the Board of Grievances and its Executive Regulations did not stipulate as a condition for accepting a grievance the necessity of submitting supporting documents for the grievance before the administrative authority. Since the Authority's decision issued is a non-final decision that is subject to appeal before the adjudication committees and the appellate committee, and since the Authority's decision has not acquired final status, the Taxpayer has the right to submit documents that reflect the actual situation at the time of assessment in order to ensure fair performance of the obligation in accordance with reality, as long as the submitted documents have not been challenged for their validity by the Authority. Additionally, the submission of documents and papers by the Taxpayer are considered evidence and presumptions worthy of



consideration. If he did not submit them to the Authority, the Authority may amend the declaration based on what is established before it, and this is not affected by the Taxpayer subsequently submitting proof of the correctness of his declaration as long as nothing has been raised by the Authority that affects the validity of those documents. Furthermore, regarding the previous Appellate Committee decision number (1751) for the year 1438 AH, which upheld the Authority's position of not accepting new documents, the result of this decision cannot be relied upon due to the possibility of its annulment by the Board of Grievances. Moreover, what is considered in this regard is what the current committee has adopted, considering that its decision is final and issued by a judicial committee, unlike the previous committees whose decisions the Board's jurisprudence has established as administrative. Accordingly, the Panel concludes by accepting the Authority's appeal and annulling the decision of the Adjudication Panel on this clause.

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

#### Decision:

1- Accepting the appeal procedurally from the applicant Zakat, Tax and Customs Authority against the decision of the Second Panel for adjudicating income tax violations and disputes in Riyadh, No. (ISR-2023-152688) issued in Case No. (I-2022-152688) regarding the tax assessment for the years 2016 AD.

2- On the merits:

Accepting the Authority's appeal and canceling the decision of the Adjudication Panel regarding the clause ( not approving any expenses or costs related to tax activity for the year 2016 AD), in accordance with the reasons and justifications mentioned in this decision.

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.





## Paid Amounts



## Appellate Committee for Tax Violations and Disputes First Appellate Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-171717

Case No. W-2023-171717

### Principal No. 25

- Payment documents that are not related to the disputed periods shall be treated as if the taxpayer failed to provide supporting documents evidencing payment for the relevant disputed periods.

### Facts



the appeal filed on 26/01/2023 AD, from/... Resident ID number (...) In its capacity as the legal representative of the Appellant company under its Memorandum of Association and the Zakat, Tax and Customs Authority, the First Panel's decision to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2526) issued in Case No. (W-2021-81540) related to the assessment of withholding tax for the years 2014 AD to 2017AD , in the lawsuit filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled the following:

- 1- Rejection of the plaintiff's objection regarding the statute of limitations for 2014 AD and 2015 AD.
- 2- Cancel the Defendant's decision regarding the clause of the amounts paid in advance for the years 2014 AD and 2015 AD.
3. Rejection of the plaintiff's objection regarding the clause of amounts recorded as expenses due for the years from 2014 AD to 2017 AD.
- 4- Cancel the Defendant's decision regarding the clause of withholding tax as related parties for the years from 2014 AD to 2017AD.
- 5- Rejection of the plaintiff's objection regarding the clause of refund of the due tax.
- 6- Modifying the Defendant's procedure with regard to the delay fine clause.

Whereas this decision was not accepted by the Taxpayer (.... company), it submitted an appeal statement that was reviewed by the Panel, where the Taxpayer's appeal lies on the clause (amounts recorded as expenses due for the years from 2014 AD to 2017 AD), the Taxpayer explained that the Adjudication Committee based its ruling on rejecting the company's objection to its claim that the company did not provide documentary support for the clause, while the company confirmed through the response memorandum to the Authority's view that it paid the withholding tax to the Authority for all amounts



actually paid to the beneficiaries subject of the clause during the periods subject of appeal and subsequent periods (when the event establishing the tax, which is the actual payment, was achieved) with a total amount greater than the amounts of the assessment subject of the dispute, as follows: A- With regard to transactions with the company (...) Which was subjected by the Authority to withholding tax for the years from 2014 AD to 2017AD, the total transactions recorded as an expense in the company's books in the period from 2014 AD to 2018 AD amounted to (227,843,788) Saudi riyals, while the amounts paid to the supplier, which were subjected by the company to withholding tax upon the realization of the taxable event, which is the actual payment and not the entitlement according to the Authority's procedure, amounted to (293,880,302.13) Saudi riyals, and therefore it appears that the company withheld the tax on the amounts paid to the company (...) but at different intervals. B- With regard to transactions with the company (...) Which the Authority subjected to withholding tax for the year 2016 AD, the total transactions recorded as expenses in the company's books during the period from 2016 to 2017AD amounted to (3,505,492) Saudi riyals, while the amounts paid to the supplier on which the company applied withholding tax when the tax-generating event occurred - which is the actual payment event and not the accrual entry according to the Authority's procedure - amounted to (4,278,247.79) Saudi riyals. C- With regard to transactions with the company (...) Which the Authority subjected to withholding tax for the years 2014 AD and 2015 AD, the total transactions recorded as expenses in the company's books during the period from 2014 AD to 2017AD amounted to (5,233,341.00) Saudi riyals, while the amounts paid to the supplier on which the company applied withholding tax when the tax-generating event occurred - which is the actual payment event and not the accrual entry according to the Authority's procedure - amounted to (5,370,706.00) Saudi riyals. D- With regard to transactions with the company (...) Which was subjected by the Authority to withholding tax for the years 2016 AD and 2017AD , the total beneficial transactions as an expense in the company's books in the period from 2016 AD to 2018 AD amounted to (2,193,923,00) Saudi riyals, while the amounts paid to the supplier, which were subjected by the company to withholding tax when the tax-creating event occurred, which is the actual payment and not the due entry in accordance with the Authority's procedure, amounted to (1,957,216,67) Saudi riyals. E- With regard to the rest of the transactions that the Authority subjected to withholding tax for the years from 2014 AD to 2017 AD, the company submitted monthly withholding forms in addition to payment receipts that support the payment of those amounts during the subsequent periods when the event establishing the tax, which is the actual payment, is realized. With regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer explained that the Adjudication Committee, according to its decision under appeal, supported the Authority's point of view in imposing delay fines on the withholding tax differences for the years from 2014 AD to 2017 AD. Accordingly, the company appeals the decision of the Adjudication Committee as follows: The delay fine has arisen due to a real and clear difference of views between the Authority and the Company. The objection committees have ruled in many objections not to impose a delay fine when there is a real difference in views between the Authority and the Taxpayer. Therefore, the Taxpayer demands acceptance of his appeal and reversal of the



adjudication Panel's decision on the clauses subject to his appeal. Since this decision was not accepted by the Authority, it submitted an appeal brief which the Panel reviewed. The Authority's appeal concerns the clause (amounts paid in advance for the year 2015). The Authority informed the honorable committee that the plaintiff did not object to the clause during the examination and audit phase after receiving the preliminary assessment and raised it during the objection phase. Accordingly, the Authority held a hearing session with the plaintiff on 25/10/2021 AD, and therefore the Authority wishes to summarize its response to the clause as follows: For the month of August 2015 AD: After studying and reviewing the documents submitted by the plaintiff, it was found that the attached repayments from the plaintiff, which it stated were related to the declaration of August 2015 AD, it was clear that it paid them in 2016 AD, and it was also found to the Authority after reviewing the plaintiff's statement of account for August 2015 AD that there were no repayments for the period, and with regard to the month of July 2014 AD: After reviewing the documents submitted by the plaintiff, which it indicated that payment was made in the December 2015 declaration, it was found that payment was made in the April 2015 AD declaration. Accordingly, it is found that the periods for which the plaintiff reported that it paid the withholding tax do not match the amounts of the assessment and do not match the documents supporting the payment. The plaintiff did not provide a detailed statement of the expenses due with the non-resident parties and the extent of its supply of withholding tax, as paragraph (3) of Article (57) of the Executive Regulations of the Income Tax Law stipulates that: "3-The burden of proving the validity of the revenues, expenses and any other data mentioned in the Taxpayer's declaration shall fall on the Taxpayer. In the event that the Taxpayer is unable to prove the validity of what is mentioned in its declaration, the Panel may, in addition to applying any other statutory sanctions, not allow the expenditure that is not proven to be true by the Taxpayer or make a discretionary assessment according to the point of view of the Panel in the light of the circumstances and facts related to the case and the information available to the Panel.", As for the reasons of the Panel, the Authority answers that it is incorrect, and therefore the Authority adheres to its procedure and safety. regarding the Authority's appeal regarding the delay fine clause, the Authority clarifies that the delay fine was imposed on tax differences not paid within the statutory deadline based on paragraph (a) of Article 77 of the Income Tax Law, which stipulates that: "In addition to the penalties 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, which includes the delay in paying the tax required for withholding and accelerated payments and is calculated from the date the tax is due to the date of payment", as well as based on paragraph (1/b) of Article 68 of the Executive Regulations of the Income Tax Law, which states: "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, including what is stated in the paragraph: - b- Delay in paying the tax due under the assessment ing of the interest." Whereas the fine is consequential and due to the Authority's appeal on the above clauses, it adheres to the validity of its procedure in imposing a delay fine on the unpaid tax

differences and demands the acceptance of its appeal and the reversal of the decision of the Adjudication Panel on the clauses subject to its appeal.

on Wednesday, on: 08/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, with regard to the Authority's appeal on the clause (Advance payments for 2015 AD), where the Authority's appeal lies in the appeal on the acceptance of the adjudicator's objection to the disputed clause, as it claims that the Taxpayer did not submit the documents supporting the payment. 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: "3- 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 declaration, 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." Based on the foregoing, and with reference to the documents submitted, the validity of what the Authority indicated that the payment documents are not related to the periods in dispute, and therefore since the Taxpayer did not submit the documents supporting the payment and related to the periods in dispute, which leads the Panel to accept the Authority's appeal and cancel the decision of the Adjudication Panel on this clause.

With regard to the Taxpayer's appeal regarding the clause (the amounts recorded as expenses due for the years from 2014 AD to 2017 AD), where the Taxpayer's appeal lies in the appeal against the dismissal of its objection on the clause in dispute, as it claims to pay withholding tax on all amounts actually paid to the beneficiaries. Based on the above, it turns out that the Taxpayer's appeal is that it paid the withholding tax to the Authority for all the amounts actually paid to the beneficiaries during the periods subject to appeal



and subsequent periods (when the Taxpayer's actual payment is realized) with total amounts greater than the amounts of the assessment in question, while the Authority indicated that the Taxpayer's objection was rejected and a withholding tax was imposed on him, due to the failure to submit the master account through which the Authority can verify the amounts paid and the amounts due. Therefore, the lesson in imposing withholding tax on the Taxpayers is the actual payment, which the Taxpayer in the years in question proved by submitting both "a statement of the amounts paid for the years from 2014 AD to 2018 AD according to the company's monthly withholding forms - monthly withholding forms - the relevant payment receipts", and by reviewing the documents submitted, it was found that they are for the entire period in question, which

Regarding the appeal of the two parties regarding the clause (delay fine), based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 ." based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law: "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 Panel that have become final as stated in paragraph (2) of Article 71 of these regulations, including cases that are contested, where the penalty is calculated from the date of the statutory deadline for submission of the return and payment." based on the above, and with reference to the case file and the defenses and documents it contains, and since the delay fine 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 Authority, 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 therefore, the Authority's decision to impose the delay fine from the due date on the clauses where the Taxpayer's objection was rejected and the delay fine on the clauses where the Authority's decision was canceled due to the loss of the original imposition of the tax is correct, which leads the Panel to modify the decision of the Adjudication Panel on this clause.

With regard to the Authority's appeal regarding the clause (amounts paid in advance for the year 2014 AD), and where Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in

acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If an agreement is reached before the case is settled, it is necessary to record the content of the case and the response before documenting the agreement, taking into consideration that the original case must fall within the jurisdiction of the Panel, even if the content of the agreement falls within the jurisdiction of another court or Panel, provided that the subject matter of the case or part of it is among what has been agreed upon." Based on the foregoing, and whereas it has been established to this Panel that the Authority has requested to abandon the appeal according to what was stated in the letter issued by it in the supplementary memorandum, which contained: "The Authority informs the honorable Panel that it abandons its appeal regarding the above-mentioned clause specifically (amounts paid in advance for the year 2014 AD) and the procedures that resulted from the Authority's appeal, in accordance with what the adjudication Panel's decision concluded in its reasoning..." Therefore, the Panel accepts the abandonment of the dispute.

Regarding the Authority's appeal regarding the clause (Withholding Tax as Associated Entities for the years 2014 AD to 2017 AD ), Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If an agreement is reached before the case is settled, it is necessary to record the content of the case and the response before documenting the agreement, taking into consideration that the original case must fall within the jurisdiction of the Panel, even if the content of the agreement falls within the jurisdiction of another court or Panel, provided that the subject matter of the case or part of it is among what has been agreed upon." Based on the foregoing, and whereas it has been established to this Panel that the Authority has requested to abandon the appeal according to what was stated in the letter issued by it in the supplementary memorandum, which contained: "The Authority informs the honorable Panel that it abandons its appeal regarding the above-mentioned clause specifically (withholding tax as related entities) and the procedures that resulted from the Authority's appeal, in accordance with what the adjudication Panel's decision concluded in its reasoning..." Therefore, the Panel accepts the abandonment of the dispute.

with regard to the Taxpayer's appeal on the remaining clauses in the case, the Panel is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding the decision with what these reasons contain, it is certain that the Panel did not find any objections to the decision that merit a response beyond what was included in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and



sufficient to carry its judgment since the issuing Panel scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Panel did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Panel concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Panel in its conclusion on the remaining clauses in the case, based on the grounds for the decision.

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

### Decision:

1- Accepting the appeal from the Taxpayer / ...Company procedurally(.) Commercial Register (...) Unique number (...). the appeal filed by the Zakat, Tax and Customs Authority against the decision of the First Panel for the Resolution of Income Tax Violations and Disputes in Dammam, No. (IZD-2022-2526) issued in Case No. (W-2021-81540) related to the tax assessment for the years 2014 AD to 2017AD.

2- On the merits:

1- With regard to the Authority's appeal against the clause (advance payments for the year):

A- Accepting the abandonment of the litigation in connection with the Authority's appeal on the clause (amounts prepaid for the year 2014 AD).

B- Accepting the Authority's appeal and canceling the decision of the Adjudication Panel regarding the clause (amounts prepaid for the year 2015 AD ).

2- Accepting the abandonment of the litigation in relation to the Authority's appeal on the clause (withholding tax as related parties for the years from 2014 AD to 2017 AD ).

3- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (Limitation for 2014 and 2015 AD ).

4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (amounts recorded as expenses due for the years from 2014 to 2017 AD ).

5- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (tax refund due to it (paid on account)).

6- Amending the decision of the Adjudication Panel regarding the clause (delay fine).

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-171717

Case No. W-2023-171717

### Principle No. 26

- Withholding tax liability is determined based on the actual payment made by the taxpayer. If the taxpayer substantiates the occurrence of such payment and the Authority does not challenge its validity, it shall be recognized accordingly. The Authority's request for the submission of the general ledger to verify the amounts does not affect this, as the decisive factor remains the actual occurrence of payment.

### Facts



the appeal filed on 26/01/2023 AD, from/... Resident ID number (...) In its capacity as the legal representative of the Appellant company under its Memorandum of Association and the Zakat, Tax and Customs Authority, the First Panel's decision to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2526) issued in Case No. (W-2021-81540) related to the assessment of withholding tax for the years 2014 AD to 2017 AD, in the lawsuit filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled the following:

- 1- Rejection of the plaintiff's objection regarding the statute of limitations for 2014 AD and 2015 AD.
- 2- Cancel the Defendant's decision regarding the clause of the amounts paid in advance for the years 2014 and 2015 AD.
3. Rejection of the plaintiff's objection regarding the clause of amounts recorded as expenses due for the years from 2014 to 2017 AD.
- 4- Cancel the Defendant's decision regarding the clause of withholding tax as related parties for the years from 2014 to 2017AD.
- 5- Rejection of the plaintiff's objection regarding the clause of refund of the due tax.
- 6- Modifying the Defendant's procedure with regard to the delay fine clause.

Whereas this decision was not accepted by the Taxpayer (... company), it submitted an appeal statement that was reviewed by the Panel, where the Taxpayer's appeal lies on the clause (amounts recorded as



expenses due for the years from 2014 AD to 2017 AD), the Taxpayer explained that the Adjudication Committee based its ruling on rejecting the company's objection to its claim that the company did not provide documentary support for the clause, while the company confirmed through the response memorandum to the Authority's view that it paid the withholding tax to the Authority for all amounts actually paid to the beneficiaries subject of the clause during the periods subject of appeal and subsequent periods (when the event establishing the tax, which is the actual payment, was achieved) with a total amount greater than the amounts of the assessment subject of the dispute, as follows: A- With regard to transactions with the company (...) Which was subjected by the Authority to withholding tax for the years from 2014 to 2017 AD, the total transactions recorded as an expense in the company's books in the period from 2014 AD to 2018 AD amounted to (227,843,788) Saudi riyals, while the amounts paid to the supplier, which were subjected by the company to withholding tax upon the realization of the taxable event, which is the actual payment and not the entitlement according to the Authority's procedure, amounted to (293,880,302.13) Saudi riyals, and therefore it appears that the company withheld the tax on the amounts paid to the company (...) but at different intervals. B- With regard to transactions with the company (...) Which the Authority subjected to withholding tax for the year 2016 AD, the total transactions recorded as expenses in the company's books during the period from 2016 AD to 2017AD amounted to (3,505,492) Saudi riyals, while the amounts paid to the supplier on which the company applied withholding tax when the tax-generating event occurred - which is the actual payment event and not the accrual entry according to the Authority's procedure - amounted to (4,278,247.79) Saudi riyals. C- With regard to transactions with the company (...) Which the Authority subjected to withholding tax for the years 2014 AD and 2015 AD, the total transactions recorded as expenses in the company's books during the period from 2014 to 2017AD amounted to (5,233,341.00) Saudi riyals, while the amounts paid to the supplier on which the company applied withholding tax when the tax-generating event occurred - which is the actual payment event and not the accrual entry according to the Authority's procedure - amounted to (5,370,706.00) Saudi riyals. D- With regard to transactions with the company (...) Which was subjected by the Authority to withholding tax for the years 2016 AD and 2017 AD, the total beneficial transactions as an expense in the company's books in the period from 2016 to 2018 amounted to (2,193,923,00) Saudi riyals, while the amounts paid to the supplier, which were subjected by the company to withholding tax when the tax-creating event occurred, which is the actual payment and not the due entry in accordance with the Authority's procedure, amounted to (1,957,216.67) Saudi riyals. E- With regard to the rest of the transactions that the Authority subjected to withholding tax for the years from 2014 AD to 2017 AD, the company submitted monthly withholding forms in addition to payment receipts that support the payment of those amounts during the subsequent periods when the event establishing the tax, which is the actual payment, is realized. With regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer explained that the Adjudication Committee, according to its decision under appeal, supported the Authority's point of view in imposing delay fines on the withholding tax differences for the years from 2014 AD to 2017 AD. Accordingly, the company appeals



the decision of the Adjudication Committee as follows: The delay fine has arisen due to a real and clear difference of views between the Authority and the Company. The objection committees have ruled in many objections not to impose a delay fine when there is a real difference in views between the Authority and the Taxpayer. Therefore, the Taxpayer demands acceptance of his appeal and reversal of the adjudication Panel's decision on the clauses subject to his appeal. Since this decision was not accepted by the Authority, it submitted an appeal brief which the Panel reviewed. The Authority's appeal concerns the clause (amounts paid in advance for the year 2015 AD). The Authority informed the honorable committee that the plaintiff did not object to the clause during the examination and audit phase after receiving the preliminary assessment and raised it during the objection phase. Accordingly, the Authority held a hearing session with the plaintiff on 25/10/2021 AD, and therefore the Authority wishes to summarize its response to the clause as follows: For the month of August 2015: After studying and reviewing the documents submitted by the plaintiff, it was found that the attached repayments from the plaintiff, which it stated were related to the declaration of August 2015 AD, it was clear that it paid them in 2016 AD, and it was also found to the Authority after reviewing the plaintiff's statement of account for August 2015 that there were no repayments for the period, and with regard to the month of July 2014 AD: After reviewing the documents submitted by the plaintiff, which it indicated that payment was made in the December 2015 AD declaration, it was found that payment was made in the April 2015 AD declaration. Accordingly, it is found that the periods for which the plaintiff reported that it paid the withholding tax do not match the amounts of the assessment and do not match the documents supporting the payment. The plaintiff did not provide a detailed statement of the expenses due with the non-resident parties and the extent of its supply of withholding tax, as paragraph (3) of Article (57) of the Executive Regulations of the Income Tax Law stipulates that: "3-The burden of proving the validity of the revenues, expenses and any other data mentioned in the Taxpayer's declaration shall fall on the Taxpayer. In the event that the Taxpayer is unable to prove the validity of what is mentioned in its declaration, the Panel may, in addition to applying any other statutory sanctions, not allow the expenditure that is not proven to be true by the Taxpayer or make a discretionary assessment according to the point of view of the Panel in the light of the circumstances and facts related to the case and the information available to the Panel.", As for the reasons of the Panel, the Authority answers that it is incorrect, and therefore the Authority adheres to its procedure and safety. regarding the Authority's appeal regarding the delay fine clause, the Authority clarifies that the delay fine was imposed on tax differences not paid within the statutory deadline based on paragraph (a) of Article 77 of the Income Tax Law, which stipulates that: "In addition to the penalties 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, which includes the delay in paying the tax required for withholding and accelerated payments and is calculated from the date the tax is due to the date of payment", as well as based on paragraph (1/b) of Article 68 of the Executive Regulations of the Income Tax Law, which states: "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, including what is stated in the paragraph: - b- Delay in paying the tax due under the assessment ing of the interest." Whereas the fine is consequential and due to the Authority's appeal on the above clauses, it adheres to the validity of its procedure in imposing a delay fine on the unpaid tax differences and demands the acceptance of its appeal and the reversal of the decision of the Adjudication Panel on the clauses subject to its appeal.

on Wednesday, on: 08/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Panel decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, with regard to the Authority's appeal on the clause (Advance payments for 2015 AD), where the Authority's appeal lies in the appeal on the acceptance of the adjudicator's objection to the disputed clause, as it claims that the Taxpayer did not submit the documents supporting the payment. 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: "3- 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 declaration, 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." Based on the foregoing, and with reference to the documents submitted, the validity of what the Authority indicated that the payment documents are not related to the periods in dispute, and therefore since the Taxpayer did not submit the documents supporting the payment and related to the periods in dispute, which leads the Panel to accept the Authority's appeal and cancel the decision of the Adjudication Panel on this clause.

