



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

# Compendium of Principles Issued by the Decisions of the Zakat and Tax Appeal Committees for the Year 2024 (Zakat)



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 Zakat and 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 is often found in the grounds of the decision, which have a general nature, and expresses 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 procedurally 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 Decisions of the Zakat and Tax Appeal Committees**

## **Additions to the Zakat Base**



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

Decision No. IR-2024-178723

Case No. ZI-2023-178723

### Principle No.1

- The capital increase shall be added to the Zakat based upon the lapse of a full lunar year (Hawl) or if it originates from equity items or is used to finance an asset that has been deducted from the Zakat base.

### Facts



The appeal filed on 16/02/2023 AD by the Zakat, Tax and Customs Authority (ZTCA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6884) issued in Case No. (ZI-2021-67596) related to the Zakat assessment for the year 2015 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

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

As the decision was not accepted by the appellant — the Zakat, Tax and Customs Authority — it submitted an appeal memorandum, which the Circuit reviewed. The Authority's appeal relates to the clause concerning the capital increase, stating that it included this clause in the Zakat base because the capital increase is subject to zakat. During the objection stage at the Authority, a meeting was held with the Taxpayer's representatives on 01/08/2021 AD. They explained that the capital increase amounting to SAR (9,821,219) had not completed a full lunar year. A letter was also submitted to the Authority explaining that the zakat assessment led to double counting, as the amount was included twice: once under "capital increase" for SAR (71,860,000), and again under "due from related parties" SAR (62,038,781 + 9,821,219), which equals the total capital increase. It was also stated that the capital increase was effected on 25/06/2015 AD in accordance with the Articles of Association and the auditor's certificate. Accordingly, the Authority clarified that the end-of-period capital of SAR (72,000,000) with an opening balance of SAR (140,000) was added because the increase was funded from amounts payable to related parties. A review of the financial statements confirms the capital increase was financed by a partner: /....., in the amount of SAR (71,860,000) (indicating that this funding was provided to support the company's operations and to



finance capital projects under construction). According to the Taxpayer's email dated 25/08/1442 AH, part of the capital increase amounting to SAR (9,821,219) — aside from the opening balance of the partner's payable account — was used to finance capital work in progress. Since the Taxpayer claims that a portion of the capital increase was included twice in the zakat base — once as capital and once as amounts due to the partner — the Authority responds that its treatment of the partner's payable balance involved adding the lower of the opening or closing balance, which was SAR (39,991,526). This was based on Article 4, Section First, Clause (2) of the Executive Regulations Governing Zakat Collection, issued under Ministerial Resolution No. 2082 dated 01/06/1438 AH, which provides for the inclusion of "the credit current account of the owner or partner as of the beginning or end of the year, whichever is lower, as well as any increase in the current account if sourced from equity or used to finance a capital asset." Accordingly, the capital increase during the year sourced from equity — namely, the opening balance of SAR (62,038,781) plus SAR (9,821,219) allocated to capital work in progress — is not subject to the requirement of a full lunar year for inclusion in the zakat base. The statutory auditor's certificate confirms that the capital increased during the year from SAR (140,000) to SAR (72,000,000) was offset against the partner's credit current account, which was sufficient to cover the increase as evidenced in the company's books and accounting records. Therefore, the Authority reaffirms the validity of its procedure, which is based on Article 4, Section First, Clause (1) of the same regulations, stating that the zakat base shall include "capital that has completed a full lunar year, as well as any increase in capital that has not completed the year if the source of that increase is equity or it financed a capital asset deducted from the zakat base." The Authority maintains the correctness of its actions. The Circuit that issued the appealed decision held that the Authority had not provided sufficient evidence to support its claim and modified the Defendant's action accordingly. Upon reviewing the reasoning of the Circuit, the Authority asserts that it agrees with the treatment of additional capital as compliant with Article 4(First/1) of the Regulations. However, with regard to the related-party funds transferred to capital — valued at SAR (9,821,219) — the Authority contends that although the Circuit found no proof of its use in financing a deductible asset, the Authority had relied on the attached supporting points. Moreover, the Taxpayer's response to the draft zakat assessment via email dated 7 April 2021 AD confirmed that the amount was allocated to capital work in progress. Hence, the Authority insists that its position remains valid and unaffected and that the Circuit's conclusion conflicts with the applicable legal provisions. Accordingly, the Authority confirms the legitimacy of its position and requests that the appeal be accepted and the Circuit's decision regarding the clause under appeal be overturned.

On Sunday, April 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it

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

### Grounds:



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

On the merits, With respect to the Authority's appeal regarding the capital increase clause, the Authority's appeal is to appeal the Adjudication Circuit's acceptance of the Plaintiff's objection regarding the disputed clause, as she claims that the amount of the financing is used to finance capital works in progress. Based on clause (First/1) of Article (4) of the executive regulation for collecting zakat issued by the Ministerial Decision No. (2082) dated 1/06/1438 AH which stipulates: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 1- The capital that has passed a year, as well as the increase in it even if a year has not passed if the source of this increase is one of the elements of equity or was financing for an asset deducted from the zakat base" and based on paragraph (3) of Article (20) which states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, it is clear from the regulatory texts above that the increase in capital is added to the zakat base when a year has passed on it or if its source is from equity clauses or used to finance one of the assets deducted from the zakat base, as it is evident from reviewing the financial statements that there is an amount due to related parties which is the partner, and the financing amount is used as mentioned in financing capital works under execution, in addition to the authority providing a response from the Taxpayer on the draft zakat assessment indicating that the amount of SAR(9,821,219) was added to the capital to finance capital works under execution, and it is also evident from the financial statements that the financing provided by the partner was provided to support the company's works and to finance additions to capital works under execution, and the Taxpayer also indicated that the capital works under execution that took place during the year 2015 AD amounted to a total of SAR(48,158,852), and after reviewing the financial statements, it became clear that the Taxpayer indicated that the entire financing amount is used to finance capital works under execution, and since a person is held accountable for his declaration, the circuit concludes with the acceptance of the authority's appeal and the cancellation of the decision of the Adjudication Circuit regarding this clause.