With regard to the Taxpayer's appeal regarding the clause (the amounts recorded as expenses due for the years from 2014 AD to 2017 AD), where the Taxpayer's appeal lies in the appeal against the dismissal of its



objection on the clause in dispute, as it claims to pay withholding tax on all amounts actually paid to the beneficiaries. Based on the above, it is clear that the Taxpayer's appeal is that he paid the withholding tax to the Authority for all amounts actually paid to beneficiaries during the periods under appeal and subsequent periods (when the tax-generating event of actual payment is realized), for a total amount greater than the amounts of the linkage in dispute, while the Authority indicated that the Taxpayer's objection was rejected and a withholding tax was imposed on him, due to the failure to submit the ledger account through which the Authority can verify the amounts paid and the amounts due, therefore, the threshold for imposing the withholding tax on Taxpayers is the actual payment that the Taxpayer made in the years in question, which the Authority did not challenge. A review of the documents submitted shows that they are for the entire period in dispute, the authenticity of which was not challenged by the Authority. This does not affect the Authority's requirement to submit a ledger account to verify the amounts, as it is the fact of payment that counts. Therefore, the Panel concludes that the Taxpayer's appeal is accepted and the decision of the Adjudication Panel on this clause is annulled.

Regarding the appeal of the two parties regarding the clause (delay fine), based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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." based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law: "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 Panel that have become final as stated in paragraph (2) of Article 71 of these regulations, including cases that are contested, where the penalty is calculated from the date of the statutory deadline for submission of the return and payment." based on the above, and with reference to the case file and the defenses and documents it contains, and since the delay fine 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 Authority, 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 therefore, the Authority's decision to impose the delay fine from the due date on the clauses where the Taxpayer's objection was rejected and the delay fine on the clauses where the Authority's decision was canceled due to the loss of the original imposition of the tax is correct, which leads the Panel to modify the decision of the Adjudication Panel on this clause.



With regard to the Authority's appeal regarding the clause (amounts paid in advance for the year 2014 AD), and where Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If an agreement is reached before the case is settled, it is necessary to record the content of the case and the response before documenting the agreement, taking into consideration that the original case must fall within the jurisdiction of the Panel, even if the content of the agreement falls within the jurisdiction of another court or Panel, provided that the subject matter of the case or part of it is among what has been agreed upon." Based on the foregoing, and whereas it has been established to this Panel that the Authority has requested to abandon the appeal according to what was stated in the letter issued by it in the supplementary memorandum, which contained: "The Authority informs the honorable Panel that it abandons its appeal regarding the above-mentioned clause specifically (amounts paid in advance for the year 2014 AD) and the procedures that resulted from the Authority's appeal, in accordance with what the adjudication Panel's decision concluded in its reasoning..." Therefore, the Panel accepts the abandonment of the dispute.

Regarding the Authority's appeal regarding the clause (Withholding Tax as Associated Entities for the years 2014 AD to 2017 AD), Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If an agreement is reached before the case is settled, it is necessary to record the content of the case and the response before documenting the agreement, taking into consideration that the original case must fall within the jurisdiction of the Panel, even if the content of the agreement falls within the jurisdiction of another court or Panel, provided that the subject matter of the case or part of it is among what has been agreed upon." Based on the foregoing, and whereas it has been established to this Panel that the Authority has requested to abandon the appeal according to what was stated in the letter issued by it in the supplementary memorandum, which contained: "The Authority informs the honorable Panel that it abandons its appeal regarding the above-mentioned clause specifically (withholding tax as related entities) and the procedures that resulted from the Authority's appeal, in accordance with what the adjudication Panel's decision concluded in its reasoning..." Therefore, the Panel accepts the abandonment of the dispute.

with regard to the Taxpayer's appeal on the remaining clauses in the case, the Panel is not to be faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding the decision with what these

reasons contain, it is certain that the Panel did not find any objections to the decision that merit a response beyond what was included in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Panel scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Panel did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Panel concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Panel in its conclusion on the remaining clauses in the case, based on the grounds for the decision.

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

### Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial Register (...) Unique number (...). the appeal filed by the Zakat, Tax and Customs Authority against the decision of the First Panel for the Resolution of Income Tax Violations and Disputes in Dammam, No. (IZD-2022-2526) issued in Case No. (W-2021-81540) related to the tax assessment for the years 2014 AD to 2017AD.

Second: On the merits:

1- With regard to the Authority's appeal against the clause (advance payments for the year):

A- Accepting the abandonment of the litigation in connection with the Authority's appeal on the clause (amounts prepaid for the year 2014 AD).

B- Accepting the Authority's appeal and canceling the decision of the Adjudication Panel regarding the clause (amounts prepaid for the year 2015 AD).

2- Accepting the abandonment of the litigation in relation to the Authority's appeal on the clause (withholding tax as related parties for the years from 2014 AD to 2017 AD).

3- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (Limitation for 2014 AD and 2015 AD).

4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (amounts recorded as expenses due for the years from 2014 AD to 2017 AD).

5- Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (tax refund due to it (paid on account)).

6- Amending the decision of the Adjudication Panel regarding the clause (delay fine).

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.



## Fines





## Appellate Committee for Tax Violations and Disputes First Appellate Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR -2024-170649

Case No. IW-2023-170649

### Principle No. 27

- The penalties clause is considered consequential in nature, as the late payment penalty is calculated from the due date for filing the return to the date of payment of the tax due, as determined by the application of the provisions of the law and any adjustments made by the Authority.

### Facts



the appeal filed on 18/01/2023 AD, from/... , Saudi Nationality , National Identity No. (...), in its capacity as a legitimate agent of the Appellant company under the external agency attached to the case file, and the appeal submitted on 19/01/2023 AD by the Zakat, Tax and Customs Authority, against the decision of the First Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-2181) issued in Case No. (IW-2021-58335) related to income tax and withholding tax from 31/03/2006 AD to 30/06/2014 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

First: the decision of the Defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Relating to the assessment after the statutory period for the years from 2006 AD to 2011 AD, the subject matter of the lawsuit.

Secondly: the decision of the Defendant, the Zakat, Tax and Customs Authority, against the plaintiff, ... (unique number...) Related to the clause of revenues that have not been declared in the subject matter of the lawsuit.

Third: annulment of the decisions of the Defendant/Zakat, Tax and Customs Authority against the plaintiff/company ...(unique number ...) Related to the withholding tax clause in question.

Fourth: proof of termination of plaintiff's... (unique number...) With the Defendant/Zakat, Tax and Customs Authority, related to the insurance clause that is not documentarily supported for the year 2014, by the Plaintiff's acceptance of the Defendant's action in this regard.



Fifth: rejecting the other objections of the plaintiff/company ... (unique number...) on the decision of the Defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

Since this decision was not accepted by the Taxpayer (company...), it submitted an appellate brief which the Panel reviewed and which contained in essence that the Taxpayer demands acceptance of its appeal regarding the clause (salaries and wages not documentarily supported for the years 2012 AD, 2013 AD, and 2014 AD), the clause (domestic purchases not documentarily supported for the years 2012 AD and 2013 AD), the clause (bad debts for the year 2012 AD), and the clause (accumulated losses carried forward for the years 2011 AD and 2012 AD), where the Appellant (Taxpayer) demands annulment of the Panel's decision regarding this clause on the basis of non-entitlement to compensation for previous tax losses against taxable profits for the years 2011 AD and 2012 AD. The Taxpayer disagrees with the adjudication committee's decision that the year 2011 is barred by statute of limitations, and the Taxpayer clarifies that the adjudication committee's decision which indicates that the Authority's tax assessment issued for the year 2011 rejecting the use of carried forward losses is incorrect and has become time-barred. The Taxpayer clarifies that it has the right to deduct tax losses disclosed in previous years from net taxable profits disclosed in its tax return, and Article (11)(1) does not refer to any assessment conducted by the Authority for that purpose. In the absence of any regulation contradicting what was mentioned above, the logical and correct interpretation is that the Appellant has the right to use carried forward losses to offset net taxable profits declared by the Taxpayer (Appendix No. 8) for the years 2011/2012 AD. Meanwhile, in the Defendant's (Authority's) reply, it stated that according to the provisions of paragraph (1) of Article (11) of the Executive Regulations of the Income Tax Law, the Taxpayer has the right to carry forward losses according to its declaration as per the mentioned article in the tax system, and the Authority's procedure was upheld by appellate decision number (1617) for the year 1437 AH. Therefore, the Authority maintains the correctness and soundness of its procedure and what the adjudication committee's decision concluded, and since the adjudication decision ended up upholding the Authority's procedure in this clause. and the clause (fines).

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

on Wednesday, 29/05/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Panel decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Panel decided to close the pleadings and reserve the case for adjudication.



## Grounds:



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

On the merits, regarding the Taxpayer's appeal concerning the clause (salaries and wages not documentarily supported for the years 2012 AD, 2013 AD, and 2014 AD), the clause (domestic purchases not documentarily supported for the years 2012 AD and 2013 AD), and the Authority's appeal regarding the clause (withholding tax for the year 2014 AD), since there is no reproach upon the Panel for adopting the reasons of the contested decision without adding to them, whenever it determines that those reasons are sufficient and obviate the need for presenting anything new, because in its endorsement of them with what those reasons contained, it is confirmed that it did not find in what was directed against the decision in terms of challenges anything that deserves a response beyond what those reasons included. Given this, and since it is established that the appealed decision regarding the dispute concerning the contested clauses came in accordance with the valid reasons upon which it was based and which are sufficient to support its ruling, as the Panel that issued it undertook to examine the core of the dispute therein and concluded regarding it with the result it reached in its operative part. Since this Panel has not observed anything that requires correction or comment regarding it in light of the defenses raised before it, this Panel concludes by rejecting the Taxpayer's appeal and rejecting the Authority's appeal and upholding the adjudication Panel's decision under appeal in the result it reached, based on its reasons.

Whereas, regarding the Authority's appeal on clause (Limitation for the years from 2006 AD to 2011 AD), and clause (Revenues not declared for the year 2014 AD), and whereas Article (70) of the Law of Sharia Pleadings issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Panel has established the Authority's request to abandon the appeal as stated in the letter issued by it in the supplementary memorandum containing the following: "With regard to the Authority's appeal on an clause of revenue that was not declared for the year 2014 AD, the Authority would like to inform the esteemed Panel to leave its appeal with regard to the above



clause in particular and the procedures resulting from the Authority's appeal for this clause, according to the findings of the decision of the Adjudication Panel in terms of the merits. The esteemed Panel authority informs that it leaves its appeal in relation to the above clause specifically (the statute of limitations for the years 2006 AD to 2011 AD) and requests the esteemed Panel to prove the end of the dispute accordingly", which requires the Panel to accept the abandonment of the litigation in these clauses.

Whereas, regarding the Taxpayer's appeal on the clause (bad debts for the year 2012 AD), and whereas Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the seizure of the lawsuit, it is necessary to monitor the content of the lawsuit and the answer before recording the agreement, taking into account that the origin of the lawsuit is within the jurisdiction of the Panel, even if the content of the agreement is within the jurisdiction of another court or Panel, provided that the subject of the lawsuit or some of it is among the agreed upon," and based on the foregoing, and where it is proven to this Panel that the Taxpayer's request to prove the end of the Taxpayer's acceptance of the decision of the Adjudication Committee according to what is stated in its appeal list to leave the clause and not to continue the dispute on (05/09/2023 AD), which includes: " The Taxpayer agrees that it does not have documents proving that it meets the conditions for reducing bad debts stipulated in Article (9) (3) of the Executive Regulations of the Income Tax Law, so the Taxpayer does not wish to continue the dispute regarding this specific clause," which requires the Panel to prove the end of the dispute regarding the Taxpayer's appeal on the clause (bad debts for the year 2012 AD).

Whereas, regarding the Taxpayer's appeal on the clause (accumulated losses carried forward for the years 2011 AD and 2012 AD), based on paragraphs (a, b) of Article (21) of the Income Tax Law related to the carry-over of losses, which stipulates the following: (a) Net operating losses may be carried forward to the tax year following the year in which the loss was realized. The loss carried forward from the tax base for the following tax years shall be deducted until the full accumulated loss is recovered. The regulation shall specify the maximum limits allowed to be deducted annually. B- Net operating loss is the deductions allowed under this chapter and in excess of the taxable income in the tax year ", and based on paragraph (1) of Article (11) of the Executive Regulations of the Income Tax Law related to the carry-over of losses, which stipulates the following: "The Taxpayer has the right to carry forward the adjusted operating losses, according to the controls of the system and these regulations for tax purposes, to the tax years following the year of loss by reducing the profits of the following years until the full accumulated operating losses are recovered, without limiting a specific period, provided that the maximum allowed deduction in each tax year does not exceed (25%) of the annual profit according to the Taxpayer's declaration."



Based on the foregoing, and where it is found that the Authority is not entitled to the statute of limitations in 2011 AD due to the expiry of the statutory period, as for the year 2012 AD, based on Article (11) (1) mentioned above and after reviewing the attached declaration and assessment ing the Authority, the Taxpayer made a profit in 2012 AD and the Taxpayer is required to reduce the losses carried over from 2011 AD within the range of SAR 946,069. Accordingly, the Taxpayer is entitled to deduct the tax losses formed during the previous years and declared in its tax return for 2011 AD from the net taxable profits for 2012 AD, which requires accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (accumulated losses carried over to 2011 AD and 2012 AD).

Whereas, regarding the Taxpayer's appeal on the clause (fines), and based on the text of paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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", and based on the text of paragraph (3) of Article (67) of the Executive Regulations of the Income Tax Law, which stipulates that "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 Panel that have become final as stated in paragraph (2) of Article 71 of these regulations, including cases that are contested, where the penalty is calculated from the date of the statutory deadline for submission of the return and payment."

Based on the foregoing, and since the penalty clause is one of the clauses by association, as the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, and since the dispute between the two parties is a documentary dispute, and it did not arise from a significant difference in the interpretation of the statutory texts, which requires the Panel to amend the decision of the Adjudication Panel to calculate the fine from the date of notifying the Taxpayer of the decision issued in this case on the clauses in which the Taxpayer's appeal was rejected, and the delay fine on the clauses in which the decision of the Adjudication Committee was canceled because of the original imposition of the tax.

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



### Decision:

1- Accepting the appeal from the Taxpayer / ...Company procedurally. Commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the First Panel's decision to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-2181) issued in Case No. (IW-2021-58335) related to income tax and withholding tax from 31/03/2006 AD to 30/06/2014 AD .

2- On the merits:

- a) Accepting the abandonment of the litigation with regard to the Authority's appeal on the clause (Limitation for the years from 2006 AD to 2011AD ).
- b) Acceptance of the abandonment of the litigation in relation to the Authority's appeal on the clause (revenues not declared for the year 2014AD ).
- c) Reject the Authority's appeal and support the decision of the Adjudication Panel regarding the clause (withholding tax for the year 2014AD ).
- d) Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause ( salaries and wages are not supported by documents for the years 2012AD, 2013AD and 2014AD).
- e) Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Panel regarding the clause (internal procurement that is not supported by documents for the years 2012AD and 2013AD).
- f) Proof of the end of the dispute regarding the Taxpayer's appeal on the clause (bad debts for the year 2012AD).
- g) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (accumulated losses carried forward for the years 2011AD and 2012AD).
- h) Amending the decision of the Adjudication Panel regarding the clause (fines).

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 Panel for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2024-171167

Case No. W-2023-171167

### Principal No. 28

- The penalty is contingent upon the acceptance or rejection of the related item; its existence or nonexistence depends on the treatment of that underlying item.

### Facts

The submitted appeal was heard on: 24/01/2023 AD, of/ (...), National ID No. (...) as an agent for the Appellant company under agency No. (...), on the decision of the Second Panel for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-2252) issued in Case No. (W-2021-68600) regarding the Zakat fees for the years 2016AD, 2017AD and 2018AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

First: Defendant/Zakat, Tax and Customs Authority's decision against the plaintiff is overturned/ ..... Unique number (...). Related to the withholding tax clause at a rate of (15%), unlike the works in progress in the subject matter of the lawsuit.

Secondly: plaintiff's other objections are dismissed/(.....) Unique number (...). On the decisions of the Defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

Since this decision was not accepted by the Taxpayer (...), he submitted an appeal petition which the Panel reviewed, where the Taxpayer's appeal concerns the clause (letter of credit payments). The Taxpayer clarified that the Authority subjected letter of credit payments to withholding tax, where the company provided several supporting documents for this clause such as the auditor's report clarifying the nature of transactions related to letter of credit payments that were made with company (...), and letters of credit issued by the bank for each transaction, and confirmation statement from local suppliers, and invoices issued by local suppliers that support the purchases, and a detailed statement showing details of documentary credit amounts, suppliers, related invoices, payment dates, and amounts for each transaction. These submitted documents are sufficient to prove that the company paid the principal amount and there is no consideration for this financing (interest). He indicated that the company entered into a turnkey project with company (...), where within the scope of work, mobile network towers were supplied and installed. Since the project was of great value and the tower supply included huge investments, (...) company



for contracting and technology agreed with tower supplier and other material/goods suppliers to open a "Letter of Credit" for them and the suppliers agreed to this. Since the company (...) Contracting and Technology did not have any banking facilities in the Kingdom of Saudi Arabia, the company has agreed with its sister company in Lebanon, a company (...) Which has good banking facilities from banks in Lebanon to open a letter of credit from Lebanese banks to local material/goods suppliers in Saudi Arabia. Accordingly, (Lebanese sister company) opened a letter of credit to all suppliers and agreed to make payments on behalf of (...). Later, the company (...) For contracting and Technology Invoices from local suppliers When payments are made through the letter of credit, the company settles the local suppliers with a credit balance of (...), and upon collection from the company (...) The value of the invoices of local suppliers shall be settled with the account of the relevant authority (...) at the cost price, and the company shall not bear or pay any interest to the non-resident entity as indicated in the agreement. In addition, the company has provided the authority with a full series of transactions starting from the purchase order from the company (...), and L/C documents for local suppliers along with invoices and statement of accounts, in addition to debit notes from (...) to LC payments. With regard to the Taxpayer's appeal on the clause (settlement for 2018AD), the Taxpayer explained that the Authority subject the settlement of accounts to withholding tax, as this movement in the trial balance is a corresponding restriction for the reclassification of accounts and the movements of the credit balance from supply accounts. This was just a reclassification of balances from supply accounts using the corresponding entries, by transferring balances of SAR (1,305,776.21) from account No. (...) To Account No. (...) And a balance of (406,965) Saudi riyals from account No. (...) To Account No. (...), to pay a local supplier on behalf of (...) The amount of (31,772.90) Saudi riyals and the payment of visit visa stamp fees in the amount of (4,500) Saudi riyals according to the trial balance and the movement of related parties presented. Documents supporting this credit balance for the supply of goods have been previously submitted to the Authority. With regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer stated that the Authority imposed a delay fine on the unpaid tax differences on the regular date based on paragraph (a) of Article (77) of the Income Tax Law. Whereas, it explained that the matters discussed above are the subject of a technical dispute between the Taxpayer and the Authority, and therefore any additional withholding tax arising from it must not be subject to the delay fine, and therefore the Taxpayer is required to accept its appeal and reverse the decision of the Adjudication Panel on the clauses subject to appeal.

on Wednesday, 28/02/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation, based on the provisions of Article 15, Clause 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Panel did not find it necessary for the parties to the appeal to be present, the Panel decided to close the pleadings and reserve the case for adjudication.