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

### Decision:

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

2. On the merits:

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



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

Decision No IR - 2024 - 191284

Case No. Z-2023-191284

Principle No. 2

- The Zakat treatment of provisions involves adding the amount formed during the year to the accounting net profit and adding the opening balance—after deducting the utilized portion—to the positive elements of the Zakat base in order to determine the amount that has completed a full lunar year (Hawl).

Facts

the appeal filed on 31/03/2023 AD, from ..., National ID No. (...) was considered as the statutory representative of the appellant company under the Memorandum of Association and the amendment resolution, and the appeal filed by the Zakat, Tax and Customs Authority on 02/04/2023 AD against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City No. (ITR-2022-6304) issued in Case No. (Z-2021-79879) regarding the Zakat assessment for the year 2016, in the suit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

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

This decision was not accepted by the Taxpayer (Company ...). the Taxpayer's appeal is regarding an clause (due to related parties). The Taxpayer explained that based on the judicial principles and details, this clause should be deducted from the Zakat base since the debt (SAR 5,656,000) does not exist with the appellant and she is unable to collect it, as rulings were issued based on high orders that made it impossible for the appellant to collect one riyal of the value of this clause; so how can he request Zakat on money not in the hands of the Taxpayer. the budget showing the balance of this clause was submitted in the objection submitted to the Authority on 06/09/2021 AD, and the appellant reserved her right to submit any additional

documents for clarification if the Circuit requests, and the balance at the beginning of the period for this clause is SAR (3,697,568) and the amount paid during the year is SAR(2,445,689), and therefore the decision ruled that what has passed is SAR(1,251,879) instead of SAR(2,729,668).our objection to not deducting the amount of (2,375,250) from the base for this clause is as follows: the amount represents a credit balance to a sister company (a ... ) exclusively resulting from the software subcontract for the ... the appellant hired a sister company to carry out works related to this contract in the Medina area for the amount of SAR 5,656,000 referred to above; therefore, this debt owed by the appellant to the sister company is indivisibly linked to what is owed to her from related parties, as both amounts (creditor and debtor) arise from one project and one contract. based on the judicial principles and details, the principle is to deduct this clause from the Zakat base, as this balance results exclusively from the appellant's contract for supplying programs, and because the appellant's dues for this contract were settled by royal rulings and orders, and because these royal rulings and orders emphasized that the appellant is not entitled to any amounts and that it is impossible for the appellant to collect one riyal of the contract value as mentioned above, the balance owed to the company ... because the basis for calculating zakat is the presence of money in the hands of the Taxpayer, judicial principles have established that even if there are errors in accounting guidance, this does not lead to the entitlement to zakat on money that is not in the hands of the Taxpayer. regarding the Taxpayer's appeal regarding the clause (creditors), the Taxpayer explained that there was no statement showing the movement during the fiscal year in this clause, the decision was issued based on the balances of the beginning and the end of the period, whichever is less, and since it is clear from the attached statement that the balance of the first period is SAR(1,182,361) and what was paid during the year (389,552,23) riyals, so the balance on which the Taxpayer has turned is SAR (792,809) and not SAR (1,182,361), this decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (due to related parties), the Authority stated that it added these amounts to the turnover through the financial statements and when studying the objection and reviewing the financial statements so that it is clear from them the turnover, as for the receivable from related parties owed SAR(5,656,000) through this, it is clear that the relationship between the Taxpayer and a sister company and not between the partners to be deducted within the negative Zakat base within the limits of his share of retained earnings is a commercial relationship, so we confirm the validity of the Authority's link and reject the Taxpayer's objection, based on Article IV/1 - Paragraph (5) of the Executive Regulations for Zakat Collection, which stipulates that (government and commercial loans and the like from other funding sources such as creditors, payment papers, overdraft account that are in the hands of the Taxpayer in accordance with the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for investment. in addition, based on Article 20(3), which states: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and if the Taxpayer is unable to prove the validity of his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a



discretionary link according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." The Authority maintains the validity and regularity of its procedure. the Circuit issuing the decision under appeal modified the the Authority's decision on the grounds that the the Authority did not provide evidence to the contrary. The the Authority responds that the Circuit's conclusion is incorrect because the the Authority calculated the turnover of the clause due to related parties and the related party was taken separately, and it was found that the amount on which the turnover occurred is (2,729,668) SAR, and based on what was explained above, your Honorable Circuit finds the correctness of the the Authority's action. with regard to the Authority's appeal regarding the clause (End of Service Allowance (Component/Revolving)), the Authority informs your esteemed Circuit that the component severance allowance was added in the amount of (70,061) riyals and the revolving allowance was added in the amount of (393,690) riyals, totaling (463,751) riyals according to the Taxpayer's statement as shown below and the clause was not amended and the issuing Circuit confirmed through its reasons for its decision on this clause that the the Authority's action was correct, stating that the amount of (393,690) riyals that came due is (393). therefore, the Authority requests that the operative part of the decision be amended to "rejecting the Plaintiff's objection and upholding the Defendant's action." Therefore, the Authority requests that its appeal be accepted and the decision of the Adjudication Circuit on the clauses subject to its appeal be reversed.

on Thursday, on: 30/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, regarding the Authority's appeal regarding the clause (due to related parties), and based on paragraph (1/5) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/06/1438 AH, which states that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as

creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. J- What has been used in commercial transactions and has passed a year on it. Based on the above, the Circuit considered the appeal filed by the Authority, and where it argued that the balance due to related parties (creditors) that has lapsed represents SAR(2,729,668). upon reviewing the documents attached to the case file (Exhibit No. (8)), the Circuit found that according to the movement of the accounts, the turnover on the amount of SAR 2,729,668 was calculated independently for each company. Therefore, the Circuit concludes that the Authority's appeal regarding the balance due to related parties (creditors) of SAR 2,729,668 should be accepted and the decision of the Adjudication Circuit on this clause should be annulled.

with regard to the Taxpayer's appeal regarding the clause (due to related parties), and based on paragraph (1/5) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 1/06/1438 AH, which states that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A - What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. J - What has been used in commercial transactions and has passed a year on it. Based on the above, the Circuit considered the Taxpayer's appeal regarding the balance due from related parties (debtor) in the amount of SAR 5,656,000, and where the Taxpayer argues that the credit balance of the sister company ... exclusively resulting from a software subcontract for a project... in the Medina region worth SAR(5,656,000). he reports that the company hired a sister company to carry out work for this contract. a review of the documents attached to the case file shows that the Taxpayer is claiming an offset between the credit balance of ... with reference to the attached documents, it is clear that the amount of SAR 2,375,250 and the debit balance of SAR 5,656,000 are bad debts. Therefore, the Circuit concludes that the Taxpayer's appeal is accepted and the decision of the Adjudication Circuit regarding this clause is annulled.

with regard to the Authority's appeal regarding the End of Service Allowance (Component/Rotor) clause, the Authority's appeal lies in the appeal against the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, as it claims to add what has already passed the hawl. Based on paragraph (9) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." Based on the above, the zakat treatment for provisions is represented by adding the balance formed during the year to the net accounting profit, and adding the beginning balance after deducting the user to the elements subject to the zakat base to reach what has been carried forward, and upon reviewing the documents submitted in the case file, the

Taxpayer acknowledged that the year has passed on the amount of SAR(393,690), and the authority and the adjudication circuit agree on the amount acknowledged by the Taxpayer. Upon reviewing the end-of-service provision movement, the amount formed from the end-of-service provision is SAR (70,061), which is added to the net accounting profit. Since the decision of the adjudication committee was based solely on the carried forward balance, the circuit concludes to partially accept the authority's appeal and amend the adjudication circuit's decision regarding this clause.

with regard to the Taxpayer's appeal regarding the (creditors) clause, the Taxpayer's appeal is to appeal the dismissal of his objection regarding the disputed clause, as he claims to have submitted supporting documents. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the Ministerial Decision No. (2082) dated 1/6/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5 - Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. J- What has been used in commercial transactions and has passed a year on it. Based on the above, the clause of creditors is one of the components of the Zakat base, provided that it is turned around or used to finance the assets deducted from the Zakat base without the requirement of turning around, and upon reviewing the documents submitted in the case file, it appears that the Taxpayer submitted a detailed statement for the clause of creditors for 2016, and it is clear that it is consistent with the balances of the financial statements and the Authority's claim that the balances are not consistent has no merit, and based on the detailed statement submitted, it is clear that the total amount that turned around is SAR(978,555,4) SAR and not SAR(792,809), and where the Taxpayer claims the total balance at the beginning of the period after deducting the deductions from the total, and where this procedure is incorrect and unreliable and each liability must be considered separately, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Dispute Adjudication Circuit 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 circuit for adopting the grounds 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 circuit 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 circuit has not observed anything that requires correction or comment



regarding it in light of the defenses raised before it, this circuit concludes by rejecting the Taxpayer's appeal and rejecting the Authority's appeal and upholding the adjudication circuit'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 grounds stated, the Circuit unanimously decided as follows:

### Decision:

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

Second: On the Merits:

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



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

Decision No. IR-2024-170622

Case No. Z-2023-170622

### Principle No. 3

- The portion utilized from the provision for doubtful debts related to related parties is considered a non-deductible expense.

### Facts

The submitted appeal was heard on: 18/01/2023AD, from the Zakat, Tax and Customs Authority (ZATCA), on the decision of the First Circuit to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2503) issued in Case No. (Z-2021-80822) related to Zakat assessment for the years 2016AD, 2017AD, in the lawsuit filed by the Taxpayer against the ZATCA, in which the decision of the Adjudication Circuit stipulated the following:

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

Second: deny the Plaintiff's objection to the receivables clause for 2016 AD and 2017 AD.

Third: dismissed the Plaintiff's objection to the clause seizure of the books submitted by the clients for 2016 AD and 2017 AD.

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

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

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

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

### Grounds:

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

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

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



### Decision:

1- Acceptance of the appeal in form of the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZJ -2022-2503) issued in Case No. (Z-2021-80822) related to Zakat assessment for the years 2016 AD and 2017 AD.

2. On the merits:

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



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

Decision No. IR -2024-168279

Case No. Z-2023-168279

Principle No. 4

- A distinction must be made between ordinary financial transactions and debts arising from loan agreements between the lender and the borrower, as the determining factor lies in the substance of the obligation and the resulting liability incurred by the debtor due to the benefit derived from funds granted to or retained by them. The debtor is obligated to pay Zakat on such funds if they remain in their possession at the end of the lunar year (Hawl), while the creditor holds a right in the debtor's liability, which constitutes a form of ownership in the debtor's obligation. Accordingly, the funds are not subject to double Zakat.

Facts

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

rejecting the Plaintiff's objection in all the clauses at issue.

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

the Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause (local purchases declared as foreign purchases in the Zakat declaration) and the clause (cost of materials that were cleared from customs under the name of the client/company ...), the Taxpayer disputes the decision of the Appeals Circuit and an clause (the cost of materials cleared from customs under the name of the customer/company...) and an clause (the cost of clearing materials from customs under the name of the customer/company...) and (the cost of materials cleared through customs by ...) the decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that it