The submitted appeal was heard on: 24/01/2023 AD, of/ (...), National ID No. (...) as an agent for the Appellant company under agency No. (...), on the decision of the Second Panel for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-2252) issued in Case No. (W-2021-68600) regarding the Zakat fees for the years 2016 AD, 2017 AD and 2018 AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

First: Defendant/Zakat, Tax and Customs Authority's decision against the plaintiff is overturned/ ..... Unique number (...). Related to the withholding tax clause at a rate of (15%), unlike the works in progress in the subject matter of the lawsuit.

Secondly: plaintiff's other objections are dismissed/(.....) Unique number (...). On the decisions of the Defendant/Zakat, Tax and Customs Authority regarding the assessment at issue.

Since this decision was not accepted by the Taxpayer (...), he submitted an appeal petition which the Panel reviewed, where the Taxpayer's appeal concerns the clause (letter of credit payments). The Taxpayer clarified that the Authority subjected letter of credit payments to withholding tax, where the company provided several supporting documents for this clause such as the auditor's report clarifying the nature of transactions related to letter of credit payments that were made with company (...), and letters of credit issued by the bank for each transaction, and confirmation statement from local suppliers, and invoices issued by local suppliers that support the purchases, and a detailed statement showing details of documentary credit amounts, suppliers, related invoices, payment dates, and amounts for each transaction. These submitted documents are sufficient to prove that the company paid the principal amount and there is no consideration for this financing (interest). He indicated that the company entered into a turnkey project with company (...), where within the scope of work, mobile network towers were supplied and installed. Since the project was of great value and the tower supply included huge investments, (...) company for contracting and technology agreed with tower supplier and other material/goods suppliers to open a "Letter of Credit" for them and the suppliers agreed to this. Since the company (...) Contracting and Technology did not have any banking facilities in the Kingdom of Saudi Arabia, the company has agreed with its sister company in Lebanon, a company (...) that has good banking facilities from banks in Lebanon to open a letter of credit from Lebanese banks to local suppliers of materials/goods in Saudi Arabia. Accordingly, I opened (...) Letter of Credit for all suppliers and agreed to make payments on behalf of (...) Contracting & Technology. Later, the company (...) Contracting and Technology has invoices from local suppliers and when payments are made through the letter of credit, the company settles the local suppliers with a credit balance (...), and upon collection from the company (...) The value of the invoices of local suppliers shall be settled with the account of the relevant authority (...) At the cost price, the Company shall not bear or pay any interest to the non-resident entity as indicated in the Agreement. In addition, the Company has provided the Authority with a complete series of transactions starting from the purchase order from (...) Company, and the letter of credit documents for local suppliers along with invoices and statement

of accounts, in addition to the debit notes from (...) to LC payments. With regard to the Taxpayer's appeal on the clause (settlement for 2018 AD), the Taxpayer explained that the Authority subject the settlement of accounts to withholding tax, as this movement in the trial balance is a corresponding restriction for the reclassification of accounts and the movements of the credit balance from supply accounts. This was just a reclassification of balances from supply accounts using the corresponding entries, by transferring balances of SAR (1,305,776.21) from account No. (...) To Account No. (...) And a balance of (406,965) Saudi riyals from account No. (...) To Account No. (...), to pay a local supplier on behalf of Company (...) The amount of (31,772.90) Saudi riyals and the payment of visit visa stamp fees in the amount of (4,500) Saudi riyals according to the trial balance and the movement of related parties presented. Documents supporting this credit balance for the supply of goods have been previously submitted to the Authority. With regard to the Taxpayer's appeal on the clause (delay fine), the Taxpayer stated that the Authority imposed a delay fine on the unpaid tax differences on the regular date based on paragraph (a) of Article (77) of the Income Tax Law. Whereas, it explained that the matters discussed above are the subject of a technical dispute between the Taxpayer and the Authority, and therefore any additional withholding tax arising from it must not be subject to the delay fine, and therefore the Taxpayer is required to accept its appeal and reverse the decision of the Adjudication Panel on the clauses subject to appeal.

on Wednesday, 28/02/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation, based on the provisions of Article 15, Clause 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Panel did not find it necessary for the parties to the appeal to be present, the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and with regard to the Taxpayer's appeal on the clause (payments of letters of credit), where the Taxpayer's appeal lies on the financing provided by the sister company in Lebanon (Company (...)) to open a letter of credit for them. Based on paragraph (a) of Article Sixty-Eight of the Income Tax Law, which stipulates: "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: Loan yields (5%) ". Based on paragraph No. (1) of Article (63) of the Executive Regulations of the Income Tax Law, which states: "A non-resident shall be subject to tax on any amount obtained from any source in the Kingdom, and the tax shall be deducted from the total amount according to the following prices: Loan yields (5%) ". Based on the above, it becomes clear that the Taxpayer's appeal on the financing provided by the sister company in Lebanon is a company (...) for the assignee to open a letter of credit for them. Accordingly, I opened (...) Letter of credit for all suppliers and agreed to make payments on behalf of (...) Contracting & Technology. The Taxpayer settles the local suppliers with a credit balance for me (...) Upon collection from the company (...), the value of the invoices of the local suppliers shall be settled with the account of the relevant authority (...) At cost. Accordingly, by reviewing the documents submitted, it is clear that the Taxpayer submitted the financing agreement with the sister company and by reviewing Article No. (7), which stipulates that "the loan financed by (...) shall be repaid upon receipt of payments from customers at the cost at which the same invoice was issued by the local supplier without adding interest to the lending party." Accordingly, it is clear that the Taxpayer did not bear any interest or additional cost, and since the withholding tax is imposed only on the returns of loans, and where the Taxpayer proved that the financing is at cost, which shows that the Authority is not entitled to impose the withholding tax, and since the Authority did not provide evidence that the Taxpayer bears the returns or interest of the loans. (the Taxpayer), resulting in the Panel's decision to accept the Taxpayer's appeal and annul the decision of the Adjudication Panel on this clause.

With regard to the Taxpayer's appeal on the clause (Settlement for the year 2018 AD), where the Taxpayer's appeal lies on the Authority subjecting the settlement of accounts to withholding tax. Article No. (68) of the Income Tax Law stipulates that: "Every resident, whether expensive or not, under this Law, and the permanent establishment in the Kingdom of a non-resident, and the natural person, who pays an amount to a non-resident from a source in the Kingdom, shall deduct a tax from the amount paid." Based on paragraph (3) of Article (57) of the Executive Regulations of Income Tax, 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 declaration, 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." Based on the above, it is clear that the Authority has imposed withholding tax on settlements because the Taxpayer has not clarified the amounts paid to non-resident companies and whether they are in return for services provided inside the Kingdom or not. While the Taxpayer explained that the amounts are related to the payment to a local supplier on behalf of the sister company and the payment of the visit visa stamping fees and the reclassification of accounts by transferring them from one account to another. Accordingly, by reviewing the case file and the documents submitted, it becomes clear that the Taxpayer submitted a debit note (Appendix 16\_p 12,13), from which it became clear that the amount of (31,772.90) riyals related to a payment to a local supplier, and also submitted a debit

note in the amount of (4,500) riyals to pay a visa fee on it, which is not subject to withholding tax. As for the remaining amount, the Taxpayer did not provide a breakdown of the nature of the amounts, although there were services provided, as it only submitted the trial balance and daily entries, which did not clarify the nature of the relationship of the related parties. The matter with which the Panel ends up partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Panel to deduct an amount of (36,272.20) riyals.

with regard to the Taxpayer's and the Authority's appeal on the (delay fine) clause, and based on the text of paragraph (a) of Article 77 of the Income Tax Law promulgated by Royal Decree No. M/1 dated 15/01/1425 AH, which stipulates the following: "In addition to the penalties 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 paying the tax it is calculated from the date the tax is due to the date of payment." Based on paragraph (1) of Article (68) of the Executive Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH, which 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 " Based on the foregoing, and by reference to the case file and the defenses and documents contained therein, and since the delay fine is calculated from the date of the end of the period specified for submitting the declaration 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 Authority, and since the dispute between the two parties is a documentary dispute, and did not arise from a significant difference in the interpretation of the statutory texts, and since the fine is assessment ed to the existence and non-existence of acceptance or rejection of the clause related to it, and therefore the Panel ends up partially accepting the Taxpayer's appeal on this clause and amending the decision of the Adjudication Panel regarding the delay fine by dropping the fine from the clauses in which the taxp's appeal was accepted due to the loss of its origin, and the validity of imposing fines on the clauses in which the appeal was rejected to prove its origin.

with regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Panel is not faulted for adopting the reasons for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Panel did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Panel concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Panel with respect to the outcome it reached on the clauses at issue in the case, based on the grounds for the decision.

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



### Decision:

1- Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), unique number (...) Against the decision of the First Panel to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-2252) issued in Case No. (W-2021-68600) related to the tax assessment for the years 2016 AD, 2017 AD, 2018 AD.

2- On the merits:

1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel regarding the clause (payments of letters of credit).

2- With regard to the Taxpayer's appeal on the clause (account settlements):

(a) Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the settlement for the year 2017AD.

(b) Accepting the appeal of the partially Taxpayer and amending the decision of the Adjudication Panel in relation to (the 2018 AD settlement clause).

3- accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Panel with regard to the delay fine clause.

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 Panel for Income Tax Violations and**  
**Disputes in Riyadh**

Decision No. IR-2024-171420

Case No. I-2023-171420

Principal No. 29

- The Authority's imposition of a late payment penalty from the due date is valid with respect to the items for which the taxpayer's appeal was rejected. Conversely, the late payment penalty is waived for the items where the taxpayer's appeal was accepted, due to the nullification of the original tax assessment.

**Facts**



The appeal filed on 26/01/2023 AD from/... National ID number (...) As an agent for the Appellant company under agency No. (...), on the decision of the First Panel for Adjudicating Income Tax Violations and Disputes in Dammam cityno.(IZD-2022-2523) issued in Case No. (I-2021-63177) related to the 2017 AD tax assessment, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Panel ruled as follows:

- 1- Rejection of the plaintiff's objection regarding salaries and wages for the years 2017 AD and 2018 AD.
- 2- Rejection of the plaintiff's objection regarding the double taxation of salaries and wages for the years 2017 AD and 2018 AD.
- 3- Rejection of the plaintiff's objection regarding the clause of reducing the tax assessment with the losses carried forward for the years 2017 AD and 2018 AD.
- 4- Rejection of the plaintiff's objection regarding the clause of withholding tax on salaries and wages paid by the head office for the years 2017 AD and 2018 AD.
- 5- Rejection of the plaintiff's objection regarding the delay fine clause.

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

The Taxpayer objects to the decision of the Appealed Adjudication Panel, noting that with regard to (all withholding tax for 2018 AD and 2017 AD and income tax for 2018 AD) there are four cases as follows: Income tax 2017 AD (I-2021-63177), withholding tax 2017 AD (W-2021-63182), income tax 2018 AD (I-



2021-63180), withholding tax 2018 AD (W-2021-63184). With regard to the delay clause (1% for every 30 days), the Taxpayer claims that it objects to the imposition of any delay fines, fines for failure to submit a declaration, or any other fines resulting from the amended and objected assessment, because the fines are forfeited by the forfeiture of their origin. The Taxpayer does not accept the imposition of an additional tax on the clauses subject to the objection and requests their cancellation. The Taxpayer also objects to the clause (salary difference in the amount of SR 189,724,294 for the year 2017AD), the clause (double taxation of wages and salaries for the year 2017AD) and the clause (not to reduce the tax assessment with the losses carried forward for the year 2017AD). Accordingly, the Taxpayer demands the reversal of the decision of the Adjudication Panel under appeal for the above reasons.

on Monday, 05/02/2024 AD, the First Appellate Panel for Income Tax Violations and Disputes met via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Panel did not find it necessary for the parties to the appeal to be present, the Panel decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, and since (all matters related to withholding tax for the years 2018 AD and 2017AD and income tax for the year 2018AD), and by reviewing the Taxpayer's list submitted before the Adjudication Committee, it was found that it limited its objection in this case to income tax for the year 2017AD, and since the Taxpayer did not include in its objection regarding withholding tax for the years 2018 AD and 2017 AD and income tax for the year 2018AD, starting before the Adjudication Panel, which ends with the Panel accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel in this clause.

Whereas, regarding the appeal of the Taxpayer regarding the clause (salary difference in the amount of SR 189,724,294 for the year 2017AD), and whereas Article (70) of the Sharia Pleadings Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation system issued by the Minister of Justice's decision No. (39933) dated



19/05/1435 AH. If an agreement is reached before the case is settled, it is necessary to monitor the content of the case and the response before recording the agreement, taking into account that the original case must fall within the jurisdiction of the Panel, even if the content of the agreement falls under the jurisdiction of another court or Panel, provided that the subject matter of the case or part of it is among what was agreed upon." Based on the foregoing, since it has been established to this Panel that the dispute has ended through the Authority's acceptance of the Taxpayer's objection according to what was stated in the letter issued by it in the reply memorandum (2) submitted on 04/05/2023AD, which included: "First, with regard to salaries and wages: The Authority accepts the objection of the Taxpayer in relation to the above clause, and requests your esteemed Panel to prove the end of the dispute in relation to this clause.", with which the Panel ends up proving the end of the dispute in this clause.

Whereas, with regard to the Taxpayer's appeal on the clause (delay 1% for every 30 days), and where its appeal lies in that it objects to the imposition of any delay fines, fines for failure to submit a declaration, or any other fines resulting from the amended and objected assessment, because the fines are forfeited by the forfeiture of their origin. 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 11/06/1425 AH, 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 Panel 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 fine 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 fine from the due date on the clauses in which the Taxpayer's appeal was rejected, and to waive the delay fine on the clauses in which the Taxpayer's appeal was accepted due to the loss of the original imposition of the tax, which leads the Panel to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Panel on this clause.



Whereas, with regard to the rest of the clauses in question, and since there is no implication on the Panel to take into account the reasons for the decision in question without adding to it whenever it deems that these reasons dispense with any new income, because in supporting them with what these reasons carried, it is confirmed with him that they did not find in the appeals against the decision what is worth responding to more than those reasons included, and since it was established that the decision in question regarding the dispute regarding the clauses in question was consistent with the justified reasons on which it was based and sufficient to carry its judiciary, as the issuing Panel undertook the examination of the dispute and concluded with regard to it to the conclusion reached

In its operative part, and where this Panel did not notice what requires correction or comment in light of the arguments raised before it, which ends with this Panel to reject the Taxpayer's appeal and support the decision of the Adjudication Panel subject to appeal in the outcome of the rest of the clauses in question, based on its reasons.

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

#### Decision:

1- Accepting the appeal procedurally of the Taxpayer's ... , commercial registration (...), unique number (...) Against the decision of the First Panel to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2523) issued in Case No. (I-2021-63177) related to assessment ing income tax for the year 2017AD.

2- On the merits:

a. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Panel in all matters related to the 2018AD and 2017AD withholding tax and the 2018AD 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 2017AD.

c. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel regarding the clause (double taxation of wages and salaries for 2017AD).

d- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Panel with regard to the clause (not reducing the tax assessment to the loss carryforward for 2017AD).

e. Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Panel regarding the (1% delay for every 30 days) clause.



## (Value Added Tax)

### Tax Base



**Appellate Committee for Tax Violations and Disputes**  
**The First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA-2024-173736

Case No. V-2023-173736

Principal No. 30

- Insurance compensation amounts are not considered taxable supplies or services, as one of the conditions for taxability is not met.

**Facts**

This is to consider the appeal submitted on 30/01/2023AD, by the company(...). for Industrial Supplies – Commercial Register No. (...), based on the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) in the case filed by the Appellant against the Appellant against her.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: Modification of the Defendant's decision with respect to the fixed assets exclusion clause to become the taxable amount of SAR 513,762.00.

Secondly: Modification of the Defendant's decision with respect to the clause of other income so that the amount subject to tax in the basic ratio is 872,132.79 riyals.

Third: Dismiss the plaintiff's claim with respect to the objection to the remaining clauses modified by the Defendant's taxable domestic sales clause at the basic rate.

Fourth: Amending the penalty for error in acknowledgment in line with the provisions of the first and second paragraphs of the Panel's decision.

Fifth: Amending the delay in payment fine in a manner commensurate with the provisions of the first and second paragraphs of the decision of the Panel.

Since this decision was not accepted by the Appellant, it submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to amend the decision of the Appellant against it and the appeal of the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018 AD" and the fines resulting therefrom, due to the existence of a capital loss of (50,205) riyals, which is a loss of the sale of machinery

and equipment to be the net amount of (463,557), which is the amount approved, in relation to the clause of exclusion of fixed assets for an amount of (513,762) riyals, and in relation to the clause of other revenues for an amount of (872,132.79) riyals, because the other clauses of revenues that the Adjudication Panel did not accept are represented in compensation from insurance companies in the amount of (5,409) riyals, which is a surplus recovered from insurance companies and therefore not subject to value added tax, and in relation to the rest of the clauses that were amended by the Appellant because the amount is represented in the following sub-clauses: 1- Out-of-range sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade, in which the seller is responsible only for providing products at specific locations and the buyers are responsible for shipping costs and risk, as the customer requests a specific type of materials to be provided outside the Kingdom, there is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and thus is considered outside the scope of the tax, 2-The proceeds from the sale of assets in the amount of (463,557) SAR as it is included in the declarations and is not included in the financial statements for the year 2018 only in the sales profits within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value and these amounts are included in the VAT declarations and do not include revenues in the financial statements for the year 2018 AD, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations were amended and the revenues were not amended in the financial statements for the year 2018 AD, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

Upon reviewing the case documents and the appeal list submitted, the Panel found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant



laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellant Panel found that the decision issued by the Adjudication Panel decided to amend the decision of the Appellee and dismiss the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018 AD" and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Panel regarding the clause excluding fixed assets for an amount of (513,762) riyals, and the clause of other revenues for an amount of SAR (872,132.79), and the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88), and with regard to the clause excluding fixed assets for an amount of (513,762) riyals, and since the Appellant objects to the decision of the Adjudication Panel due to the existence of a capital loss of (50,205) riyals, which is the loss of the sale of machinery and equipment to be the net amount (463,557), which is the amount approved, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable reasons on which it was based and sufficient to carry its judiciary, as the issuing Panel undertook a hidden examination The dispute in it and concluded with its conclusion in its operative part, and where the Appellate Panel did not notice what required correction or comment in the light of the arguments raised before this Panel, which ends with a decision not to affect the result of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

With regard to the clause of other revenues for an amount of (872,132.79) riyals, and where the Appellant objects to the decision of the Adjudication Panel, because the other clauses of revenues that were not accepted by the Adjudication Panel are compensation from insurance companies in the amount of (5,409) riyals, which is a recovery surplus from insurance companies and therefore not subject to VAT, and where it was proven to the Panel that the parties to the dispute approved the classification submitted based on the "type of transaction" according to the following classification: 1- Clauses for which the evaluation notice did not explain the direct reason for subjecting them to an amount of (669,651.7) riyals. 2- Clauses that are taxable in nature for the amount of (202,481.09) riyals. regarding the first classification: 1- Clauses that the evaluation notice did not clarify the direct reason for subjecting them to an amount of (669,651.7) riyals, and since it is represented in the following: (1/a) - Compensation from insurance companies in the amount of (5,409) riyals, and where it was proven to the Panel that the amount does not represent "sales" because it did not result from the occurrence of a supply or the occurrence of one of the determinants of the tax entitlement (receipt of a payment, issuance of an invoice or the occurrence of a supply) because the tax is based on the invoice, which does not apply to the amount in dispute because it resulted from "compensation" provided by the insurer to fulfill the obligation of the insurance contract to pay the amount



of compensation in the event that the risk insured against is realized, which the Panel deems to accept the appeal and exclude the amount from the sales clause.

(1/b) - Deduction from employees in the amount of (319,211.49) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause and therefore the asset is outside the scope of the tax, but subjecting it without specifying what was relied upon to be considered a subject supply, and without a statement of the document that proved it and the text on which it was based to subject the amount in dispute, which was not reflected in the evaluation notice in accordance with what was previously clarified in the main clause, and where the document "requesting additional information" was not submitted to determine the place of examination through which it was reached because it represents a subject amount, which the Panel considers to accept the appeal and exclude the amount from the sales clause.

(1/c) - Deduction of suppliers in the amount of (45,031.21) riyals, and since the original that the deductions are one of the acceptable aspects of revenue reduction in accordance with the statutory texts, and the exception for not accepting them is made in the event that the Appellant is found to be in violation of the texts regulating such procedure, such as non-compliance with the statutory period for deducting those notices and other texts, and therefore subjecting them without specifying the text that was violated, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the place of examination through which the violation of the regulation of its opponent or a statement of the sample was reached, which the Panel deems to accept the appeal and exclude the amount from the sales clause.

(1/d) - A provision whose purpose has been negated in the amount of (300,000) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause, and therefore the asset is outside the scope of the tax, and since subjecting it without specifying what was based on it to be considered a subject supply and a statement of the document that proved that and the text on which it was based to subject the amount in dispute, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the subject matter of the examination because it represents a subject amount and the documents under examination based on the difference index, and where the Appellant submitted the entry that certifies the opposite of the provision in the calculation of other revenues, which the Panel deems acceptable to the appeal and exclude the amount from the sales clause.