is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data for several fundamental reasons, and the Taxpayer stated that the revenues achieved during 2007 AD amounted to (SAR 231,206,237), while the Authority excluded an amount of SAR (214,596,317) on account of purchases from abroad. Due to this, the Taxpayer practically has few deductible expenses. Therefore, the Taxpayer submitted a reconciliation of foreign purchases according to the Zakat declaration and foreign purchases from the customs statement, which shows that the material costs recorded by the company in its Zakat declaration consist of the following: - local purchases declared in the Zakat declaration for 2007 AD amounting to SAR 14,768,977, - The value of imports from the customs declaration for 2007 AD amounting to SAR 24,020,456, - The cost of materials that were cleared from customs under the name of the client/company. (SAR 38,775,595), - The cost of materials cleared from customs under the name of the customer/company. SAR(46,788,230), - Cost of materials cleared from customs under the name of the customer/company ... SAR(34,162,185), - Cost of materials cleared from customs under the name of the customer/company ... SAR(53,722,898), - The cost of materials cleared from customs through... (...) SAR(5,812,867), the cost of materials that were cleared from customs under the names of other customers SAR(20,565,566), the total cost of materials that the Taxpayer declared as foreign purchases in the 2007 AD Zakat return is equal to SAR(238,616,774). the Taxpayer provided details of local purchases classified as overseas purchases in the Zakat declaration and details of overseas purchases as well as a detailed statement of invoices for clauses that were cleared through shipping service companies (e.g.... and others). he explained that since these materials were cleared from customs under the customer's name or through the service of shipping companies, their cost will not be included in the Taxpayer's customs declaration. He also explained that the above-mentioned total cost of the materials should be considered a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082), so the Taxpayer requests permission to deduct the above costs for 2007 AD and issue an amended link. the Taxpayer claims that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 AD and explained that according to the Taxpayer's records, the customs duty expenses include the value of customs duties from the customs statement in addition to the customs duties paid by the Taxpayer during the year for the shipments/materials that were imported through the company. the Taxpayer also explained that the difference in customs duties should be considered as a deductible expense since these expenses meet the criteria in Article (5/1) of the Zakat Collection Regulation issued by Ministerial Decision No. 2082, so the Taxpayer requests permission to deduct the 2007 customs duties and issue an amended link. with regard to the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates) the Taxpayer claims that the decision under appeal did not take into account the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that the Authority subjected the amounts that have already passed,

however, its procedure was based on an assumption and without reviewing the movement of accounts payable balances, and the Taxpayer claims that the Authority's procedure is not justified based on the decision of the Board of Grievances No. (4505/2/Q) and the fact that Zakat is not obligatory on funds that are not owned by the Taxpayer and based on the circular circulated by the Grievance Court in addition, the Zakat Collection Regulation No. (2216) does not support the Authority's action. The Taxpayer presented the movement of credit balances, which shows that they were paid regularly during the year, and the end-of-term balances arise from the credit balances due during the year, so it is only permissible to add the amounts that matured based on the attached movement and not the balance of the first or last period, whichever is less, and the Taxpayer indicated that what matured with regard to adding trade creditors and payment notes to the Zakat base is (SAR 173,694,173, SAR 475,929 for other creditors, and SAR 882,203 for the amount due to affiliates. Therefore, the Taxpayer requests the reversal of the decision of the Dissolution Circuit for the above reasons.

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

### Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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.

regarding the Taxpayer's appeal regarding the clause (local purchases declared as part of foreign purchases in the Zakat declaration), the Taxpayer argued that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A - The expense



must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file, it was found that the Taxpayer submitted a detailed statement of local purchases (Excel) indicating the name of the supplier and the supplier number that does not match the total amount of the dispute, as the total amount of suppliers submitted is (3,314,236) and the Taxpayer supplemented the total amount with accrued expenses of SAR(10. 269,905) that cannot be matched, SAR 269,905 that cannot be matched, and the Taxpayer submitted six (6) samples of invoices that match the names of suppliers and amounts of SAR(2,240,975), which led the Circuit to partially accept the Taxpayer's appeal and amend the decision of the Adjudication Circuit in this clause with the documents submitted by the Taxpayer in the amount of SAR(2,240,975).

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

with regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs under the name of the client/company...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memo dated October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or

accrued to reach the net result of the activity provided that the following controls are met:" A - The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and upon reviewing the case file and the documents and defenses it contains, it was found that the Taxpayer submitted the contract agreement translated by an accredited translation office, which showed that the contract clarifies the nature of the relationship and the amount, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

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

with regard to the Taxpayer's appeal regarding the clause (cost of materials cleared from customs through ...), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection, and the Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that it is not necessary for the cost of imports/materials according to the books of accounts to match the reality of the customs data. whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A - The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. based on the foregoing, and upon reviewing the case file and the documents and defenses it contains, it appears that the Taxpayer submitted a detailed statement of foreign



purchases through shipping companies indicating the document number, invoice number, date of entry, import value and customs duties paid, totaling SAR 5,812,867, and provided samples of customs duties represented in the customs statement and invoices corresponding to the submitted statement, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

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

regarding the Taxpayer's appeal regarding the clause (Exclusion of overcharged customs duties for the year 2007 AD), the Taxpayer's appeal is that the decision under appeal did not take into consideration the data and details provided by the Taxpayer to support his objection. The Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that the customs duty expenses include, according to the Taxpayer's records, the value of customs duties from the customs statement in addition to the customs duties paid during the year for the shipments/materials that were imported through a company ... and other shipping service providers. whereas paragraph (1) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted on "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and since this clause is related to (the cost of materials cleared through customs by ...) in which the Circuit accepts the Taxpayer's appeal for submitting documents in support of his objection, which results in the Circuit accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit in this clause.

regarding the Taxpayer's appeal regarding the clause (trade creditors and payment notes, other creditors, and amounts due to affiliates), the Taxpayer referred to his response memorandum submitted on October 25, 2022 AD, and explained that the Authority has subjected the amounts that have come due, however, its

procedure was based on an assumption and without reviewing the movement of the accounts payable balances. Where the fatwa issued with number (3077/2) dated 08/11/1426 AH stated: "The evidence for the obligation of zakat is general and includes all zakatable assets, and there is no valid evidence to exclude debts from that, because the creditor pays zakat on the money he owns which is owed by the debtor, while the debtor pays zakat on another money he owns and has in his possession and can dispose of, and there is a difference between the money in a person's hand and the money in his debt." And where paragraph (5) of the circular of the authority number (583/16/1432) dated 29/01/1432 AH related to the zakat treatment of creditor elements shown in the financial statements according to the provisions of the fatwa number (22665) dated 15/04/1434 AH stated: "All creditor elements shown in the financial statements are added to the zakat base whenever a year has passed on them and the conditions of the fatwa are met," and where paragraph (5) of clause (First) of article (fourth) of the executive regulation for collecting zakat issued by Ministerial Decision number (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What is used in trade and a year has passed on it." Based on the above, commercial debts are considered one of the components of the zakat base, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base. The Taxpayer argues that zakat is not obligatory on assets not owned by the company and that this treatment leads to a reluctance to pay zakat, knowing that there is a difference between ordinary financial transactions and debts arising from loan agreements between the lender and the borrower, because the essence of the obligation and what it entails is the debtor's liability for the debt for benefiting from funds provided to him or remaining in his ownership, thus he must pay zakat on what he has at the end of the year, and the creditor's debt is a right in the debtor's liability, thus it is owned by him in the liability, and therefore the money has not been zakat-ed twice as claimed by the Taxpayer, and this is not affected by the Taxpayer's argument of the absence of complete ownership of those balances. Upon reviewing the documents of the case and the defenses contained therein, it is clear that the Taxpayer submitted the financial statements for the years in dispute and provided the movement of balances (Excel) and submitted a copy of the accounting system for the movement of related parties, where it became clear that a year has passed on the commercial creditors and payment papers amounting to SAR(173,964), and other creditors amounting to SAR(475,929), and the amount due to affiliated entities amounting to SAR(88,203), which leads the committee to partially accept the Taxpayer's appeal and amend the decision of the committee in this clause.