Regarding the second classification: 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals, and since it is established that the decision under appeal regarding the dispute at hand was in accordance with the provisions of the Law and with the valid reasons on which it was based and sufficient to carry its judgment, the issuing Panel undertook to scrutinize the dispute and reached the conclusion it



reached in its operative part, and the Appellate Panel did not observe any reason to appeal or comment in light of the defenses raised before this Panel, which concludes with a decision not to affect the outcome of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

With regard to the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88) riyals, and where the Appellant objects to the decision of the Adjudication Panel because the amount related to them is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products at specific locations and the buyers are responsible for shipping costs and risk. The customer requests a specific type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax, 2-The proceeds from the sale of assets in the amount of (463,557) SAR as it is included in the declarations and is not included in the financial statements for the year 2018 AD only in the profits of sale within other income, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT declarations and do not include the revenues in the financial statements for the year 2018 AD, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations have been amended and the revenues have not been amended in the financial statements for the year 2018 AD, and with regard to the first classification: 1- Out-of-scope sales in the amount of (12,123,959) riyals, and since the invoices in question represent products "imported from outside the Kingdom" and the Appellant's payment against them was based on the fact that the Appellant is the importer of the goods and therefore will not be able to bring them into the Kingdom until after paying the tax on them, and this was not paid or a customs document was submitted proving the validity of the decision, as this result was reached by citing the invoices submitted by the Appellant along with her appeal, and since the Appellant is not a producer of goods according to the nature of her activity and the invoices she submitted for the revenue in question, Proof that they represent goods purchased from outside the Kingdom, which certifies the possibility of re-supplying them to another party before importing them to the Kingdom, and since the goods in dispute have begun to be transferred to the Kingdom from outside the GCC region, any supply of such goods "before" their import in accordance with the unified customs system is considered a supply made "outside the Kingdom" according to the text of paragraph (3) Article (27) of the Executive Regulations of the Value Added Tax Law, and therefore the difference in subjecting them or not is the transfer of ownership of the goods "before" their import and the text did not stipulate that the supplier of the goods The transport service for the supplied goods to be cited as evidence of their ownership, as the



text did not prevent them from providing the service of "shipping" the goods owned by their client, and where the Appellant submitted a statement of out-of-scope sales reflecting contracts of the type EX Works, which, according to its concept, allows the seller to deliver the goods at the nearest place to him, and it 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 costs of transport, including license fees, and once they reach the specified location The buyer becomes responsible for other risks such as loading the goods in trucks, transporting them to the ship or aircraft, and fulfilling the customs regulations, which indicate that the "transfer of ownership" took place before the importation of the goods to the Kingdom of Saudi Arabia. The aforementioned text also did not stipulate that the same "resumed" supplier should not be contracted for another purpose, which is to provide the service of transporting the goods (owned by the customer), given that the customer is the owner and therefore (bearing the risks of their damage and the costs of transporting and clearing them to the Kingdom), since that service, if proven, took place after the transfer of ownership of the goods to the customer. The evaluation notice did not clarify the provisions of the violation What was relied upon as a basis for considering that the importation took place before the transfer of ownership of the goods, which makes it possible for the Panel to accept the appeal filed on this classification.

regarding the second and third classifications: 2-The proceeds from the sale of assets in the amount of (463,557) riyals, 3- Payments made by customers in the amount of (3,923,691) riyals, and where it was proven by the Panel that the amount related to the two classifications was deducted from the total amount subject to the sales clause according to the appellate list, which approved what the appellee clarified through the response note, and where it was proven through the submitted analysis that the amount was deducted, and that the amount related to the clause is not disputed, which leads the Panel to dismiss the above two classifications.

regarding the fourth classification: 4- A credit notice in the amount of (1,169,058) riyals, and since the Appellant objects to the decision of the Adjudication Panel, because the amounts are related to a deduction agreement between the company and the work, and thus a credit notice is issued, and these amounts have been amended and the revenues have not been amended in the financial statements for the year 2018AD, and since the original is that the deductions are one of the acceptable revenue reductions in accordance with the statutory texts, and the exception for not accepting them is made in the event that the Appellant is found to be in violation of the statutory period for deducting these notices and other texts, and therefore subjecting them without specification to the text that was violated and relied upon to subject the amount in question, which was not indicated in the evaluation notice, as it did not include any text related to the subject matter of the clause in dispute as explained above, and for not submitting a document "requesting additional information" to determine the subject of the examination and the statement of the sample through which was reached for the violation of the credit notice deduction regulation, which is approved



on the basis of calculation, therefore, the Panel decided the acceptance of the appeal submitted on this classification.

With regard to the fine for error in the declaration and the fine for late payment, and the Appellant's request to cancel those fines that resulted from the final evaluation notice for the tax period in question, and since the taxable local sales clause for the basic ratio led to the partial acceptance of the appeal in accordance with the above detail, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Panel to partially accept the appeal in the fines in question.

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

### Decision:

1. Acceptance of the appeal filed by... For industrial equipment – Commercial Registration No. (...), procedurally submitted within the prescribed period.
- 2- Rejection of the appeal filed by... for Industrial Supplies – Commercial Register No. (...), related to the clause "Fixed Assets Exclusions", and upholding the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419).
- 3- Accepting the appeal filed by ..(...) Company. For industrial equipment – Commercial Register No. (...), on an amount of (669,651.7) riyals and rejecting the appeal on an amount of (202,481.09) riyals, regarding the clause "other revenues", and amending the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellant against it.
- 4- Acceptance of the appeal filed by... For industrial equipment – Commercial Registration No. (...), on an amount of (4,518,547.88) riyals and disregarding the amount of (4,387,248) riyals, in relation to "the clauses that have been amended by the Defendant in the clause of local sales subject to tax in the basic rate", and canceling the decision of the First Panel to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and canceling the decision of the Appellee.
- 5- Accepting the appeal filed by/ ( ...) Company For industrial equipment – Commercial Register No. (...), partially with regard to the penalty for error in a return according to the total amount accepted (5,188,199.58) riyals, and amending the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the Appellant's decision against it.
- 6- Accepting the appeal submitted by (...) Industrial Supplies Company – Commercial Registration No. (...), in part regarding the late payment penalty according to the total amount accepted (SAR 5,188,199.58), and amending the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellant against it.



**Appellate Committee for Tax Violations and Disputes**  
**The First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA-2024-173736

Case No. V-2023-173736

**Principle No. 31**

- Generally, discounts are considered a valid form of revenue reduction unless the procedure contradicts statutory provisions.

**Facts**

This is to consider the appeal submitted on 30/01/2023 AD, by the company(...) for Industrial Supplies – Commercial Register No. (...), based on the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) in the case filed by the Appellant against the Appellant against her.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: Modification of the Defendant's decision with respect to the fixed assets exclusion clause to become the taxable amount of SAR 513,762.00.

Secondly: Modification of the Defendant's decision with respect to the clause of other income so that the amount subject to tax in the basic ratio is 872,132.79 riyals.

Third: Dismiss the plaintiff's claim with respect to the objection to the remaining clauses modified by the Defendant's taxable domestic sales clause at the basic rate.

Fourth: Amending the penalty for error in acknowledgment in line with the provisions of the first and second paragraphs of the Panel's decision.

Fifth: Amending the delay in payment fine in a manner commensurate with the provisions of the first and second paragraphs of the decision of the Panel.

Since this decision was not accepted by the Appellant, it submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to amend the decision of the Appellant against it and the appeal of the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018 AD" and the fines resulting

therefrom, due to the existence of a capital loss of (50,205) riyals, which is a loss of the sale of machinery and equipment to be the net amount of (463,557), which is the amount approved, in relation to the clause of exclusion of fixed assets for an amount of (513,762) riyals, and in relation to the clause of other revenues for an amount of (872,132.79) riyals, because the other clauses of revenues that the Adjudication Panel did not accept are represented in compensation from insurance companies in the amount of (5,409) riyals, which is a surplus recovered from insurance companies and therefore not subject to value added tax, and in relation to the rest of the clauses that were amended by the Appellant because the amount is represented in the following sub-clauses: 1- Out-of-range sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for providing products at specific locations and the buyers are responsible for shipping costs and risk, as the customer requests a specific type of materials to be provided outside the Kingdom, there is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and thus is considered outside the scope of the tax, 2-The proceeds from the sale of assets in the amount of (463,557) SAR as it is included in the declarations and is not included in the financial statements for the year 2018 only in the sales profits within other revenues, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value and these amounts are included in the VAT declarations and do not include revenues in the financial statements for the year 2018 AD, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations were amended and the revenues were not amended in the financial statements for the year 2018 AD, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.



## Grounds:

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

On the merits, by reviewing the case papers and examining the documents and documents contained therein, and after reviewing the submissions and responses submitted by the parties, the Appellant Panel found that the decision issued by the Adjudication Panel decided to amend the decision of the Appellee and dismiss the Appellant's case regarding the subjection of the amount in dispute to the clause "Sales" as a result of the evaluation related to "December 2018 AD" and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Panel regarding the clause excluding fixed assets for an amount of (513,762) riyals, and the clause of other revenues for an amount of SAR (872,132.79), and the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88), and with regard to the clause excluding fixed assets for an amount of (513,762) riyals, and since the Appellant objects to the decision of the Adjudication Panel due to the existence of a capital loss of (50,205) riyals, which is the loss of the sale of machinery and equipment to be the net amount (463,557), which is the amount approved, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable reasons on which it was based and sufficient to carry its judiciary, as the issuing Panel undertook a hidden examination The dispute in it and concluded with its conclusion in its operative part, and where the Appellate Panel did not notice what required correction or comment in the light of the arguments raised before this Panel, which ends with a decision not to affect the result of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

With regard to the clause of other revenues for an amount of (872,132.79) riyals, and where the Appellant objects to the decision of the Adjudication Panel, because the other clauses of revenues that were not accepted by the Adjudication Panel are compensation from insurance companies in the amount of (5,409) riyals, which is a recovery surplus from insurance companies and therefore not subject to VAT, and where it was proven to the Panel that the parties to the dispute approved the classification submitted based on the "type of transaction" according to the following classification: 1- Clauses for which the evaluation notice did not explain the direct reason for subjecting them to an amount of (669,651.7) riyals. 2- Clauses that are taxable in nature for the amount of (202,481.09) riyals. regarding the first classification: 1- Clauses that the evaluation notice did not clarify the direct reason for subjecting them to an amount of (669,651.7) riyals, and since it is represented in the following: (1/a) - Compensation from insurance companies in the amount of (5,409) riyals, and where it was proven to the Panel that the amount does not represent "sales" because it did not result from the occurrence of a supply or the occurrence of one of the determinants of the tax

entitlement (receipt of a payment, issuance of an invoice or the occurrence of a supply) because the tax is based on the invoice, which does not apply to the amount in dispute because it resulted from "compensation" provided by the insurer to fulfill the obligation of the insurance contract to pay the amount of compensation in the event that the risk insured against is realized, which the Panel deems to accept the appeal and exclude the amount from the sales clause.

(1/b) - Deduction from employees in the amount of (319,211.49) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause and therefore the asset is outside the scope of the tax, but subjecting it without specifying what was relied upon to be considered a subject supply, and without a statement of the document that proved it and the text on which it was based to subject the amount in dispute, which was not reflected in the evaluation notice in accordance with what was previously clarified in the main clause, and where the document "requesting additional information" was not submitted to determine the place of examination through which it was reached because it represents a subject amount, which the Panel considers to accept the appeal and exclude the amount from the sales clause.

(1/c) - Deduction of suppliers in the amount of (45,031.21) riyals, and since the original that the deductions are one of the acceptable aspects of revenue reduction in accordance with the statutory texts, and the exception for not accepting them is made in the event that the Appellant is found to be in violation of the texts regulating such procedure, such as non-compliance with the statutory period for deducting those notices and other texts, and therefore subjecting them without specifying the text that was violated, which was not indicated by the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the place of examination through which the violation of the regulation of its opponent or a statement of the sample, which the Panel deems to accept the appeal and exclude the amount from the sales clause.

(1/d) - A provision whose purpose has been negated in the amount of (300,000) riyals, and since the nature of the clause does not represent the supply of goods or services to be subject to the sales clause, and therefore the asset is outside the scope of the tax, and since subjecting it without specifying what was based on it to be considered a subject supply and a statement of the document that proved that and the text on which it was based to subject the amount in dispute, which was not indicated in the evaluation notice in accordance with what was previously clarified in the main clause, and for not submitting the document "requesting additional information" to determine the subject matter of the examination because it represents a subject amount and the documents under examination based on the difference index, and where the Appellant submitted the entry that certifies the opposite of the provision in the calculation of other revenues, which the Panel deems acceptable to the appeal and exclude the amount from the sales clause.



Regarding the second classification: 2- Clauses that are taxable in nature for an amount of (202,481.09) riyals, and since it is established that the decision under appeal regarding the dispute at hand was in accordance with the provisions of the Law and with the valid reasons on which it was based and sufficient to carry its judgment, the issuing Panel undertook to scrutinize the dispute and reached the conclusion it reached in its operative part, and the Appellate Panel did not observe any reason to appeal or comment in light of the defenses raised before this Panel, which concludes with a decision not to affect the outcome of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

With regard to the rest of the clauses that were amended by the Appellee for an amount of (8,905,795.88) riyals, and where the Appellant objects to the decision of the Adjudication Panel because the amount related to them is represented in the following sub-clauses: 1- Out-of-scope sales in the amount of (12,123,959) riyals, as it is customary in international trade that any operation delivered abroad has the code EX works, which is a type of shipping agreement for international trade in which the seller is responsible only for the provision of products at specific locations and the buyers are responsible for shipping costs and risk. The customer requests a specific type of materials to be provided outside the Kingdom. There is no import of these international commercial operations into the Kingdom, meaning that the supply and delivery took place outside the Kingdom and is therefore outside the scope of the tax, 2-The proceeds from the sale of assets in the amount of (463,557) SAR as it is included in the declarations and is not included in the financial statements for the year 2018 AD only in the profits of the sale within other income, 3- Advance payments from customers in the amount of (3,923,691) SAR, which are advance payments received from customers and invoiced including the added value. These amounts are included in the VAT declarations and do not include the revenues in the financial statements for the year 2018, but within the current liabilities in the statement of financial position, 4- Credit note in the amount of (1,169,058) SAR related to a discount agreement between the company and the work and thus a credit note is issued With these amounts, the declarations have been amended and the revenues have not been amended in the financial statements for the year 2018 AD, and with regard to the first classification: 1- Out-of-scope sales in the amount of (12,123,959) riyals, and since the invoices in question represent products "imported from outside the Kingdom" and the Appellant's payment against them was based on the fact that the Appellant is the importer of the goods and therefore will not be able to bring them into the Kingdom until after paying the tax on them, and this was not paid or a customs document was submitted proving the validity of the decision, as this result was reached by citing the invoices submitted by the Appellant along with her appeal, and since the Appellant is not a producer of goods according to the nature of her activity and the invoices she submitted for the revenue in question, Proof that they represent goods purchased from outside the Kingdom, which certifies the possibility of re-supplying them to another party before importing them to the Kingdom, and since the goods in dispute have begun to be transferred to the Kingdom from outside the GCC region, any supply of such goods "before" their import in accordance with the unified customs system

is considered a supply made "outside the Kingdom" according to the text of paragraph (3) Article (27) of the Executive Regulations of the Value Added Tax Law, and therefore the difference in subjecting them or not is the transfer of ownership of the goods "before" their import and the text did not stipulate that the supplier of the goods The transport service for the supplied goods to be cited as evidence of their ownership, as the text did not prevent them from providing the service of "shipping" the goods owned by their client, and where the Appellant submitted a statement of out-of-scope sales reflecting contracts of the type EX Works, which, according to its concept, allows the seller to deliver the goods at the nearest place to him, and it 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 costs of transport, including license fees, and once they reach the specified location The buyer becomes responsible for other risks such as loading the goods in trucks, transporting them to the ship or aircraft, and fulfilling the customs regulations, which indicate that the "transfer of ownership" took place before the importation of the goods to the Kingdom of Saudi Arabia. The aforementioned text also did not stipulate that the same "resumed" supplier should not be contracted for another purpose, which is to provide the service of transporting the goods (owned by the customer), given that the customer is the owner and therefore (bearing the risks of their damage and the costs of transporting and clearing them to the Kingdom), since that service, if proven, took place after the transfer of ownership of the goods to the customer. The evaluation notice did not clarify the provisions of the violation What was relied upon as a basis for considering that the importation took place before the transfer of ownership of the goods, which makes it possible for the Panel to accept the appeal filed on this classification.

regarding the second and third classifications: 2-The proceeds from the sale of assets in the amount of (463,557) riyals, 3- Payments made by customers in the amount of (3,923,691) riyals, and where it was proven by the Panel that the amount related to the two classifications was deducted from the total amount subject to the sales clause according to the appellate list, which approved what the appellee clarified through the response note, and where it was proven through the submitted analysis that the amount was deducted, and that the amount related to the clause is not disputed, which leads the Panel to dismiss the above two classifications.

regarding the fourth classification: 4- A credit notice in the amount of (1,169,058) riyals, and since the Appellant objects to the decision of the Adjudication Panel, because the amounts are related to a deduction agreement between the company and the work, and thus a credit notice is issued, and these amounts have been amended and the revenues have not been amended in the financial statements for the year 2018AD, and since the original is that the deductions are one of the acceptable revenue reductions in accordance with the statutory texts, and the exception for not accepting them is made in the event that the Appellant is found to be in violation of the statutory period for deducting these notices and other texts, and therefore subjecting them without specification to the text that was violated and relied upon to subject the amount

in question, which was not indicated in the evaluation notice, as it did not include any text related to the subject matter of the clause in dispute as explained above, and for not submitting a document "requesting additional information" to determine the subject of the examination and the statement of the sample through which was reached for the violation of the credit notice deduction regulation, which is approved on the basis of calculation, therefore, the Panel decided the acceptance of the appeal submitted on this classification.

With regard to the fine for error in the declaration and the fine for late payment, and the Appellant's request to cancel those fines that resulted from the final evaluation notice for the tax period in question, and since the taxable local sales clause for the basic ratio led to the partial acceptance of the appeal in accordance with the above detail, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Panel to partially accept the appeal in the fines in question.

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

### Decision:

1. Acceptance of the appeal filed by... For industrial equipment – Commercial Registration No. (...), procedurally submitted within the prescribed period.
2. Rejection of the appeal filed by... for Industrial Supplies – Commercial Register No. (...), related to the clause "Fixed Assets Exclusions", and upholding the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419).
3. Accepting the appeal filed by ..(...) Company. For industrial equipment – Commercial Register No. (...), on an amount of (669,651.7) riyals and rejecting the appeal on an amount of (202,481.09) riyals, regarding the clause "other revenues", and amending the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellant against it.
4. Acceptance of the appeal filed by the company... For industrial equipment – Commercial Registration No. (...), on an amount of (4,518,547.88) riyals and disregarding the amount of (4,387,248) riyals, in relation to "the clauses that have been amended by the Defendant in the clause of local sales subject to tax in the basic rate", and canceling the decision of the First Panel to adjudicate VAT violations and disputes in Jeddah Governorate No. (VJ-2022-2419) and canceling the decision of the Appellee.
5. Accepting the appeal filed by/ ( ...) Company For industrial equipment – Commercial Register No. (...), partially with regard to the penalty for error in a return according to the total amount accepted (5,188,199.58) riyals, and amending the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the Appellant's decision against it.





6. Accepting the appeal submitted by (...) Industrial Supplies Company – Commercial Registration No. (...), in part regarding the late payment penalty according to the total amount accepted (SAR 5,188,199.58), and amending the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2022-2419) and amending the decision of the Appellant against it.



**Appellate Committee for Tax Violations and Disputes**  
**The First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA -2024-198382

Case No. V-2023-198382

**Principle No. 32**

- The taxpayer's VAT obligation towards the Zakat, Tax and Customs Authority arises from the lease relationship between the parties, which requires the lessee to pay the value-added tax amount to the lessor.

**Facts**



This is to consider the appeal filed on May 23, 2023 AD, from... National ID number (...) as an agent for the Appellant under agency No. (...), on the decision of the First Panel for adjudicating VAT violations and disputes in Dammam City No. (VD-2023-99040), in the case filed by the Appellant against the Appellant against him.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

dismiss the plaintiff's claim.