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



## Decision:

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

Second: On the Merits:

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





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

Decision No. IR -2024-196733

Case No. Z-2023-196733

**Principal No. 5**

- A loan from a partner is considered part of the Zakat base and shall be added to the Zakat base without applying the deductible limit if it is classified under equity.

**Facts**

The appeal filed on 10/05/2023 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2023-95809) issued in Case No. (Z -2022-95809) related to Zakat assessment for the year 2019 AD was considered in the lawsuit filed by the Appellee against the Zakat, Tax and Customs Authority, in which the decision of the adjudication circuit stipulated the following:

First: modification of the action of the Defendant/Zakat, Tax and Customs Authority against the Plaintiff/company...( ) (unique number...) relating to a loan clause sponsored in a subsidiary company (Company ...), as described in the grounds.

Second: annulment of all other decisions of the Defendant/Zakat, Tax and Customs Authority against the Plaintiff/company. ( ) (unique number...) is related to the link in question.

as this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit. The Authority's appeal is with regard to the clause (adding the component of the end of service provision). The Authority explains that it added the component of the end of service provision to the net profit in accordance with Note 13 of the financial statements. the rounded balance is as follows: statement 2019 AD Beginning balance (45,559,654) Deducts paid during the year (4,433,315) Revolving balance (41,126,339) The Authority has added the total charge during the year (the component) in accordance with Note (13) in the financial statements, noting that if the component transferred from a related party is not added to the net profit, it will be added within the rounded balance and the result is the same as Zakat is on the Zakat base and not on the adjusted net profit as the related party has already deducted it in its accounts, as for what the Plaintiff referred to in his list is incorrect because it violates the statutory requirement accordingly, the Taxpayer's objection was rejected based on Article (4) Paragraph (6) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2216



AD dated 07/07/1440 AH, which states that "The Zakat base consists of: "6- Allocations at the beginning of the zakat year after deducting the use of them during the zakat year." article (9) paragraph (5) of the same regulation also stipulates that "...the following expenses may not be deducted: "5. All allocations and reserves formed during the Zakat year in question, except as stated in paragraph (6) of Article (8) of the regulation." regarding the clause (loan from a partner), the Authority explains that it added the clause (loan from a partner) to the Zakat base due to the reclassification of the debt from a loan to a contribution from a partner in accordance with Note No. (14) in the 2019 AD financial statements, and it was added to equity and not compared to the calculated clauses. the Authority explains that during the objection phase, the Plaintiff submitted a clarification stating the following: "While the nature of the loan has not changed over the years, the presentation and disclosure requirements of auditing standards (specifically IFRS 9) require this loan to be presented in equity because it meets certain conditions such as no specific repayment schedule and is interest-free. the same loan was fully repaid in 2021 AD, and repayment documents were provided." the Plaintiff changed the classification of the clause from a partner's loan to a contribution from a partner, and it appeared within the equity, so in this case it is not compared with the deductible and is considered as a separate clause and is added to the Zakat base. as for what the Plaintiff referred to in his list of claims, it cannot be relied upon because it is not true, and the requests he referred to are in fact contrary to the correct procedure carried out by the Authority, and accordingly, his objection was rejected. with regard to the clause (loan in a subsidiary company (Company ...)), the Authority clarifies that the Taxpayer objected to this clause for 2020 AD and did not object to it for 2019 AD with the Authority, and we attach to your Honorable Circuit a copy of the Taxpayer's objection to the Authority, which clarifies that the objection to this clause is related to the year 2020 AD as shown below (copy attached). accordingly, the Authority requests that the Circuit's decision be overturned and that the clause be ruled inadmissible from a procedural point of view, as it was not objected to by the Authority. with regard to the clause (Bank Guarantee for Additional Zakat), the Authority clarifies that the clause is related to the objection to the above clauses, which is a statutory procedure stipulated in the Zakat Collection Regulation. Paragraph (2) of Article (25) of the Executive Regulation on Zakat Collection issued by Ministerial Resolution No. (2216 AD) dated 07/07/1440 AH stipulates that: (Paragraph (3) of the same article stipulates that: "To accept the objection procedurally, the Taxpayer must pay part of the amounts due on the clauses not objected to within the statutory period of the objection, in an amount not less than ten percent (10%) of the value of the link and not more than twenty-five percent (25%) of its value, or provide a financial guarantee of not less than fifty percent (50%) of the value of the link, and the Authority may set the regulations governing this therefore, the Authority confirms the validity and regularity of its procedure. it asks that its appeal be accepted and that the decision of the Adjudication Circuit be reversed.

on Tuesday, 14/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause (1) of

Article Fifteen of the Working Rules of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH.; By calling on the opponents, I attended ... (National ID No. ...), in her capacity as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., no one appeared to represent the appellant despite the fact that it was legally notified of the date of this session. At this session, the representative of the Authority requested a period of time to submit what they have at a future session, the Circuit decided to accept the request and grant the Authority a period of (5) working days to submit what they have to the Secretariat, ending on the date of: 21/05/2024 AD, and granting the Taxpayer a subsequent period of (5) working days ending on 27/05/2024 AD. After this date, the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memoranda that were not submitted before the aforementioned date. the next session will be on 04/06/2024 AD, the session of pronouncing the decision.

on Tuesday, 04/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH; By calling on the litigants, she/... (National ID No. ...), as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) and the date 19/03/1445 AH, and I attended (...) national ID No. (...), as the representative of the appellant under the Memorandum of Association attached to the case file, and by asking the appellant's representative what she would like to add, she stated that she maintains what was previously submitted in this case. when this was brought to the attention of the appellant's agent, he replied that he was adhering to what had already been submitted in this case. when the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

#### Grounds:

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

on the merits, and with regard to the Authority's appeal on the clause (adding the component from the end-of-service allowance), and where the Authority's appeal lies in adding the component from the end-of-

service allowance to the net profit, and based on paragraph (6) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, which stipulates that "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 6- Allocations at the beginning of the zakat year after deducting the amount used during the zakat year." Based on paragraph (5) of Article (9) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. 2216 dated 07/07/1440 AH, which stipulates that "Except as provided in Article (8) of the Regulations, the following expenses may not be deducted: 5- All allocations and reserves formed during the Zakat year in question, except as stated in paragraph (6) of Article (VIII) of the Regulations." Accordingly, the Zakat treatment of allocations consists of adding the balance formed during the year (credit movement) to the net profit as a non-deductible expense, and adding the balance of the first period of allocations after deducting their use during the year (debit movement) to the Zakatable elements of the Zakat base to reach this is in accordance with the provisions of the Executive Regulations for the Collection of Zakat issued No. (2216), Article (4) paragraph (6) and Article (8) paragraph (6) referred to above, and after the Circuit reviewed the case file and the documents it contains, it is clear that the dispute lies in the amounts transferred from a subsidiary company (Company ....) as the correct Zakat procedure in such transfers between subsidiaries is to add the transferred amount in one of the parties because it is an amount that must be subject to Zakat, and with reference to the attached documents, the company did not provide any document stating that this amount is subject to Zakat in the subsidiary company nor any proof that the amount did not fall due in the subsidiary company, therefore the transferred amount should be added to the Zakat base and not the net profit adjusted for the turnover on it, as the Taxpayer's argument is correct regarding that the amount formed did not affect the net accounting profit of the company to adjust the net profit to the net profit, however, as stated above, it should be added to the Zakat base for the period of transit and not because it is a non-deductible expense, resulting in the Circuit's decision to accept the Authority's appeal and overturn the decision of the Determination Circuit with respect to this clause.

With regard to the Authority's appeal on the clause (loan from a partner), and where the Authority's appeal lies in adding the clause of a loan from the partner to the Zakat base, and based on paragraph (3) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: Government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: A- If the debts owed by the Taxpayer or other sources of funding have a duration of three hundred and fifty-four (354) days or more overlapping during the zakat year and the following year, they are added to the zakat base according to the number of days for each zakat year. B- The zakat year for debts does not cease with their renewal or rescheduling with the same creditor, or by replacing these debts with other debts or sources of funding that finance what these debts were financing.



(c) That what is added from what is mentioned in this paragraph does not exceed the total amount deducted from the base in accordance with Article (5) of the Regulations. "Based on the above, and by referring to the case file and the Authority's appeal, it is clear that it attached a copy of the financial statements, note (14), in which it is clear that the partner decided to transfer a loan from a partner to a shareholding from a partner, as it is clear from the clarification that the partner decided and not as he claims that this loan was reclassified pursuant to the requirements of presentation and disclosure according to the auditing standards (in particular Standard No. 9 of the International Financial Reporting Standards), which requires the presentation of this loan within the equity, and since the loan from the partner has been reclassified within equity and not within the obligations of the Taxpayer, which shows that the Taxpayer's request to add the clause is incorrect to the extent of deductions, which ends with the Circuit accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding this clause.

with regard to the Authority's appeal on the clause "Recommended loan in a subsidiary company (Company ...)", and based on Article (186) of the Sharia Procedure Law, which stipulates that: "new requests shall not be accepted in the appeal and the court shall rule sua sponte that they are inadmissible." The Circuit's reference to the Taxpayer's objection made it clear that this clause was not among the clauses of the objection for 2019, but the clause was related to 2020 AD, in addition to that, referring to the response memorandum submitted by the Taxpayer for the years 2019 AD and 2020 AD, it is clear that the response was on the clause related to 2020 AD and did not mention 2019, where it is clear that the adjudication decision ruled on a clause for 2019 AD that was not among the clauses of the objection, in addition to the fact that there is no proof that the Taxpayer submitted the objection on that clause for 2019 AD before the objection committee that issued the decision under appeal, and where Article (186) of the Sharia Procedure Law states: "... new applications are not admissible on appeal and the court shall rule sua sponte that they are inadmissible." since the Taxpayer did not object to the clause before either the Trial Committee or the Panel, the Circuit concludes that the decision of the Trial Circuit with respect to this clause should be set aside.

with regard to the Authority's appeal on the clause (Bank Guarantee for Additional Zakat), where the Authority's appeal lies in the fact that the clause is a legal procedure, and based on paragraph (3) of Article (25) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that: "To accept the objection from the procedural point of view, the Taxpayer must pay part of the amounts due on the objected clauses within the statutory period of the objection, not less than ten percent (10%) of the link value and not more than twenty-five percent (25%) of its value, or provide a financial guarantee not less than fifty percent (50%) of the link value." Based on the above, as there is no dispute about providing a bank guarantee on the objected clauses and no dispute about the Taxpayer's right to recover the guarantee if a final decision supporting its viewpoint is issued. the Circuit's reference to the decision of the adjudication decision made it clear that the decision was issued to

annul the Authority's action, which is incorrect as the clause in dispute did not involve any technical action taken by the Authority and that the action taken was a regular procedure, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

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

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

### Decision:

First: Acceptance of the appeal in the form of the appellant/Zakat, Tax and Customs Authority, against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2023-95809) issued in Case No. (Z-2022-95809) related to Zakat assessment for the year 2019 AD.