Since this decision was not accepted by the Appellant, he submitted to the Appellate Panel a list of appeals, which included his objection to the decision of the Adjudication Panel to dismiss his case regarding his claim to recover the amount of value added tax resulting from the rental of two properties for the Appellant against him, because the date of entry into force of the registration, which is dated 01/01/2020 AD, becomes the amount of tax in which he claims for the period after the entry into force of the registration, and with regard to the contract of the agreement concluded between the parties on 05/10/2019 AD, the Appellant claims that this agreement may not be considered a reason for exempting the Appellant from his obligation to pay the tax, especially in light of his explicit acknowledgment of his obligation to pay any other invoices for the building, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request



of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel decided to dismiss the Appellant's case regarding his claim to recover the amount of VAT resulting from the rental of two properties for the appellee in the amount of (338,136 riyals), and since the Appellant objects to the decision of the Adjudication Panel, because the issue is on the effective date of the registration, which dates back to 01/01/2020 AD, The amount of tax in which the appellee claims is for the period after the registration takes effect, while the appellee argues that the contract concluded between the parties to the case did not include any obligation to pay VAT, but stipulated the appellee's obligation to pay government fees, water, electricity, sewage and communications expenses, and the Appellant was not assigned to supply the tax in the claimed period as he does not have a tax number, in addition to the parties concluding a final clearance on 05/10/2019 AD in which no mention of VAT was made, and the Panel was informed of the case file and the documents submitted, and the decision of the Adjudication Panel and the submissions of the parties, and the certificate of registration of the Appellant in VAT, it is clear to it that the effectiveness of his registration was on 01/01/2018 AD, and since the contracts that occurred 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 AD) to (01/09/2019 AD), 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 AD, and the lessor applied for VAT registration on 05/08/2021 AD, 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 VAT 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 Panel 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 Panel 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 Panel 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 Panel for Value Added Tax and Excise Goods**  
**Tax Violations and Disputes**

Decision No. VA -2023-136547

Case No. V-2022-136547

**Principle No. 33**

- Input VAT may not be deducted for goods that are prohibited from circulation.

**Facts**



This is to consider the appeal filed on 20/12/2022 AD , from ..., National ID (...) As the owner of the institution. , Commercial Register No. (...) on the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Dammam (VD-2022-875) in the case filed by ... against the Zakat, Tax and Customs Authority.

as well as to consider the appeal filed on 17/07/2022 AD by the Zakat, Tax and Customs Authority against the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Dammam City No. (VD-2022-875) in the case filed by... against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: Proof of the end of the litigation in relation to the two fines in question.

Secondly: Accepting the plaintiff's claim regarding his request to exclude what the authority added to his sales in the tax return in the amount of 1,000,000 riyals only .

Third: Accepting the plaintiff's claim regarding his request to deduct his input tax from the entire clause of imports.

Fourth: Respond to all other requests.

since this decision was not accepted by the parties, the Appellant (...) to the Appellate Panel with a list of appeals that included his objection to the decision of the Adjudication Panel to amend the decision of the Zakat, Tax and Customs Authority regarding the clause of taxable sales in the basic rate and subjecting the amount of (1,309,523.81) riyals to a tax of (65,476.19) riyals, that the balance of review submitted shows a debit balance of (426,040) riyals in the account of customers No. (1102), and there is an amount of (375,000) riyals for credit movement and the balance of the end of the period (51,040) riyals and was approved by the customer as in the annex. It demands the adoption of an amount of (375,000) riyals as



payment for previous dues and the cancellation of the final evaluation notice, and ended with the request to accept the appeal and cancel the decision of the Adjudication Panel.

The Appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Panel a list of appeal that included her objection to the decision of the Adjudication Panel regarding the clause of sales subject to tax in the basic ratio, and demanding the cancellation of the decision of the Panel to amend the decision of the Authority as a result of amending the clause of sales subject to tax in the basic ratio, because the reasoning of the Adjudication Panel once the hawala is described as financing the account is insufficient to take it out of the Supply Panel, because by analyzing the bank deposits, it was found that there were advance payments that were not declared in accordance with Article (23) of the unified agreement and are taxable in accordance with Article (14) of the Regulations. With regard to the clause of imports subject to value-added tax for the basic rate, which is paid at customs and demands the cancellation of the Authority's decision for the clause of imports subject to value-added tax paid at customs for the first quarter of 2020 AD to exclude imports based on the incompleteness of the terms of the tax invoice based on Article (48) of the Convention and Article (49) and (53) of the Executive Regulations, pointing out that the findings of the Adjudication Panel are incorrect.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

Regarding the appeal of (...) Whereas the period of appeal against the decisions issued by the Tax Violations and Disputes Adjudication Panels in accordance with the text of Article (34) of the rules of work of the Zakat, Tax and Customs Committees is (30) days from the day following the date specified for receiving the decision, and since it is proven from the case papers that the date specified for receiving the decision is 08/06/2022 AD, while the Appellant did not submit his appeal until 20/12/2022 AD, that is, after the expiration of the period specified by law for its submission, which makes it necessary not to accept the appeal in form.

As for the appeal of the Zakat, Tax and Customs Authority, and since by reviewing the case documents and the appeal list submitted, the Panel found that the conditions for considering the appeal procedurally are

met in accordance with the conditions stipulated in the relevant laws, regulations and decisions, which makes the appeal request procedurally admissible because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel decided to amend the decision of the Zakat, Tax and Customs Authority regarding the final evaluation notice for the tax period (Q1 2020) and the fines resulting therefrom, and with regard to the appeal submitted by the Zakat, Tax and Customs Authority, and since it objects to the decision of the Adjudication Panel regarding the taxable sales clause for the basic percentage, and that the reasoning of the Adjudication Panel once the transfer is described as funding the account is insufficient to remove it from the Supply Panel, and that by analyzing the bank deposits, it shows that there are advance payments that have not been acknowledged. Whereas the Appellee (...) He indicated in his memorandum that the trial balance presented shows a debit balance of (426,040) riyals in the account of customers No. (1102). There is also an amount of (375,000) riyals in credit movement and the balance of the end of the period (51,040) riyals and was approved by the customer as attached. It demands the approval of an amount of (375,000) riyals as payment of previous dues and the cancellation of the final evaluation notice.

Whereas the Appellant (Zakat, Tax and Customs Authority) pays the validity of its procedures, as it relied on the appellee's disclosure (...) During the examination phase, it is clear from the analytical statement submitted detailing the bank deposits with a total amount of (1,375,000) riyals inclusive of the tax and that the amount of (35,000) riyals and part of the amount of (500,000) riyals is a payment from the customer for the rest of the previous invoice No. (1005) in the amount of (391,039.96) riyals and that the remaining amounts with a total value of (948,960.04) riyals are advance payments inclusive of the tax. Upon reviewing the attestation dated (15/01/2020AD) submitted by the appellee (...) It was found that the institution of...in the commercial register number (...) Represented by the invitee ... The status of the record is canceled after referring to the website of the Ministry of Commerce. Whereas the decision of the Adjudication Panel indicated that the amount of (1,000,000) riyals received from his father under the description of the account feed in the statement of account and its inclusion in the trial balance within the account of miscellaneous creditors that is not related to the supply of goods or services and its removal from the Tax Entitlement Panel, despite the Appellant's failure to submit documents to the Adjudication Panel and where the Appellant did not deny the analytical statement and e-mail sent from him, especially with his acknowledgment of the submission of the analysis of bank deposits in his statement of claim to the Adjudication Panel, and where the advance payments are subject to tax in accordance with the provisions of Article (23) of the unified agreement, the Appellate Panel shall end up accepting the appeal submitted by the Zakat, Tax and Customs Authority.



with regard to the objection of the Appellant (Zakat, Tax and Customs Authority) to imports subject to VAT in the basic ratio, due to the incomplete conditions of the tax invoice based on Article (48) of the Agreement and Article (49) and (53) of the Executive Regulations. Looking at the attachments to the lawsuit, it is clear that the Panel indicated in its decision that the Appellant's decision is not based on a regular basis and the right of the Appellee to deduct imports based on the customs declaration on (27/01/2020 AD) after the entry into force of the decision to ban the packages from (15/11/2020 AD), that is, after the entry of the goods and their release from customs. By reviewing the submitted documents, it was found that the customs declaration No. (15641) dated (27/01/2020 AD) and the amendment of the executive regulations of the anti-smoking law announced in the Umm Al-Qura newspaper on (29/05/1441 AH) corresponding to (24/01/2020AD) and in accordance with Article (M8/8-1) prevents the sale of the goods in dispute from the date of publication in the Official Gazette in accordance with Article (20-1). Whereas the Adjudication Panel based its decision on the Appellant's procedures submitted in accordance with the amendment to the executive regulations of the anti-smoking law as in paragraph (4) and the prohibition of trading on (15/11/2020 AD), while the executive regulations of the anti-smoking law prevented the circulation of the disputed goods from the date of publication, although the basis for calculating the assessment was based on the incompleteness of the conditions of the tax invoice based on Article (48) of the Convention and Article (49) and (53) of the executive regulations, while the deduction of the input tax for imports in accordance with paragraph (2) of Article (48) of the Convention and paragraph (2) of Article (45) of the Convention, which included the inadmissibility of deducting the input tax related to prohibited goods, which leads the Appellate Panel to accept the appeal submitted in the aforementioned clause.

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

### Decision:

First: Regarding the appeal of..., national identity (...) Unique number (...):

Not accepting the appeal procedurally.

Second: regarding the Zakat, Tax and Customs Authority appeal:

1- Accepting the appeal procedurally.

2- Accepting the Authority's appeal, rejecting the Taxpayer's appeal related to the taxable sales clause in the basic ratio, canceling the decision of the First Panel for adjudicating VAT violations and disputes in Dammam (VD-2022-875), and upholding the Authority's decision.

3- Accepting the appeal related to the clause of imports subject to VAT and paid at customs, canceling the decision of the first Panel for adjudicating VAT violations and disputes in Dammam (VD-2022-875) and supporting the decision of the Authority.



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA -2024-175308

Case No. V-2023-175308

**Principle No. 34**

- The determining factor for tax liability during the transitional provisions period is the 'date of supply' occurring on or after the effective date of the law.

**Facts**



to consider the appeal filed on 04/02/2023 AD, from..., Resident ID No. (...), in his capacity as a legal representative of a company..., under Commercial Register No. (...), and the appeal filed on 05/02/2023AD, from the Zakat, Tax and Customs Authority, against the decision of the Second Panel for Adjudicating Value Added Tax Violations and Disputes in Riyadh City No. (VSR-2022-2513) in the lawsuit filed by a company ... against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: To accept the claim procedurally.

Secondly: With regard to the clause of local sales subject to tax at the zero rate for the periods objected to in (2018):

A- Accepting the plaintiff's request for company contracts...by including them in the zero-taxable sales clause.

B- Reject all other matters.

Third: Reject the plaintiff's claim regarding the clause of taxable exports for the basic tax periods in question for the years (2018 AD), (2019 AD) and (2020 AD).

Fourth: Proof of the end of the deduction on the clause of taxable purchases for the basic tax periods in question for the years (2018 AD), (2019 AD) and (2020 AD).

Fifth: modification of the Defendant's decision with respect to the fines in question in accordance with the conclusion of this decision in Clause (Second). "

since this decision was not accepted by both parties, the Appellant (Company ...) to the Appellate Panel with an appeal regulation that included its objection to the decision of the Adjudication Panel to reject its



objection to the final evaluation of the tax periods related to the years (2018 AD), (2019 AD) and (2020 AD), and the fines resulting therefrom, because the contracted customer does not have branches within the Kingdom, not even in the Gulf Cooperation Council (GCC) countries. As for the contract of the General Authority for Tourism and National Heritage, the contract ended on 28/03/2016 AD, before the entry into force of value-added tax (VAT), and it submitted a letter of statement 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, income tax was included and paid for it, but it is not subject to value-added tax, and the contracts of the Ministry of Finance (3 contracts) and the contract of the company ... the Panel reported the tax periods during which the contracts in dispute regarding the contract with the Ministry of Finance were acknowledged. It refrained from paying the tax at the beginning of 2018 AD and six months later it paid it. We included it in the June 2018 AD 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 AD decision during the first initiative period, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

The Appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Panel a list of appeals, which included her objection to the decision of the Adjudication Panel to accept the exclusion of the company's contract...and to include it in the clause of zero taxable sales, because the appellee did not submit contracts in accordance with this clause before it as well as before the Adjudication Panel, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.



## Grounds:



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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel rejected the Appellant's objection (company ...) regarding the final evaluation of the tax periods related to the years (2018 AD), (2019 AD) and (2020 AD), and the consequent fines, and with regard to the clause of subjecting exports to tax in the basic case, and where the Appellant objects to the decision of the Adjudication Panel, because the contracted customer does not have branches within the Kingdom or even in the Gulf Cooperation Council countries, and since it is established that the decision at issue in the dispute at hand was in accordance with the provisions of the law and with the valid reasons on which it was based and sufficient to carry out its judiciary, as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and where the Appellate Panel did not observe any reason to appeal or comment in light of the defenses raised before this Panel, which concludes with a decision not to affect the outcome of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

With regard to the Appellant's objection to the taxable local sales clause for the basic rate of contracts: (Company Contract..., Company Contract..., Company Contract..., Office Contract..., Company Contract..., General Authority for Tourism and National Heritage Contract, Ministry of Finance Contracts (3 contracts) and Company Contract...), and in relation to the General Authority for Tourism and National Heritage Contract, and where the Appellant objects to the decision of the Adjudication Panel, because the contract ended on 28/03/2016 AD, that is, before the entry into force of the value-added tax 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 the payment, it was included and income tax was paid for it, but it is not subject to value-added tax, and after reviewing the documents that were submitted, and since what is considered in determining the tax entitlement 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 is subject to tax based on the text of paragraph (3) of Article (73) of the unified value-added tax agreement for the Gulf Cooperation Council countries and the text of paragraph (1) of Article (79) of the executive regulations of the value-added tax system, and



where the Taxpayer submitted the contract, which shows its expiration before the entry into force of the value-added tax, as well as the letter issued by the Procurement and Contracts Panel at the Ministry of Tourism in response to the certificate request, which includes the client's assertion that "the expiration date of the contract is 28/03/2016 AD, that is, before the date of entry into force of the value-added tax system, which is considered evidence that the date of supply based on the" date of completion of the service "is a date that precedes the date of entry into force of the value-added tax system in accordance with the text (b/2) of Article (79) of the regulations, which violates the decision of the Panel of Adjudication from the contract, which ends with this Panel accepting the appeal submitted.

regarding the contracts of the Ministry of Finance (3contracts) and the contract of the company ..., and where the Appellant objects to the decision of the Adjudication Panel; because it informed the Panel of the tax periods during which the contracts in dispute regarding the contract with the Ministry of Finance were acknowledged, it refrained from paying the tax at the beginning of 2018AD and six months later it paid it and included it in the June 2018 AD return. Where invoices were issued with zero tax rate, and when we requested the written certificate, the client did not provide it. Accordingly, tax was re-requested at the basic rate of 5%, and it was included in the December 2020 AD return during the first initiative period. After reviewing the submitted documents, the Panel found that the two tax periods during which the Appellant clarified that she declared the amount related to the contracts were (June 2018 AD and December 2020AD). The June period, according to what was stated in the response memorandum of the Defendant (the Authority), is among the tax periods under examination, and the December 2020 tax period is among the periods under assessment. Despite this, the Authority did not clarify what tax liability determinants were identified, based on which the conclusion of tax liability in other tax periods was reached. It also did not clarify which tax periods the disputed amount was subjected to based on the occurrence of one of the tax liability determinants mentioned in Article (23) of the Agreement. It also did not justify the reason for not taking them into consideration when examining the two tax periods (June 2018 and December 2020) by deducting them from the total amount that was subjected, given that it was proven to have been subjected during another tax period based on liability grounds according to the Authority's statement. Since the impact on the tax debt is zero due to both parties' agreement that the contracts are subject to tax, while the difference is regarding the period during which they should have been subjected, and since the Authority, through the assessment notice and the response memorandum, did not clarify the identified liability determinant and the tax periods during which declaration should have been made based on the identified determinant, and did not explain the reason for not deducting them from the total amount that was subjected in the two mentioned periods during which declaration was initially made and which were examined within the disputed tax periods - we see accepting the Taxpayer's appeal, which contradicts what was stated in the Adjudication Panel's decision. Consequently, this Panel concludes by accepting the submitted appeal.



With regard to the contracts (company ..., company ..., company..., company contract..., office contract..., company contract...), and where the Appellant objects to the decision of the Adjudication Panel, because she submitted to the Adjudication Panel part of the contracts due to the limited size of the documents that can be uploaded to the system, in addition to the fact that the office contract... The contract and delivery were completed before the VAT arose, and the company's contract... was on n 16/12/2015 AD, any amendment was made to it and a copy of the contract and the written certificate related to it was submitted. Whereas it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the justifiable reasons on which it was based and sufficient to carry its judiciary, as the Panel issuing it scrutinized the dispute and concluded with regard to it to the conclusion it reached in its operative part, and where the appellate Panel did not notice what required correction or comment in light of the arguments raised before this Panel, which ends with a decision that it does not affect the result of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

With regard to the fine for error in the declaration and the fine for late payment, and the Appellant's request to cancel those fines resulting from the final evaluation of the tax periods in question, and since the decision of the Panel has led to the acceptance of the appeal in relation to the contract of the General Authority for Tourism and National Heritage and the contracts of the Ministry of Finance (3 contracts) and the contract of a company ..., and the rejection of other contracts and since the fines resulted from that, the associated takes its judgment, which leads the Appellate Panel to partially accept the appeal.

with regard to the appeal submitted by the Zakat, Tax and Customs Authority (ZATCA), as it objects to the decision of the Adjudication Panel to accept the exclusion of a company's contract... and to include it in the zero-taxable sales clause, because the appellee did not submit the contracts in accordance with this clause before it as well as before the Adjudication Panel, and since it is established that the decision in question regarding the dispute at hand was in accordance with the provisions of the Law and with the valid reasons on which it was based and sufficient to carry out its judiciary, as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and where the Appellate Panel did not observe the reasons for appeal or comment in light of the defenses raised before this Panel, which concludes to determine that it does not affect the outcome of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

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

## Decision:

1- With regard to the appeal of the company ..., commercial registration number (...):

(a) Accepting the appeal procedurally for submitting it within the legally prescribed period.

(b) 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 Panel for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513), and upholding the Authority's decision.

C- 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 clause subject to the basic rate and add them to the sales clause 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 clause, and amending the decision of the Second Panel for adjudicating VAT violations and disputes in Riyadh (VSR-2022-2513), and amending the Authority's decision.

D- Partial acceptance of the appeal related to the "Error in Declaration Penalty" and amending the decision of the Second Panel 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 clause (3).

E- Partial acceptance of the appeal related to the "Late Payment Penalty" and amending the decision of the Second Panel 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 clause (3).

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

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

B- 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 Panel for adjudicating VAT violations and disputes in Riyadh.

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

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



## Tax Claims Between Individuals or Legal Entities





**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA -2024-197324

Case No. V-2023-197324

**Principle No. 35**

- The Authority is not entitled to retain the cash guarantee in the absence of grounds for applying Article (65) of the Implementing Regulations of the Value Added Tax Law, particularly where the taxpayer's account reflects no outstanding obligations towards the Authority.

**Facts:**



This is to consider the appeal filed on 22/05/2023 AD, from ..., National ID No. (...) On his own behalf, the decision of the First Panel for adjudicating VAT violations and disputes in Riyadh (VR-2023-134579), in the case filed by the Appellant against the Appellant against her.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: To accept the claim procedurally.

Secondly: On the Merits: dismiss the plaintiff's claim.

Since this decision was not accepted by the Appellant, he submitted to the Appellate Panel a list of appeals, which included his objection to the decision of the Adjudication Panel to reject his claim for the refund of the cash bank guarantee paid to the Appellant for the period of the first quarter of 2018 AD and the first and fourth quarters of 2019 AD, due to the absence of the purpose of the bank guarantee because there are no pending cases to be ended by his waiver of the case and in another case by closing it to include him in the initiative of exemption from fines, and that he does not have any amounts due, according to documents that are a copy of his account with the Appellant's website (my invoices) showing that it is free of invoices, and other text messages from the General Secretariat of the Zakat, Tax and Customs Committees addressed to the Appellant against it stating that he waived the cases, and ended with a request to accept the appeal and cancel the decision of the Dism Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the

lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

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

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel rejected the Appellant's case on his claim for the recovery of the cash bank guarantee paid to the Appellant against her for the period of the first quarter of 2018 AD and the first and fourth quarters of 2019 AD, and since the Appellant objects to the decision of the Adjudication Panel due to the absence of the purpose of the bank guarantee because there are no pending cases for its termination by waiving the case and in another case by closing it to include him in the initiative for exemption from fines, and that he does not have any outstanding amounts, according to documents consisting of a copy of his account with the Appellant's website (invoices) showing that they are free of invoices, and another consisting of text messages from the General Secretariat of the Zakat, Tax and Customs Committees addressed to the Appellant stating that he waived the cases, and where the appeal proved the existence of cases filed by the Appellant against the Appellant against her at the General Secretariat of Zakat and Customs in 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 Panel to dismiss the case was based on the existence of unresolved receivables, and this has been negated by the aforementioned, the Appellate Panel concludes that the appeal should be accepted.

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

#### 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 canceling the decision of the First Panel for adjudicating VAT violations and disputes in Riyadh (VR-2023-134579), canceling 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.



## Exports



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA-2023-141098

Case No. V-2022-141098

Principal No. 36

- Intangible services performed on tangible goods or real estate for a customer outside the Kingdom are considered zero-rated taxable exports.

**Facts**

This is to consider the appeal filed on 16/08/2022 AD, from ... National ID number (...) In his capacity as an agent for the Appellant company under Power of Attorney No. (...), on the decision of the First Panel for adjudicating VAT violations and disputes in Dammam City No. (VD-2022-1346) in the case filed by the Appellant against the Appellant against her.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

- dismiss the plaintiff's claim.