Second: On the merits:

- 1- Acceptance of the authority's appeal and cancellation of the decision of the Circuit regarding the clause (addition of the component of end-of-service benefits).
- 2- Acceptance of the authority's appeal and cancellation of the decision of the Circuit regarding the clause (loan from a partner).
- 3- Acceptance of the abandonment of the dispute regarding the authority's appeal on the clause (unrealized revenues).
- 4- Cancellation of the decision of the Circuit regarding the clause (loan subject to zakat in a subsidiary company (Company...)).
- 5- Acceptance of the authority's appeal and cancellation of the decision of the Circuit regarding the clause (bank guarantee for additional zakat).



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

Decision No. IR-2024-173926

Case No. Z-2023-173926

### Principle No. 6

- Loans are considered part of the Zakat base regardless of their type, source, or classification, provided that a full lunar year (Hawl) has passed over them, or if they have been used to finance assets deducted from the Zakat base, in which case the passage of a full year is not required.

### Facts

The submitted appeal was heard on: 31/01/2023 AD, of/..., National ID No. (...) In his capacity as agent for the appellant company under the power of attorney No. (...), on the decision of the First Circuit to adjudicate income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2634) issued in Case No. (Z-2020-44464) related to Zakat assessment for 2014, 2016, 2017 AD and 2018 AD, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the adjudication circuit ruled the following:

- 1- Rejecting the Plaintiff's objection to the import differences clause.
- 2- Reject the Plaintiff's objection to the short-term loans clause.
- 3- Rejecting the Plaintiff's objection to the long-term loans clause.
- 4- Rejecting the Plaintiff's objection to the advance payment clause.
- 5- Rejecting the Plaintiff's objection to the spare parts inventory clause.
- 6- Rejecting the Plaintiff's objection to a material error clause in the calculation of the zakat base.

as this decision was not accepted by the Taxpayer (Company ...), he submitted a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (procurement difference for 2014 AD and 2016 AD). The Taxpayer explained that the adjudication committee stated in its reasons for its decision that the Plaintiff did not provide its point of view to support its position, and the Plaintiff is surprised by this view of the adjudication committee, as the Plaintiff included in all its arguments submitted to the Authority and the adjudication committee previously its detailed view on this clause. the Plaintiff also provided an analytical statement of the differences between the foreign purchases charged to the accounts and the foreign purchases shown in the Customs Authority's statement. the adjudication committee also



mentioned in its reasons for its decision that the data supporting the import differences were inconsistent, and the claimant emphasizes that these documents were a sample to confirm its point of view and the adjudication committee could have requested clarification from the claimant to explain the consistency of these documents during the objection review phase. upon the Honorable Committee's review of the attached analytical statement of procurement discrepancies, the grounds for these discrepancies between the external purchases charged to the accounts and the purchases shown in the Customs Authority's statement are as follows: the Plaintiff has additional expenses related to materials such as transportation, storage, clearance, etc., which are charged to the cost of external purchases. moreover, the timing of when the foreign purchases appear on the customs declaration differs from when they are recorded in the Plaintiff's books due to transportation, unloading and receiving in warehouses (i.e., timing differences). there is an error in the categorization of internal purchases as they were included under external purchases in the company's Zakat return by inadvertent error. in addition to the above, the Plaintiff would like to draw the attention of the Honorable Committee to the Authority's Circular No. (2030/9) dated 15/4/1430 AH, which confirmed that the existence of a discrepancy between the Customs Authority's statement and the Plaintiff's books need not be relied upon as a justification for accounting for procurement differences, as the circular stipulated the following: "Although the data of the Customs Authority is an indicator to determine the cost of the Taxpayer's imports, the existence of a difference between them and what the Taxpayer declared in his accounts does not need to be relied upon as a justification for accounting for these differences, as it is necessary to verify the authenticity of the Taxpayer's imports either through field examination or office examination it is necessary to verify the validity of the Taxpayer's imports, whether through field or office examination and to review all supporting documents that prove the truth of what was recorded in the Taxpayer's books and to identify the real reasons for the difference between what was declared in his books and what those data showed, there may be acceptable reasons justifying this difference, such as, but not limited to:- failure of the Customs Authority to register some imports, the Taxpayer's registration of some additional costs within the cost of purchases from abroad, the import being for the purchase of fixed assets, the difference in the fiscal year between the Hijri and Gregorian calendars, some companies importing on behalf of others and recording the full value of the imports in their books and after delivery to the beneficiary they recover from him all the costs related to his goods." regarding the Taxpayer's appeal regarding the clause "Long-term loans for 2017 AD and 2018 AD and loans and the like for 2018 AD", the Taxpayer explained that the adjudication committee stated in the grounds for its decision that it added these balances as a source of funding because the Plaintiff did not provide the detailed movement of these loans, and the company stated that the Plaintiff had provided the movement of these loans in its previous submissions to the Authority and the Secretariat. the adjudication committee did not request any additional data or clarifications from the Plaintiff, but merely added the balance of this clause as a source of funding. the Plaintiff has attached an analytical statement of long-term loans, including the dates of receipt of loans and their repayment dates, and upon review of the attached movement, it will be



seen that there are no loans that have come due, and the Plaintiff is surprised that the committee considered the clause of loans and the like for the year 2018 AD amounting to (14,862) SAR 14,862. accordingly, the Plaintiff emphasizes that the balance that was added during the year represents a new loan that was acquired during the year, and the cash generated from operations according to the audited financial statements for 2018 AD is much higher than the value of the assets acquired during the year, which negates the committee's statement that these loans were used to finance the purchase of fixed assets. in addition, it is worth noting that what was due during the year 2017 AD was added to the Zakat base in the Plaintiff's declaration for the same year. in addition to the above, the Plaintiff maintains its arguments that the addition of short-term loans to the Zakat base for the disputed years is not permissible based on Article (4) paragraph (1/5) of the Executive Regulations for Zakat Collection issued by Royal Decree No. (M/40) dated 02/07/1405 AH, which states: "The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What was used in trade offers and has passed a year on it." the conditions for adding these balances mentioned in the above paragraph do not apply to the Plaintiff's case, as the balances have not reached Hулul, the nisab of Tammam al-Malik, and have not been used to finance what is intended for property acquisition. therefore, the opening loans were interrupted by their repayment during the year, and a new year began for the loans received during the year, which represents new borrowed money that begins when it is received and does not represent the same or the same money shown at the beginning of the year, as the Plaintiff obtained new loans during the year.