Since this decision was not accepted by the Appellant, it submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to dismiss its case on the final revaluation of the tax period related to the fourth quarter of 2018 AD and the fines resulting therefrom, because it submitted all contracts and invoices previously to the Appellant against it and attached a list of all export customers. It was clarified that the failure to submit the documents was due to the conditions of data confidentiality with the customers and during the discussion with the Settlement Committee, it was approved to provide it with the documents and samples previously requested by the Appellant against it were submitted. A letter of approval was received to present the decision of the Zakat and Tax Disputes Settlement Committee and it was approved, but an email was received stating that the settlement request was rejected without mentioning the reasons for the rejection, and that the nature of its activity was the export of services, so there is no export statement of that proof, as the proof it can provide is the contracts with (non-resident) customers as well as the invoices issued to them, and ended with a request to accept the appeal and cancel the decision of the Dism Panel.



Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and exhibits they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel dismissed the Appellant's lawsuit regarding the final revaluation of the tax period related to the fourth quarter of 2018 AD and the fines resulting from it, and whereas the Appellant objects to the decision of the Adjudication Panel because it previously submitted all contracts and invoices to the Appellant against her and the list of all export customers is attached, It was clarified that the failure to submit the documents was due to the conditions of confidentiality of the data with the customers and during the discussion with the Settlement Committee, it was agreed to provide them with the documents and samples previously requested by the Appellant against it were submitted. A letter of approval was received to present the decision of the Zakat and Tax Disputes Settlement Committee and it was approved, but an email was received stating that the settlement request was rejected without mentioning the reasons for the rejection, and that the nature of its activity is the export of services, so there is no export statement for that proof, as the proof it can provide is the contracts with customers (non-residents) as well as the invoices issued to them, and since it is established according to Article 34 of the unified agreement of the tax system The added value of the GCC countries, entitled (Supply outside the GCC region), that the supply of services by a taxable supplier residing in a member state to a non-resident customer who benefits from this service outside the GCC region is subject to tax at zero percent, except in the cases stipulated in Articles (17 to 21), none of which has been proven to be applicable to the Appellant, and where the Panel has proven through a document (customer list) showing the Appellant's exports for the entirety of the Appellant and showing 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 system, and whereas, according to the conditions mentioned in Article (33) of the executive regulations of the VAT system, and whereas the Appellant provides services to a customer outside the Kingdom and the service is not on tangible goods or real estate, and the consumer of the service is a customer outside the Kingdom; As a result, they are subject to zero percent tax on exports, which leads the Appellate Panel to accept the appeal.

With regard to the objection to the two fines of error in the declaration and late payment, and since the Appellant requests the cancellation of those fines that resulted from the notice of final evaluation of the tax period in question, and since the above clause has led to the acceptance of the appeal, and since the fines resulted from this, the associated takes its judgment, which leads the Appellate Panel to accept the appeal submitted in the fines in question.

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

#### Decision:

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



## Sales





Appellate Committee for Tax Violations and Disputes  
First Appellate Panel for Value Added Tax and Excise  
Goods Tax Violations and Disputes

Decision No. VA-2024-191505

Case No. V-2023-191505

Principal No. 37

- A formal defect in the invoice shall not be considered sufficient evidence to subject medical goods and supplies to the standard rate, as the zero rate applies to the supply of any qualified medicines or qualified medical goods.

Facts



the appeal filed on 04/04/2023 AD by the Zakat, Tax and Customs Authority against the decision of the Second Panel for adjudicating VAT violations and disputes in Riyadh (VSR-2023-2582) in the lawsuit filed by a company ... against the Zakat, Tax and Customs Authority.

as well as to consider the appeal filed on 06/04/2023 AD, from ...— National ID No. (...) as agent for the Appellant company under Agency No. (...) And a lawyer's license No. (...), on the decision of the Second Panel for the adjudication of VAT violations and disputes in Riyadh City No. (VSR-2023-2582) in the case filed by the company ... against the Zakat, Tax and Customs Authority.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: To accept the claim procedurally.

Second: With regard to the taxable sales clause at the basic rate:

- 1- Reject the plaintiff's claim regarding the taxation of zero sales for the basic tax period in question.
- 2- Cancel the Defendant's decision regarding the taxation of the deductions rejected by the insurance company for the basic tax period in question.

Third: amending the Defendant's decision on the fines in question in accordance with the conclusion of this decision in Clause (Second/2).

since this decision was not accepted by both parties, the Appellant (Company ...) To the Appellate Panel with an appeal list that included its objection to the decision of the Adjudication Panel to reject its objection regarding the final evaluation of the tax period related to the month of October 2020 AD and the fines resulting therefrom, because during the stage of studying the objection, it provided the Authority with a



sample of the package invoices issued to insurance companies as well as to uninsured individuals, and that the Authority commented only on the sales invoices of the package issued to insurance companies and subject the sales of medicines and medical goods to VAT for the basic rate; and provided a sample of Sales invoices issued to uninsured individuals and sales invoices issued to insurance companies, which indicate that the clause code (the classification of the drug according to the Saudi Food and Drug Authority) was included as a qualifying clause for zero percent within the elements of the company's tax invoice, and the Panel did not request any additional documents during the deliberation phase of the adjudication sessions confirming its view on this clause, but rather was satisfied with the documents and excel sheets attached to the objection, and the documents and excel sheets, which show that what the Adjudication Panel stated was submitted to the Authority during the stage of studying the objection in the Authority and before the Adjudication Panel within the case documents for the period under appeal. It was referred to as the Objection List. It provided an analytical statement (Excel) showing the details of the invoices of the package, the eligible and unqualified clauses included in it, the applicable tax rate for each clause, and their matching with the list of medicines and medical equipment eligible for the zero percent approved by the Saudi Food and Drug Authority. The system also gave the authority the right to impose penalties and fines in relation to violating the provisions of the system or the regulation and not to impose VAT at the basic rate on medical goods subject to the zero percent rate on the pretext of not showing the tax percentage in the tax invoice, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

The Appellant (Zakat, Tax and Customs Authority) also submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to cancel its decision on the final revaluation of the tax period for the month of October 2020 AD, because it was clear from the documents submitted by the company that what it called discounts or settlements in favor of insurance companies are only insurance rejections, that is, the insurance company refuses to pay part of the value of the service actually performed by the Appellant against it, and therefore this is not an amendment according to the text of Article (40) of the regulation, but it represents commercial transactions between the parties to the contract and procedures for collection in return and is not stipulated as discounts at rates and rates specified in contracts with insurance companies, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

On Tuesday, 13/02/2024, the Panel opened the hearing to consider the appeal submitted, and by appealing to the parties, the Appellant's representative attended the Zakat, Tax and Customs Authority/ ... (... Nationality) under national ID number (...), under authorization letter number.../.../.../.../.../On 19/03/1445 AH, issued by the Deputy Governor for Legal Affairs, and the Appellant's attorney attended the company... /... (... Nationality) under national ID (...), under agency number (...). And by asking the Appellant's agent company ... On her appeal, he replied: He is satisfied with the list of appeals and memoranda submitted on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds



and defenses contained therein, and by presenting this to the representative of the Appellant, the Zakat, Tax and Customs Authority, he replied: In what does not deviate from what was mentioned in the appellate regulations and the reply memorandum, and is satisfied with the memorandums filed on the portal of the General Secretariat of Zakat, Tax and Customs Committees, and adheres to the grounds and defenses contained therein, and asks both parties what they wish to add, they replied that they are satisfied with what was previously submitted, and accordingly the door of the pleading was closed and the case was filed for study in preparation for issuing the judgment and postponing the hearing of the case to a session to be determined later.

On Sunday, 18/02/2024 AD, the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel rejected the Appellant's objection (company...) regarding the final evaluation of the tax period related to the month of October 2020 AD, and the resulting penalties, because during the stage of studying the objection, it provided the Authority with a sample of the package invoices issued to insurance companies as well as uninsured individuals, and that the Authority commented only on the sales invoices of the package issued to insurance companies and subject the sales of medicines and medical goods to VAT for the basic rate, contrary to the text of Article (35) of the Executive Regulations of the VAT Law; In this regard, she provided a sample of sales invoices issued to uninsured individuals and sales invoices issued to insurance companies, which show that the clause code was included in the classification of the drug according to the Saudi Food and Drug Authority as a qualifying



clause for the zero percentage of the company's tax invoice elements, and since it is established that the nature of the Appellant's activity expects that there are supplies that qualify for the zero percentage and the Appellant did not pay the Appellant for the non-qualification of the supply for the zero percentage, and since the "Final Evaluation Notice" and the "Response Memorandum" did not clarify the direct reason for subjecting that part despite the Appellant submitting a statement of invoices subject to the zero percentage, including the national identity and identical to the amount approved and submitted For the "FDA Classification of Medicines and Medical Commodities", it was explained that the "registration number" was relied on by writing it in the "code" column on the invoice, which does not show the direct reason for subjecting that part, which does not show the basis for calculating the valuation, which violates the text of paragraph (2) Article (64) of the Executive Regulations of the VAT Law, where no invoice was monitored that was subject to the zero rate, although it is subject to the basic percentage or contrary to the texts related to subjecting it to the zero rate. Rather, it was sufficient to cite a formal violation of the invoice, although this is in the event that the subject of the dispute is the imposition of a fine for "violating the provisions of the law or the regulation" according to the text of paragraph (2) of Article (45) of the Law. As for basing the decision on the formal violation and being satisfied with this as evidence that the medical goods and tools are subject to the basic percentage, it is not considered valid because the zero rate applies to the supplies of any qualified medicines or qualified medical goods " according to the text of paragraph (1) of Article (35) of the Regulations, which are qualified according to any classifications that may be issued by the Ministry of Health or any competent authority in the Kingdom According to the text of paragraph (2) of Article (35) of the Regulations, it has not been proven that an invoice that has been subjected to the zero percentage has been monitored, although it is subject to the basic percentage or contrary to the texts related to subjecting it to the zero percentage previously mentioned, which does not make it possible to subject it to the basic percentage, which is contrary to the decision of the Adjudication Committee, which leads the Appellate Panel to accept the appeal regarding " medical goods and tools ".

With regard to the two fines for error in declaration and late payment, and the Appellant's claim (Company ...) By canceling those fines that resulted from the calculation of the tax in an amount greater than the legally due, and since the above clause has led to the acceptance of the appeal, and since the fines resulted from this, the associated takes its judgment, which leads the Appellate Panel to accept the appeal in relation to the two fines of error in the declaration and delay in payment.

with regard to the appeal submitted by the (Zakat, Tax and Customs Authority), since it objects to the decision of the Adjudication Panel to cancel its decision on the final revaluation of the tax period for the month of October 2020 AD, and the resulting fines, as it was clear from the documents submitted by the company that what it called discounts or settlements in favor of insurance companies are only insurance rejections, that is, the insurance company refuses to pay part of the value of the service actually performed by the appellee, and therefore this is not an amendment according to the text of Article (40) of the

regulation, but it represents commercial transactions between the parties to the contract and countercollection procedures that are not stipulated as deductions in specific proportions and rates in contracts with insurance companies, and since it is established that the decision in question regarding the dispute at hand was in accordance with the provisions of the system and with the valid reasons on which it was based and sufficient to carry its judgment, the issuing Panel undertook to scrutinize the dispute and reached the conclusion in its operative part, and the Appellate Panel did not observe any reason to appeal or comment on it in light of the defenses raised before this Panel, which concludes with a determination that it does not affect the outcome of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

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

### Decision:

1-Regarding the appeal of the company ... , Commercial Register No. (...)

A- Accepting the appeal procedurally.

B- Accepting the appeal on the merits and subjecting the sales clause related to the "medical goods and tools" in question to the zero-rate tax, and canceling the decision of the Second Panel for adjudicating VAT violations and disputes in Riyadh City (VSR-2023-2582) and canceling the decision of the Zakat, Tax and Customs Authority.

C- Accepting the appeal regarding the penalty for error in a tax return, canceling the decision of the Second Panel for the adjudication of VAT violations and disputes in Riyadh (VSR-2023-2582) and canceling the decision of the Zakat, Tax and Customs Authority.

D- Accepting the appeal regarding the late payment penalty, canceling the decision of the Second Panel for the adjudication of VAT violations and disputes in Riyadh (VSR-2023-2582) and canceling the decision of the Zakat, Tax and Customs Authority.

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

A- Accepting the appeal procedurally.

B- Rejecting the appeal on the merits.



Appellate Committee for Tax Violations and Disputes  
First Appellate Panel for Value Added Tax and Excise  
Goods Tax Violations and Disputes

Decision No. VA-2024- 192463

Case No. V-2023-192463

Principal No. 38

- The determinants of the tax entitlement are the date of "supply", "issuance of the invoice" or "partial or full receipt of the consideration", whichever is earlier.

Principle No. 39

- That the assessment should reflect the tax due from it "only", based on a specific monitoring of the determinants of tax entitlement, in order to comply with what is stated in the statutory texts that specified an accurate date for tax entitlement and recognition, to avoid "repeating" the subjection of revenue in more than one tax period.

Principle No. 40

- Accounting for revenue in the financial statements is not a determinant of tax entitlement.

Principal No. 41

- The principle is that the tax related to the service is borne by the service owner and the original supplier, and the mediator, whose role is limited to facilitating access to the service, is not responsible for it.

Principle No. 42

- The supply of goods "before" their import in accordance with the unified customs system as it was "outside the Kingdom" according to the text of paragraph (3) Article (27) of the regulation , and therefore the difference in subjecting them or not is the transfer of ownership of the goods before importation and the text did not require that the supplier of the goods does not provide the transport service for the goods supplied to be cited as evidence of their ownership .



## Facts



This is to consider the appeal filed on 18/04/2023 AD, from the company ... – Commercial Register No. (...), on the decision of the First Panel for Adjudicating VAT Violations and Disputes in Jeddah Governorate No. (VJ-2023-94063), in the case filed by the Appellant against the Appellant.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: Responding to the plaintiff's lawsuit regarding the objection to amending the clause of local sales subject to tax in the basic tax period in question to prove the validity of the Defendant's decision.

Secondly: To dismiss the plaintiff's lawsuit regarding the objection to the clause of exports subject to tax in the basic tax period in question to prove the validity of the Defendant's decision.

Third: To dismiss the plaintiff's lawsuit regarding the objection to the fine for the error in the declaration for the tax period in question to prove the validity of the Defendant's decision.

Fourth: dismissing the plaintiff's lawsuit regarding the objection to the late payment fine for the tax period in question because of the validity of the Defendant's decision.

Since this decision was not accepted by the Appellant, it submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to dismiss its case regarding the final assessment of the tax period for the fourth quarter of 2018 AD and the fines resulting therefrom, because the asset is that each transaction executed is subject to trading fees, which the Appellant reloads on the concerned customers in relation to the transaction they requested and charges VAT at 15% on these fees, and therefore the Appellant reloaded trading fees for customers as expenses (ie Not subject to tax) on the basis that these fees are incurred by customers who are counterparties to the relevant transaction and are responsible for paying the fees, and the Appellant did not request a refund of the 15% input tax imposed by Tadawul on the fees and did not add the additional output tax to the reload on customers, considering this as payments of any direct supply from Tadawul to the end customers, despite this, the Appellant against it has linked to the reload of trading fees as a taxable supply in relation to local sales subject to tax for the basic For the amount of (1,663,411.63), and with regard to exports subject to tax at a rate of zero percent for the amount of (10,496,979.74) riyals, as the reason for the objection lies in the fact that the VAT obligation account probably includes the reloading of trading fees and fees of the Capital Market Authority on non-resident customers, and therefore it is likely that the Appellant against it linked it on the basis that the Appellant is obliged to pay VAT twice on trading amounts, and it may also be imposed VAT on the reloaded amounts of the Capital Market Authority, which the Appellant agreed against it as not subject to VAT, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

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

On the merits, by reviewing the case papers and examining the documents and documents contained in them, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel ruled to dismiss the Appellant's case regarding the final assessment of the tax period for the fourth quarter of 2018 AD and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Panel regarding domestic sales subject to tax in the basic ratio of (1,663,411.63), This is because the asset is subject to each transaction being executed to trading fees, where the Appellant reloads it to the relevant customers in relation to the transaction they requested and imposes VAT at 15% on these fees. Accordingly, the Appellant reloaded trading fees 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. The Appellant did not request a refund of the 15% input tax imposed by Tadawul on the fees and did not add the additional output tax to the reload on customers, considering this as payments Any direct supply from Tadawul to the end customers, despite this, the Appellee has linked to the reloading of trading fees as a taxable supply, and where it was proven to the Appellate Panel that the parties approved that the sales contained in the self-report submitted by the Appellant included the declaration of the "commission of the brokerage company" and that it is not subject to dispute and did not include the declaration of the share of the "Capital Market Authority", which must be done in relation to this part because it is revenue from an activity practiced by a government entity in its capacity as a public authority and is not taxable accordingly, but the subject of dispute is with regard to the non-recognition of the share of the "company ..." of the supply. Upon reviewing the "Final Assessment Notice" document and the "Objection Request Cancellation Notice" document, it



appears that they indicated that the amendment was made based on the text of Article (26) of the Unified Agreement for Value Added Tax of the Gulf Cooperation Council Countries, which addressed the fair market value of goods. However, all cases mentioned in paragraph (1) of Article (38) of the Executive Regulation of the Value Added Tax Law must be verified in order to apply the fair market value of the supply and demonstrate the documents through which that conclusion was reached. Additionally, the tax liability determinants are the date of "supply" or "invoice issuance" or "receipt of consideration partially or fully" (whichever is earlier) as stated in paragraph (1) of Article (23) of the Unified Agreement for Value Added Tax of the Gulf Cooperation Council Countries. Therefore, the assessment related to the disputed period must reflect the tax due for it "only" based on identifying one of the tax liability determinants during the disputed period, in order to comply with the previously mentioned statutory provisions, which set a precise date for tax liability and declaration to avoid "duplication" of subjecting revenue in more than one tax period. Since recording revenue "accounting-wise" in the financial statements is not sufficient evidence of the occurrence of one of the tax liability determinants, and since 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 trade according to the requirements of the Authority, which leads the Appellate Panel to accept the appeal.

With regard to exports subject to tax at a rate of zero percent for the amount of (10,496,979.74) riyals, and since the Appellant objects to the decision of the Adjudication Panel, because the calculation of the value-added tax obligation likely includes reloading the trading fees and fees of the Capital Market Authority on non-resident customers, and therefore it is likely that the appellee assessed them on the basis that the Appellant is obligated to pay value-added tax twice on trading amounts, and may also have imposed value-added tax on the reloaded amounts of the Capital Market Authority, which the appellee agreed as not subject to value-added tax, and since the subject of the dispute in this clause relates to the following: A- The share of the Capital Market Authority and the company .... B- The brokerage commission claimed as zero-rate exports. With regard to the share of the Capital Market Authority and the company ..., where this part is not taxable based on the text of paragraph (5) of Article (9) of the Executive Regulations of the Value Added Tax Law, and based on the fact that the activity practiced by a government entity in its capacity as a public authority is not considered an economic activity in accordance with the purposes of the Law and its Executive Regulations, and with regard to the share of a company ... it is not subject on the basis that the Appellant's capacity as "mediator" and not "original" in the disputed supply as detailed in the first clause in relation to that part of the clause, which leads the Appellate Panel to accept the appeal in relation to that part of the clause. with regard to the brokerage commission claimed as exports subject to the zero rate, it is established that the decision under appeal regarding the dispute at hand was in accordance with the

provisions of the system and with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Panel scrutinized the dispute and reached the conclusion it reached in its operative part, and the Appellate Panel did not observe any reason to address or comment on it in light of the defenses raised before this Panel, which concludes with a decision that it does not affect the outcome of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

With regard to the two fines of error in the declaration and late payment, and the Appellant's request to cancel those fines that resulted from the final evaluation notice for the tax period in question, and since the above result led to the partial acceptance of the appeal, and since the fines resulted from this, the associated takes its judgment, which leads the Appellate Panel to partially accept the appeal in the fines in question.

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

### Decision:

1. Accepting the appeal filed by... - Commercial Registration No. (...), procedurally submitted within the legally 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 canceling the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Jeddah Governorate (VJ-2023-94063) and canceling 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" clause and dismissing the rest of the requests, and amending the decision of the first Panel 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 Panel 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 Panel 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.



## Procurement



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. V-2023-98952

Case No. V-2022-98952

**Principle No. 43**

- The customer shall not be held accountable for errors in the format of the supplier's invoice, as the customer does not have the authority to issue or amend it.

**Facts**



To Consider The Appeal Filed On March 22, 2022 AD, From/ ... National ID Number (...) On His Own Behalf, The Decision Of The First Panel For Adjudicating Value Added Tax Violations And Disputes In Dammam (VD-2022-387) In The Case Filed By The Appellant Against The Appellant Against Her.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows: dismiss the plaintiff's claim.

Since this decision was not accepted by the Appellant, he submitted to the Appellate Panel a list of appeals, which included his objection to the decision of the Adjudication Panel to reject his case on the final revaluation of the tax period related to the fourth quarter of 2019 AD and the fines resulting therefrom, in connection with the exclusion of purchases (3,818,972) riyals because he was in possession of the purchase invoices and did not have enough time to submit them, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (2) of Article (15) of the Rules of Work of Tax Violations and Disputes Resolution Committees, which states: The sessions of the Panel may be held by means of modern technical means provided by the General Secretariat. " The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the hearing and issue the decision.



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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel to reject his case on the final re-evaluation of the tax period related to the fourth quarter of 2019 AD and the fines resulting therefrom, and since the Appellant objects to the decision of the Adjudication Panel with regard to the exclusion of purchases (3,818,972) riyals because he holds purchase invoices and has not had sufficient time to submit them, and where it was proven that the Appellant submitted a statement of purchases identical to the amount approved in clause, but after examining it was found that it contains invoices that were "repeated" deducted twice in the same statement, such as the following "invoices: (...) (...) (...) (...) (...) (...) (...) (...) (...) (...), and therefore the statement after deleting the duplicate invoices does not match the total amount reported during the disputed period, and the sample invoices according to the "Notice of Request for Additional Information" that was requested from the Appellant during the examination phase for the disputed period are as follows: (...) (...) (...) (...) (...) (...) (...) (...) (...) (...) (...) (...) (...) (...), and by looking at the purchase invoices submitted in the appeal, we find that the following invoices were submitted: (...) (...) (...) (...) (...), while the remaining part of the sample was not submitted, and on 22/08/2022 AD, the Appellant was requested to provide us with the remaining invoices from the sample, which are: (...) (...) (...) (...) (...) (...) (...) (...) (...) (...) (...) and we were not provided with them, as the Appellant only provided us with a set of invoices, some of which represent part of the sample and part represent invoices contained in the statement submitted and a statement as follows: 1-Invoice No . ... Amount before tax (285.72 SAR). 2-Invoice No . ... Amount before tax (1597.14 SAR). 3-Invoice No . ... Amount before tax (2250.00 riyals). 4-Invoice No . ... Amount before tax (152.38 SAR). 5-Invoice No . ... amount before tax (4,300.00 SAR). 6-Invoice No . ... Amount before tax (49.52 SAR). 7-Invoice No . ... Amount before tax (737.61 SAR). 8-Invoice No . ... Amount before tax (3,780.00 SAR). 9-Invoice No . ... Amount before tax (57.14 SAR). 10-Invoice No . ... Amount before tax (1092.38 SAR). 11-Invoice No . ... The amount before tax (12,542.50 riyals). 12-Invoice No . ... Amount before tax (4,290.00 SAR). 13-Invoice No . ... Amount before tax (257.14 SAR). 14-Invoice No . ... Amount before tax (75.00 SAR). 15-Invoice No . ... Amount before tax (4,520.00 SAR). 16-Invoice No . ... Amount before tax (357.14 SAR). Thus, the total original value of the invoices submitted is (36,343.67) riyals, which the Appellant proved his possession of documentary evidence proving the bearing of the tax related to it. The Panel ends up accepting to prove that the Appellant has the right to deduct in relation to that amount based on the text of paragraph (1) of Article (48) of the agreement and paragraph (7) of Article (49) of the



regulation, and the defenses raised in relation to it from the lack of a statement of the tax rate. After examining it, it was found that the total difference does not exceed (0.85 halala) with the amount of the tax, that is, the margin of error came with a total of less than (one riyals), which is a difference that occurs in practice. As for the payment that the supplier does not have an address such as the supplier "institution ...". Therefore, in violation of the text of paragraph (5) of Article (53) of the regulation, the invoices related to the supplier are "an institution ...". Of the submitted invoices are: (..) and (...) They are in amounts less than 1,000 riyals and therefore they are simplified invoices, and what applies to them is the text of paragraph 8 of Article 53 of the Regulations and not the text referred to, and the Appellant is not the source of the invoice to be held accountable for an error in the form of the invoice, and the purpose of its possession is "one of the" acceptable documentary evidence to prove its "tolerance" for purchases and "the value of the tax due" for the purpose of proving (the right to deduct) and the Appellant against it did not provide evidence to the contrary and prove the "intolerance" of the Appellant for those purchases, It is clear that there is no relationship between the error in the form of the invoice and the actual intolerance of the Appellant to those purchases because of the existence of supporting documents for the invoice proving its link to it in the absence of "all" or "part" of the customer's data on the invoice, such as a receipt or a bank statement of the amount of the invoice, but the invoices in question clarified the name of the customer, and it was not clear to us that the Appellant requested documentary evidence to support the validity of the invoices during the examination, which proves that there is no relationship between the error in the form of the invoice and its actual intolerance of those purchases, which does not make it appropriate to hold the Appellant accountable for other errors in the form of the invoice because he is a "customer" on the invoice and not a "supplier" and therefore does not have the authority to "issue or amend" those invoices, which is an unproductive payment in the case, which ends with the Appellate Panel partially accepting the appeal in the amount of (36,343.67) riyals and rejecting (3,782,629.08) riyals and amending the decision of the Adjudication Panel.

With regard to the fine for error in the declaration, and since the assessment resulted in the calculation of the tax in an amount greater than what is due in accordance with the above, and since the Panel in the first clause concluded to partially accept the appeal and amend the decision of the Adjudication Panel and amend the decision of the Appellant against it, and since the fine for error in the declaration resulted from this, what is related to it is affected by its judgment, which leads the Panel to partially accept the appeal regarding the fine clause of error in the declaration by not imposing it on an amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause based on the text of paragraph (1) of Article (42) of the value added tax system and the amendment of the decision of the Adjudication Panel and the amendment of the decision of the Appellant against it.

With regard to the fine and the delay in payment, and since the valuation resulted in the calculation of the tax in an amount greater than the due amount in accordance with the above, and since the Panel in the first



clause ended up partially accepting the appeal and amending the decision of the adjudication Panel and amending the decision of the Appellant against it, and since the fine of the error in the declaration resulted from this, what is related to it is affected by its judgment, which leads the Panel to partially accept the appeal regarding the fine clause of the error in the declaration by not imposing it on the amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause based on the text of Article (43) of the VAT system and the amendment of the decision of the adjudication Panel and the amendment of the decision of the Appellant against it.

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

#### Decision:

- 1- Acceptance of the appeal submitted by/ ... , National ID No. (...), procedurally submitted within the legally prescribed period.
- 2- Accepting the partial appeal submitted by (...), National ID No. (...), regarding the clause of purchases subject to the basic percentage, in the amount of (36,343.67) riyals, and amending the decision of the first Panel for adjudicating VAT violations and disputes in Dammam City (VD-2022-387) and amending the decision of the Appellant (the Authority).
- 3- Accepting the appeal submitted by (...), National ID No. (...), regarding the penalty for error in acknowledgment clause by not imposing it on an amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause, and stating otherwise, and amending the decision of the first Panel for adjudicating VAT violations and disputes in Dammam City (VD-2022-387) and amending the decision of the Appellant against her (the Authority).
- 4- Accepting the appeal submitted by (...), National ID No. (...), regarding the late payment penalty clause by not imposing it on an amount of (36,343.67) riyals, within the limits of what was accepted in the procurement clause, and responding otherwise, and amending the decision of the first Panel for adjudicating VAT violations and disputes in Dammam City (VD-2022-387) and amending the decision of the Appellant (the Authority).



## Fees and Commissions





**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA-2024-195503

Case No. V-2023-195503

**Principle No. 44**

- A claim for attorneys' fees is considered a form of compensation, which must be based on the existence of fault, damage, and a causal link between them. Where the right is disputed between the parties and there is a difference in the interpretation of statutory provisions, entitlement to attorneys' fees is not warranted for either party to the dispute.

**Facts**



This is to consider the appeal filed on 07/05/2023 AD, from ... — National ID No. (...), in his capacity as an agent for the Appellant under agency No. (...), on the decision of the First Panel for Adjudicating VAT Violations and Disputes in Dammam City (VD-2022-66304), in the case filed by the Appellant against the Appellant against her.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

- dismiss the plaintiff's claim.

Since this decision was not accepted by the Appellant, he submitted to the Appellate Panel a list of appeals, which included his objection to the decision of the Adjudication Panel to dismiss his case by requesting him to oblige the Appellant to pay the value added tax in the amount of (84,773.40 riyals), because he registered for the tax in the grace period and the previous periods were calculated retroactively, in addition to his request to oblige the Appellant to pay the value of the attorneys' fees in the amount of (8,477 riyals) represented by 10% of the total value of the tax in dispute, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion.



The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:



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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel ruled to dismiss the Appellant's case by demanding that the appellee be obligated to pay VAT in the amount of (84,773.40 riyals), and since the Appellant objects to the decision of the Adjudication Panel because he registered for the tax in the grace period and the previous periods were calculated retroactively in addition to his claim, Whereas it was proven to the Appellate Panel through the documents submitted that the Appellant registered for VAT on 30/06/2020 AD and that the registration was effective on 01/01/2018 AD, meaning that the effective date is prior to the date of registration, and according to the executive regulations of VAT, the case in which the effective date is allowed to be a date prior to the date of registration is the case mentioned in the text of paragraph (3) of Article (6) of the executive regulations of the VAT system, which included the authority of the Zakat, Tax and Customs Authority to approve the application submitted by the registration applicant, considering its effectiveness from any date prior to the date of registration, provided that The applicant is "eligible for registration" on that date, and since it was proven that the contract in dispute was expected to exceed the value of the mandatory registration limit, and therefore the Appellant is obligated to register since the beginning of 2018 AD according to the text of Article (50) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and it was also proven that the Appellant is subject to tax according to the definition of the taxable person contained in the text of Article (1) of the same agreement, Because it was proven through the contract in dispute that the Appellant is obligated to register from the beginning of the entry into force of the system, which was paid by the Appellant, as he clarified that the registration was late during the validity of the exemption initiative period and certified the validity of its payment by submitting a "notice of invoice" form for the tax period for the first quarter of 2018, which proves that he is subject to tax from the beginning of its entry into force, and proves that a tax due in the amount of (84,773.40) riyals, which is the amount identical to the amount in dispute, was recognized, and the Appellant also submitted a payment receipt issued by the National Bank through which it proves the supply of the tax to the Zakat, Tax and Customs Authority, and therefore the

Appellant is authorized to impose VAT. In the disputed period, which contradicts the decision of the Adjudication Panel, which leads the Appellate Panel to accept the appeal submitted.

With regard to the Appellant's claim to oblige the Appellant to pay the value of the attorneys' fees in the amount of (8,477 riyals) representing 10% of the total value of the tax in question, and since the claim for the attorneys' fees is one of the compensation requests based on the existence of error and damage and the causal relationship between the error and damage, and where it was proven through the documents of the case and the decision in question that the right is ambiguous between the parties, with a difference in the interpretation of the statutory texts, and in the event that the decision is issued against one of the parties, the other party's entitlement to the attorneys' fees does not necessarily require, as the request for the attorneys' fees is one of the compensation requests as submitted, which leads the Appellate Panel to reject the appeal regarding the claim for the attorneys' fees.

For these reasons and after due deliberation, the Panel 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 claim for tax payment and canceling the decision of the first Panel for adjudicating VAT violations and disputes in Dammam City No. (VD-2022-66304), and obliging the Appellant (University ...) by paying the Appellant (... National ID number (...)) An amount of (84,773.40) eighty-four thousand seven hundred seventy-three riyals and forty halalas.
- 3- Rejecting the appeal submitted by... , National ID No. (...), regarding the claim for attorneys' fees and supporting the decision of the First Panel for Adjudicating VAT Violations and Disputes in Dammam City No. (VD-2022-66304).



## Fines



Appellate Committee for Tax Violations and Disputes  
First Appellate Panel for Value Added Tax and Excise  
Goods Tax Violations and Disputes

Decision No. VA-2023-112931

Case No. V-2022-112931

Principle No. 45

- The failure to submit supporting documents for the tax return does not constitute a legal basis for imposing a 'hindrance of the Authority's employee' penalty, as the Authority possesses the powers necessary to reassess the taxpayer's return based on previously submitted documentation.

Facts

This is to consider the appeal filed on 30/03/2022 AD, from ... National ID number (...) As the owner of the institution ... for Hotel Apartments under Commercial Register No. (...), based on the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Riyadh City No. (VR-2022-73) in the case filed by the Appellant against the Appellant against her.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: To accept the claim procedurally.

Secondly: On the Merits: Rejecting the claim of the Plaintiff ..., National ID No. (...), by canceling the Authority's decision regarding the revaluation of the third quarter of 2020, and imposing VAT in the amount of (393,746.25) riyals, and the fine for error in acknowledging in the amount of (224,143.13) riyals, and the fine for late payment in the amount of (39,374.63) riyals, and the fine for obstructing the work of the Authority's employee in the amount of (10,000) riyals.

Since this decision was not accepted by the Appellant, he submitted to the Appellate Panel a list of appeals, which included his objection to the decision of the Adjudication Panel to reject his case regarding his objection to the evaluation notice for the third quarter of 2020 AD and the fine of error in acknowledgment and delay in payment resulting therefrom, in addition to a fine for obstructing the employee of the Authority, because it was not possible to submit documents to the Appellant because the competent employee and the person in charge of the accounts was outside the Kingdom as a result of the Corona pandemic, in addition to the cessation of all his activities due to the Corona pandemic, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.



Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:



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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel rejected the Appellant's case regarding his objection to the evaluation notice for the third quarter of 2020 AD and the fine for error in acknowledgment and delay in payment resulting therefrom, in addition to the fine for obstructing the employee of the Authority, and since the Appellant objects to the decision of the Adjudication Panel because it was not possible to provide the documents to the appellee because The competent employee and the person responsible for the accounts was outside the Kingdom as a result of the coronavirus pandemic, in addition to the cessation of all his activities due to the coronavirus pandemic, and with regard to the clause of local sales subject to tax in the basic case, and since the reasons for the amendment to the sales clause is the failure of the Appellant to provide the supporting documents and as a result of which his sales were estimated, the appellee did not provide the data and the method relied upon in the sales estimate, which proves that the appellee's decision did not meet its elements regarding the inadequacy of the basis on which it relied to issue its decision to estimate, as well as the failure to prove the validity of its estimates of revenues in relation to the that it is appropriate in the case of the Appellant, which leads the Panel to accept the appeal submitted.

With regard to the local purchases subject to tax in the basic case, and since the Appellant objects to the decision of the Adjudication Panel because the documents could not be submitted to the Appellant because the competent employee and the person in charge of the accounts was outside the Kingdom as a result of the coronavirus pandemic, in addition to the cessation of all its activities due to the coronavirus pandemic,



and where it was proven to the Panel that the amount of the purchases that the Appellant claimed to deduct relates to an electricity service receipt invoice on 13/09/2020 AD for the invoice No. (450540) in the amount of (363,600) riyals and the amount of tax (54,540) riyals, and since according to paragraph (1/a) of Article (48) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, the Appellant submitted the tax invoice he has the right to exercise the tax deduction for the tax period in question, and where it was proven that the invoice in dispute is in accordance with the provisions of paragraph (5) of Article (53) of the executive regulations of the value added tax system, and where the Appellant submitted the transfer bond dated 13/09/2020 AD through a bank ... For the benefit of the supplier company (...) the amount of (418,140) riyals, including the amount of the tax, indicating the payment and proving the validity of the Appellant's claim to deduct his purchase tax, which leads the Appellate Panel to accept the appeal.

With regard to the objection to the two fines of error in the declaration and late payment, and since the Appellant requests the cancellation of those fines that resulted from the notice of final evaluation of the tax period in question, and since the two clauses of local sales and purchases subject to tax in the basic ratio have led to the acceptance of the appeal, and since the fines resulted from this, what is related to it takes its judgment, which leads the Appellate Panel to accept the appeal submitted in the fines in question.

with regard to the fine for obstructing the work of the Authority's employee, and where the Panel did not prove that the Appellant prevented or hindered the Defendant's employees from performing their job duties 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 Defendant'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 Defendant 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 Appellate Panel accepts the submitted appeal.

For these reasons and after deliberation, the Panel 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 clause of taxable local sales for the basic rate, and canceling the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the Appellant against it.



- 3- Acceptance of the appeal submitted by/ ... - National ID No. (...), related to the clause of local purchases subject to tax at the basic rate, and canceling the decision of the First Panel for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling 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 canceling the decision of the First Panel for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the Appellant against her.
- 5- Acceptance of the appeal submitted by/ ... - National ID No. (...), related to the late payment penalty, and canceling the decision of the First Panel for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling 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 canceling the decision of the First Panel for adjudicating VAT violations and disputes in Riyadh City No. (VR-2022-73) and canceling the decision of the Appellant against her.





## (Excise Tax) Tax Revaluation



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA -2024-171170

Case No. E-2023-171170

**Principle No. 46**

- Flavored sparkling and carbonated water are subject to excise tax in accordance with the definition of carbonated beverages.

**Facts:**

the appeal filed on 24/01/2023 AD by the Zakat, Tax and Customs Authority against the decision of the First Panel for the Adjudication of Excise Tax Violations and Disputes in Riyadh City (ER-2022-208) in the case filed by the Appellant against the Appellant.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

- First: Acceptance of the lawsuit procedurally.

Secondly: Annulment of the Defendant's (the Authority's) decision regarding the tax differences on the tax period from 175 to 212.

Third: Annulment of the decision of the Defendant (the authority) regarding the imposition of the late payment fine on the tax period from 175 to 212.

Whereas this decision was not accepted by the Appellant, it submitted to the Appellate Panel an appeal statement that included its objection to the decision of the Adjudication Panel to cancel its decision on the revaluation of the tax on imports of excise goods for the tax period from 175 to 212 and the fine for late payment resulting from it, because after examining the documents submitted by the Appellant against it, it was found that it imports carbonated water, and since the objectionable clauses are carbonated water, whether flavored or unflavored, and that carbonated water is water in which carbon dioxide gas is dissolved under pressure, a process that leads to it becoming effervescent, and this process is called the carbonation process, and (...) is a global mark in bottled water that comes from France, and it is water that comes from water eyes in the southern regions with a high level of carbon dioxide. The company offers bottled water with flavors, and where carbonated beverages include carbonated beverages saturated with carbon dioxide.



Whereas natural carbonated water that has been flavored falls outside the scope of the exception contained in the definition of carbonated beverages and that carbonated water is carbonated or sparkling water subject to excise tax, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion. The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

#### Grounds:

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

On the merits, by reviewing the case papers and examining the documents and exhibits contained in them, and after reviewing the submissions and replies submitted by the parties, the Appellant Panel found that the decision issued by the Appellant Panel to cancel the Appellant's decision on the revaluation of the tax on the imports of excise goods for the tax period from 175 to 212 and the fine for the delay in payment resulting therefrom, and since the Appellant objects to the decision of the Appellant Panel, because after examining the documents submitted by the Appellee, it was found that she imports carbonated water, Whereas, the objectionable clauses are carbonated water, whether flavored or unflavored, and that carbonated water is water in which carbon dioxide gas is dissolved under pressure, which is the process that leads to becoming effervescent, and this process is called the carbonization process, and whereas, the Appellate Panel found that the basis of the appeal is to require the Appellant to subject (carbonated water) to the excise tax, considering that carbonated water is carbonated or sparkling water subject to the excise goods tax, and whereas, it is clear from Article 2 of the Executive Regulations of the Excise Goods Tax Law, paragraph (1)/B It is the imposition of the excise tax 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 since the decision applicable to this subject contained in the minutes of the 106th meeting of the Financial and Economic Cooperation



Committee defined carbonated beverages as "any beverage containing gas except carbonated water. 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 Panel decides to accept the appeal.

For these reasons and after due deliberation, the Panel 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: canceling the decision of the First Panel of Excise Tax Violations and Disputes in Riyadh (ER-2022-208) and upholding the Appellant's decision.



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA-2024-191993

Case No. E-2023-191993

**Principle No. 47**

- The imported product is sold in the form of (sweetened powder), therefore, the exception stated in the Ministerial Committee's decision "requiring the product to be presented in an open, non-sealed container" does not apply to the product.

**Facts**



the appeal filed on 11/04/2023 AD by the Zakat, Tax and Customs Authority against the decision of the First Panel for the Adjudication of Excise Tax Violations and Disputes in Riyadh City (ER-2022-270) in the case filed by the Appellant against the Appellant.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: the Defendant's decision with respect to the calculation of the Excise Goods Tax on the Products at issue is rescinded.

Second: the Defendant's decision with respect to the demurrage is rescinded.

Since this decision was not accepted by the Appellant, it submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to cancel its decision on the final revaluation of the first tax period of 2021 AD, and the fines resulting therefrom, because the excise tax was imposed on the imported French coffee because it falls under the definition of sweetened drinks because it contains sweeteners, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion.



The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:



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

On the merits, by informing the Appellant Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellant Panel found that the decision issued by the Adjudication Panel decided to cancel the Appellant's decision on the final re-evaluation of the first tax period for the year 2021 AD, and the fines resulting therefrom, and where the Appellant objects to the decision of the Adjudication Panel, because the product falls under the definition of sweetened drinks because it contains sweeteners, and where the appellee argues that the imported product (French coffee) does not contain added sugar and that the presence of the phrase "glucose as a sweetener" in the product card is not considered an added sugar, but rather natural glucose in the product itself and is not added, and where the appellee did not provide proof of the validity of his claim without providing laboratory evidence or a statement from a competent authority stating that the sugar percentage is 0%, and this is not affected by his response to the statement in the customs declaration that the product is subject to the excise tax based on Ministerial Decision No.: (S/1/42/19/2/4) Considering that one of the drinks prepared in restaurants and served in an open container is therefore exempt from the application of the provisions of the excise tax, and by reviewing the imported product, it was found that it is sold as (local powder), and therefore the exception contained in the decision of the Ministerial Committee "to be served in an open, unsealed container" does not apply to the product in dispute, which leads the Appellate Panel to accept the appeal submitted.

With regard to the late payment fine, and the Appellant's request to cancel the decision of the Adjudication Panel, and since the above clause led to the acceptance of the appeal, and since the fine resulted from this, the associated judgment is taken, which leads the appellate Panel to accept the appeal.

For these reasons and after due deliberation, the Panel 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- Accepting the appeal submitted by the Zakat, Tax and Customs Authority regarding the tax differences and canceling the decision of the first Panel for adjudicating violations and disputes of the excise tax in Riyadh (ER-2022-270).
- 3- Accepting the appeal submitted by the Zakat, Tax and Customs Authority, regarding the late payment penalty, and canceling the decision of the First Panel for Adjudicating Excise Tax Violations and Disputes in Riyadh City (ER-2022-270).



## (Real Estate Transactional Tax)





**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA-2023-133665

Case No. V-2022-133665

**Principle No. 48**

- The date of supply is established based on the date of title deed transfer, unless a document is provided proving possession prior to that date.

**Principle No. 49**

- The submission of a statement obtained from the Ministry of Justice, which specifies the date of supply, establishes the occurrence of one of the conditions triggering tax liability on a portion of the amount.

**Principal No. 50**

- Deposits are not necessarily related to business activity in all cases; definitive documentary evidence must be examined and obtained to justify their classification.

**Facts**



This is to consider the appeal filed on 15/06/2022 AD by the Zakat, Tax and Customs Authority against the decision of the Third Panel for Adjudicating VAT Violations and Disputes in Riyadh (VTR-2022-357) in the case filed by the Appellant against the Appellant.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

First: Proving the end of the dispute regarding the delay in payment and the error in the declaration for the tax period in question.

Secondly: overturning the Defendant's decision related to the amendment to the local sales clause subject to the basic percentage of the tax period in question.



Third: Reject all other requests.

Since this decision was not accepted by the Appellant, it submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to cancel the Defendant's decision related to the amendment to the local sales clause subject to the basic tax rate related to the second quarter of 2020 AD, where the Appellant claims that the Appellant against him during the examination stage submitted a statement of sales that is not identical to his approval. The sales statement was compared with the data obtained from the Ministry of Justice and did not match what was stated in it, and it also contained sales that are clearly less than their market value, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

On Sunday, 24/12/2023 AD, the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (2) of Article (15) of the Rules of Work of Tax Violations and Disputes Resolution Committees, which states: The sessions of the Panel may be held by means of modern technical means provided by the General Secretariat. " The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the hearing and issue the decision.

### Grounds:

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

On the merits, by informing the Appellate Panel of the case papers and examining the documents and documents they contained, and after reviewing the submissions and responses submitted by the parties, the Appellate Panel found that the decision issued by the Adjudication Panel decided to cancel the Defendant's decision related to the amendment to the local sales clause subject to the basic tax rate for the second quarter of 2020 AD, and after informing the Appellate Panel of the documents submitted, it is clear from reviewing the "tax declaration form" that the case is "new" and not "amended" Which is contrary to what the appellee paid that the Appellant was acknowledged by the Appellant and did not provide documentary evidence certifying the validity of that payment, and we also find that the sales statement submitted is not identical to the declaration or the statement received from the Ministry of Justice, which certifies the invalidity of the amount contained in it as sales for the period in dispute and thus the invalidity of its declaration, and because the determinants of tax entitlement on which the amount is subject are the date of "issuing the invoice", "supply" or "receiving the entire or part of the consideration", which (earlier) is based on the text of (1) of Article (23) of the agreement, and because "the date of supply" It is the date of



placing the goods at the disposal of the customer based on the text of (2) of Article (23) of the agreement, and therefore the date of supply is proven on the date of transfer of ownership of the instrument unless a document proving possession is submitted before that date, and where the Appellant submitted a statement of the amount of sales based on the statement obtained from the Ministry of Justice, which proves the "date of supply" and therefore it was proven that one of the determinants of tax entitlement occurred on part of the amount in dispute, and therefore the amount contained in the statement must be subject after verifying the validity of what is stated in it through conformity With bank accounts, as for the payment that some of these operations were issued with sukuk and do not represent an actual sale such as modernization and mortgage of some land, the appellee did not submit a statement of sales identical to the statement received from the Ministry of Justice, explaining in it the operations that do not represent an actual sale supported by authenticated documents such as a copy of the instrument proving that the ownership of the instrument is attached to the same owner before and after the date mentioned in the statement of the Ministry of Justice or a documentary evidence to prove this, as he only submitted a statement of sales that is not in conformity with his original declaration and therefore this payment is not reliable, so the amount must be subject to the amount as it is In the statement of the Ministry of Justice, and this is not affected by what the appellee argued that part of the amount relates to the sales of two citizens (the first residence) and that it was not recognized in the sales subject to the basic percentage because of this because the royal order stipulated that the state bears on behalf of the buyer and not on behalf of the seller and in the event that the conditions are "met" according to the text of Clause (VIII) of Royal Order No. (A/86) dated 18/4/1439 AH, i.e. As a seller, he is required to acknowledge the full value of the sale and the supply of his tax to the Authority and is entitled to collect the part of the tax borne by the State by submitting a request to the Ministry of Housing to pay the due tax, but the Appellant is required to subject the total amounts received to the bank account and rely on the date of receipt of the amount as a determinant of the entitlement to the tax and payment that the procedure was based on the fact that the appellee receives a larger amount than the amount recorded on the instrument as the sale price and that the sale price according to the statement of the Ministry of Justice is less than the market value of the assets in dispute, given that the determinacy of these deposits is related to commercial activity is irrelevant, because the deposits generally do not represent in all cases sales and because the special account is not representative of the private account The Appellant against him, especially a personal bank account, and therefore the possibility of personal deposits not related to the activity is inevitable, in addition to the possibility of deposits not related to sales such as returns and others, which requires further investigation and access to conclusive documentary evidence to accept their classification as well, and therefore the deposits must be matched with the statements of the appellee with the Ministry of Justice to certify that they represent sales and certify that the differences are related to them. As for the payment that the difference resulted from emptying them at a value less than the market value despite the collection of the full value of the sale without certification by submitting a statement showing the value of the sale of the property in accordance with the data of the Ministry of Justice



and the difference related to it deposited in the bank accounts and the basis on which the market value of the property in dispute was evaluated, which is an unproductive payment in the case, the Panel ends up subjecting the amounts as stated in the statement of the Ministry of Justice to be the total amount mentioned in the amendment column 13,112,376 riyals.

For these reasons and after deliberation, the Panel 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- Accepting the appeal submitted by the Zakat, Tax and Customs Authority regarding the subjection of the disputed amount to the "sales subject to 5%" clause, and amending the decision of the Third Panel for adjudicating VAT violations and disputes in Riyadh (VTR-2022-357) so that the total amount mentioned in the amendment column is 13,112,376 riyals.



**Appellate Committee for Tax Violations and Disputes**  
**First Appellate Panel for Value Added Tax and Excise**  
**Goods Tax Violations and Disputes**

Decision No. VA-2024-198698

Case No. R-2023-198698

Principal No. 51

- Data issued by the Ministry of Justice indicating the occurrence of a real estate transaction constitutes official instruments that are binding on all parties, unless proven to be forged.

**Facts**



This is to consider the appeal filed on 28/05/2023 AD by the Zakat, Tax and Customs Authority against the decision of the First Panel for Adjudicating Value Added Tax Violations and Disputes in Dammam City No. (VD-2023-93727) in the case filed by the Appellant against the Appellant.

Since the facts of this case have been stated in the decision subject to appeal, the Appellate Panel refers to it in order to avoid repetition. Whereas the decision of the Adjudication Panel ruled as follows:

accepting the plaintiff's claim and canceling the Defendant's decision and its consequences and considering the incident only a correction to an existing situation.

Since this decision was not accepted by the Appellant, it submitted to the Appellate Panel a list of appeals, which included its objection to the decision of the Adjudication Panel to cancel its decision regarding the final revaluation of the tax period for the third quarter of 2019 AD and the fines resulting therefrom and to consider the incident only a correction of an existing situation, because it submitted the data of the Ministry of Justice, which shows the existence of a real estate act, and since it is considered an official document that is authoritative to all unless it is proven that it is forged and that any document submitted by the Appellant against him is not superior to the data of the Ministry of Justice, and that the checks cannot be considered without proof of this from the official body, and ended with a request to accept the appeal and cancel the decision of the Adjudication Panel.

Whereas the First Appellate Panel for VAT and Excise Goods Violations and Disputes held its session to consider the appeal submitted via video communication, based on paragraph (1) of Article (15) of the Rules of Work of Zakat, Tax and Customs Committees, which stipulates that: "The procedures for hearing the lawsuit and pleading therein shall be in writing, and the Panels may, of their own accord or at the request of one of the parties, hear statements and pleadings by remote pleading or in presence, at their discretion.



The hearing, in the event that it is held remotely, shall be deemed to be held in presence, and all its effects shall be arranged, and the Panel shall record this in the minutes of the hearing." The case file, memoranda and related documents were reviewed, and the decision of the Adjudication Panel subject of appeal was reviewed. After discussion and deliberation, the Panel decided to adjourn the session and issue the decision.

### Grounds:

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

On the merits, by reviewing the case papers and examining the documents contained in them, and after reviewing the notes and responses submitted by the parties, the Appellate Panel found that the decision issued by the Appellate Panel decided to cancel its decision regarding the final revaluation of the tax period for the third quarter of 2019 AD and the fines resulting from it, and to consider the incident as a mere correction of an existing situation, and that the Appellant objects to the decision of the Appellate Panel because it submitted the data of the Ministry of Justice that clarify the existence of a real estate act. Whereas, it is considered an official document that has authority over all unless it is proven that it was forged and that any document submitted by the Appellant against him is not superior to the data of the Ministry of Justice, and that the checks can not be considered without proof of this from the official body, and since it is established that the decision in question regarding the dispute in question was in accordance with the provisions of the law and with the permissible reasons on which it was based and sufficient to carry out its judiciary, as the issuing Panel undertook a scrutiny of the place of the dispute and concluded with regard to it to the conclusion it reached in its operative part, and where the appellate Panel did not notice anything that required redress or comment In light of the arguments raised before this Panel, which concludes with a decision not to affect the outcome of the decision. Based on the above, the Panel concluded the report of rejecting the appeal and upholding the decision of the Adjudication Panel regarding what it concluded, based on its grounds.

For these reasons and after deliberation, the Panel 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- Rejecting the appeal submitted by the Zakat, Tax and Customs Authority, subject and supporting the decision of the first Panel for adjudicating VAT violations and disputes in Dammam City No. (VD-2023-93727).



## Detailed Index of Principles

Principle number	Subject	The principle
Income Tax		
Taxable Income		
1	Recharged Expense Dividends	If the recharged expenses at cost represent labor leasing to related internal or external parties, and no profit has been realized therefrom, the Authority is entitled to reallocate the revenue in related-party transactions to reflect the revenue that would have been generated in a transaction with independent parties.
2	Adjustment of Net Profits with Overstated Depreciation Differences	The burden of proof lies with the Authority regarding the inaccuracy of the taxpayer's calculation of depreciation expense, particularly when the Authority adjusts the modified net profit by reviewing depreciation differences without providing evidence that the taxpayer erred in calculating depreciation variances based on the submitted Zakat return, or without substantiating its reassessment through supporting grounds for modifying depreciation rates.
3	Adding other income	The taxpayer's share in the joint venture that must be added to their tax base is their share of the joint venture's adjusted profit.
4	Capital Gains Tax	The disposal of shares constitutes a sale regardless of its form, as the transfer or assignment of shares is considered a form of sale.
5	Invalid income added to the tax base	As a general principle, the taxpayer's return is presumed to be valid if supported by the approved financial statements, in the absence of any evidence submitted by the Authority to substantiate its claim.
Withholding Tax		
6	Withholding tax on airline tickets or sea freight	The imposition of withholding tax on amounts paid to non-resident entities is triggered upon the occurrence of actual payment or its equivalent, such as settlements, offsets, or any other method.



7	Impose 5% withholding tax	The Authority is entitled to impose withholding tax on deemed dividend distributions in cases where no documentation is available to trace the profits of the entity.
8	withholding tax at 15%	The nature of amounts related to consultancy services is subject to a 5% withholding tax.
9		The nature of amounts related to employee transportation, meals, and visa fees is not subject to withholding tax.
10		Withholding tax may not be imposed on services provided by entities resident in the Kingdom of Saudi Arabia, whether related parties or not.
11	Income Tax	The Authority is entitled to apply a deemed profit rate of no less than 15% if the taxpayer is engaged in activities classified under 'other activities,' which are subject to a deemed profit rate of 15%.
Salaries and insurances		
12	Salary differential	Allowable deductible expenses may be deducted in determining the taxable income if the taxpayer provides supporting documents evidencing the incurrence of such expenses during the year.
13	Salaries overloaded	The taxpayer's failure to provide supporting documentation for salary payments—such as bank transfer records or salary receipt vouchers—results in the rejection of their objection regarding the deduction of such expenses in determining taxable income.
14	Salaries and benefits	If the taxpayer provides evidence substantiating the validity of salary and benefit payments made to the employee, the Authority's action in excluding such salaries and benefits shall be deemed invalid.
Tax Base and Tax Rates		
15	External Purchase Spreads	The import statement issued by the General Authority of Customs constitutes a primary presumption from a neutral third party.
16	Letters of Credit Payments	Withholding tax is imposed on interest from loans; however, if the taxpayer proves that the financing was provided at cost, the Authority is not entitled to impose withholding tax.





17	Internal Procurement	Local purchase expenses are considered deductible if it is proven that they are actual expenditures supported by proper documentation.
Expenses of Earning Income		
18	Consultancy Fee Expenses	Consultancy fees are considered deductible expenses if it is proven that they are actual expenditures supported by appropriate documentation. When the taxpayer submits supporting evidence for consultancy expenses—such as relevant documentation, a detailed analytical breakdown of the expenses, and proof of payment samples via email, this entitles the taxpayer to deduct the amounts for which substantiating evidence has been provided.
19	Travel expenses for the fiscal year ended	Travel expenses recharged from the company's various branches and subsequently paid to the head office in accordance with the executed agreement may be deductible, provided they are substantiated with supporting documentation.
20	Rental Expenses	Rental expenses are considered deductible if it is proven that they are actual expenditures supported by proper documentation.
21	Non-Activity Expenses	When the head office allocates operating-related costs to the branch in the Kingdom of Saudi Arabia, such expenses are deemed to be related to the taxable activity.
22	Disallowing the deduction of social insurance expenses	The certificate issued by the General Organization for Social Insurance is considered one of the key and neutral documents used to verify the accuracy and fairness of salaries and wages charged to the accounts.
23	Not to approve any expenses or costs related to tax activity	The tax base is calculated based on the taxpayer's return, and the taxpayer is required to provide supporting evidence for that return. The financial statements represent the primary supporting basis for determining the tax base, and to be considered valid, they must be complete in terms of preparation, measurement, presentation, and disclosure.
24		Since the Authority's decision has not attained finality, the taxpayer is entitled to submit documents that reflect the actual circumstances at



		the time of assessment, to ensure a fair and accurate fulfillment of the obligation—provided that the authenticity of the submitted documents has not been challenged by the Authority.
Paid Amounts		
25	the paid amounts	Payment documents that are not related to the disputed periods shall be treated as if the taxpayer failed to provide supporting documents evidencing payment for the relevant disputed periods.
26	Amounts Recorded as Accrued Expenses	Withholding tax liability is determined based on the actual payment made by the taxpayer. If the taxpayer substantiates the occurrence of such payment and the Authority does not challenge its validity, it shall be recognized accordingly. The Authority's request for the submission of the general ledger to verify the amounts does not affect this, as the decisive factor remains the actual occurrence of payment.
Fines		
27	fines	The penalties clause is considered consequential in nature, as the late payment penalty is calculated from the due date for filing the return to the date of payment of the tax due, as determined by the application of the provisions of the law and any adjustments made by the Authority.
28	Delay Penalty	The penalty is contingent upon the acceptance or rejection of the related item; its existence or nonexistence depends on the treatment of that underlying item.
29	1% delay for every 30 days	The Authority's imposition of a late payment penalty from the due date is valid with respect to the items for which the taxpayer's appeal was rejected. Conversely, the late payment penalty is waived for the items where the taxpayer's appeal was accepted, due to the nullification of the original tax assessment.
VAT		
Tax Base		
30	Indemnity from Insurers	Insurance compensation amounts are not considered taxable supplies or services, as one of the conditions for taxability is not met.



31	Supplier Discount	Generally, discounts are considered a valid form of revenue reduction unless the procedure contradicts statutory provisions.
32	Pay the tax due on the lease contract	The taxpayer's VAT obligation towards the Zakat, Tax and Customs Authority arises from the lease relationship between the parties, which requires the lessee to pay the value-added tax amount to the lessor.
Tax Return Reassessment		
33	Taxable imports at the basic rate	Input VAT may not be deducted for goods that are prohibited from circulation.
34	Services supplied to non-GCC residents	The determining factor for tax liability during the transitional provisions period is the 'date of supply' occurring on or after the effective date of the law.
Tax Claims Between Individuals or Legal Entities		
35	bank guarantee refund	The Authority is not entitled to retain the cash guarantee in the absence of grounds for applying Article (65) of the Implementing Regulations of the Value Added Tax Law, particularly where the taxpayer's account reflects no outstanding obligations towards the Authority.
Exports		
36	zero percent taxable domestic exports	Intangible services performed on tangible goods or real estate for a customer outside the Kingdom are considered zero-rated taxable exports.
Sales		
37	Medical Goods and Instruments	A formal defect in the invoice shall not be considered sufficient evidence to subject medical goods and supplies to the standard rate, as the zero rate applies to the supply of any qualified medicines or qualified medical goods.
38	Domestic sales subject to the basic rate (15%)	The determinants of tax entitlement are the date of "supply", "issuance of the invoice" or "partial or full receipt of the consideration", whichever is earlier.



39		That the assessment should reflect the tax due from it "only", based on a specific monitoring of the determinants of tax entitlement, in order to comply with what is stated in the statutory texts that specified an accurate date for tax entitlement and recognition, to avoid "repeating" the subjection of revenue in more than one tax period.
40		Accounting for revenue in the financial statements is not a determinant of tax entitlement.
41		The principle is that the tax related to the service is borne by the service owner and the original supplier, and the mediator, whose role is limited to facilitating access to the service, is not responsible for it.
42		The supply of goods "before" their import in accordance with the unified customs system as "outside the Kingdom" according to the text of paragraph (3) Article (27) of the regulation , and therefore the difference in subjecting them or not is the transfer of ownership of goods before importation and the text did not stipulate that the supplier of goods does not provide transport service for the goods supplied to be cited as evidence of ownership.
Procurement		
43	Taxable purchases at the basic rate (15%)	The customer shall not be held accountable for errors in the format of the supplier's invoice, as the customer does not have the authority to issue or amend it.
Fees and Commissions		
44	Attorneys' Fees	A claim for attorneys' fees is considered a form of compensation, which must be based on the existence of fault, damage, and a causal link between them. Where the right is disputed between the parties and there is a difference in the interpretation of statutory provisions, entitlement to attorneys' fees is not warranted for either party to the dispute.
Fines		
45	Fines for obstructing an employee of the Authority	The failure to submit supporting documents for the tax return does not constitute a legal basis for imposing a 'hindrance of the Authority's employee' penalty, as the Authority possesses the powers necessary



		to reassess the taxpayer's return based on previously submitted documentation.
Excise Tax		
Tax Revaluation		
46	Excise Tax Reassessment - Carbonated Water	Flavored sparkling and carbonated water are subject to excise tax in accordance with the definition of carbonated beverages.
47	Revaluation of Excise Tax - Sweetened Beverages - French Coffee	The imported product is sold in the form of (sweetened powder), therefore, the exception stated in the Ministerial Committee's decision "requiring the product to be presented in an open, non-sealed container" does not apply to the product.
Real Estate Transactional Tax		
48	sales subject to 5%	The date of supply is established based on the date of title deed transfer, unless a document is provided proving possession prior to that date.
49		The submission of a statement obtained from the Ministry of Justice, which specifies the date of supply, establishes the occurrence of one of the conditions triggering tax liability on a portion of the amount.
50		Deposits are not necessarily related to business activity in all cases; definitive documentary evidence must be examined and obtained to justify their classification.
51	revaluation of real estate tax	Data issued by the Ministry of Justice indicating the occurrence of a real estate transaction constitutes official instruments that are binding on all parties, unless proven to be forged.

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