regarding the Taxpayer's appeal regarding the clause "Advance Payments (Advance Payments for 2017 AD and 2018 AD)", as the claimant has submitted supporting documents, including financial statements and an analytical statement of the movement of payments made by customers to the Authority and the Adjudication Committee previously. the Plaintiff also states that it has debit balances for the same customers that are recorded as current assets in the statement of financial position for the same year. consequently, if the Authority insists on adding the advance payments to the Plaintiff's Zakat base, the Plaintiff claims a corresponding deduction from the year-end debit balances of the same customers. accordingly, the balances of advance payments after deducting receivables amounted to SAR (558,740.92) and SAR (410,989.76) for 2017 AD and 2018 AD, respectively. the movement of this clause is presented with the corresponding receivables. therefore, not allowing the company to deduct the corresponding amounts in the receivable balances will lead to the collection of Zakat on the basis of presentation required by the standards and unrelated to Zakat accounting. as the presentation and disclosure requirements of the auditing standards require the presentation of receivables and advances separately in the financial statements, as the auditing standards cannot be relied upon for Zakat accounting purposes due to their



different purposes, the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit regarding the clauses in his appeal be reversed.

on Thursday, March 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

the Taxpayer's appeal relates to the clause (Purchase Difference for 2014 AD and 2016 AD), where the Taxpayer's appeal lies in appealing the Circuit's rejection of his objection regarding the disputed clause, as he claims that there are additional expenses related to materials, which are charged to the cost of external purchases, and the timing of the appearance of external purchases in the customs statement differs in the time of recording them from the Taxpayer's books. upon reviewing paragraph (1/a) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438AH: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A - The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. based on the foregoing, and since the dispute between the parties is a documentary dispute, a review of the documents submitted by the Taxpayer shows that the Taxpayer attached to his appeal list a reconciliation table for the differences related to external purchases, which he stated were due to internal purchases that were mistakenly recorded in external purchases and additional expenses of transportation, storage, and clearance. the Taxpayer also attached a statement of external purchases for the period from 17/06/2014 AD to 31/12/2015 AD and submitted a statement of external purchases for 2016 AD, which included the entry number, date, supplier name and amount, the Taxpayer also attached a large sample of invoices, and by matching the invoices submitted by the Taxpayer with the analytical statement, it was found that all the data contained in the invoice matched with the attached analytical statement, as the entry number, date, supplier name and purchase amount in the submitted invoices were compared with the statement on foreign purchases and found to be identical,

therefore, since the Taxpayer attached documents supporting his viewpoint regarding import differences, which concludes that the Circuit accepts the Taxpayer's appeal to cancel the decision of the Dispute Adjudication Circuit regarding this clause.

with regard to the Taxpayer's appeal regarding the clause "Long-term loans for 2017 AD and 2018 AD and loans and the like for 2018 AD", the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the adjudication committee credited this clause as a source of funding without asking the Taxpayer for the necessary documents. Based on paragraph (First/5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438AH, it states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:..5- government and commercial loans and other financing sources such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows:" A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What was used in trade offers and has passed a year on it." Based on the above, and since loans are considered one of the components of the zakat base regardless of their type, source, or classification, provided that a year has passed on them or they are used to finance the assets deducted from the zakat base without requiring a year to pass on them, and upon reviewing the case file, it is clear that the authority's viewpoint in adding the balances of those loans is that they were used to finance fixed assets, and upon reviewing the documents attached to the case file, it is evident from the cash flow statement for the year 2018 AD that the net cash from operations for the years 2018 AD and 2017 AD amounts to SAR(11,044,810) and SAR(16,654,344) respectively, which is higher than the value of the acquired assets, which contradicts what the authority mentioned about using these loans to purchase fixed assets. Therefore, since the authority did not provide evidence of its action regarding the use of those loans in financing fixed assets. As for the loans and similar for the year 2018 AD, upon reviewing the case file and the attached documents, it became clear to us that the Taxpayer attached an Excel statement of long-term loans which included the opening balance, additions during the year, amounts repaid during the year, and the closing balance. Therefore, the authority's argument in its response to the Taxpayer's appeal that the statement was brief and did not clarify the required movement does not hold. Analyzing the attached statement shows the validity of the Taxpayer's defenses regarding the lack of a year passing on the balances of long-term loans, which leads the committee to accept the Taxpayer's appeal and cancel the decision of the Appeals Committee regarding this clause.

with regard to the Taxpayer's appeal regarding the clause (Advance Payments (Advance Payments for 2017 AD and 2018 AD)), the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that he has debit balances for the same customers that are recorded as current assets in the statement of financial position for the same year in dispute. Based on paragraph number (4) of clause (Second) of article four of the executive regulation for collecting zakat

issued by Ministerial Decision number (2082) dated 01/06/1438 AH on: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 4- Revenue provided that has already passed its due date. Based on the above, and since payments received in advance are considered a source of funding, the amount that has already turned over is added to the Zakat base, and by reviewing the case file, it is clear that the Taxpayer is requesting to add the advance payments to the base after deducting the receivables of the same customers, by analyzing the facts of the case and reviewing the attached documents, it turns out that the Taxpayer attached a detailed statement of the payments made for the years 2017 AD and 2018 AD, and by comparing the attached statement with the audited financial statements, it turns out that the balances of the beginning of the period and the end of the period in the financial statements match the attached statement, and by analyzing the statement, it turns out that the amounts concluded by the Taxpayer for the year 2017 AD SAR(3,935,184), which is the same amount the Authority concluded to add, and SAR (4,804,877) for the year 2018 AD (the amount of (SAR 4,804,877 for the year 2018 AD and not SAR(7,338,784) as indicated by the Authority in its reply memorandum, therefore, the correct treatment is to set off the debit and credit balance if it is for a single customer with two debit and credit accounts, whereas, we have established the validity of the movement attached by the Taxpayer and its conformity with the financial statement balances and the validity of the Taxpayer's claim to deduct the equivalent of these advance payments from the year-end debit balances that relate to the same customers, this does not affect the Authority's statement in its reply note that what the Taxpayer indicated is contrary to the aforementioned statutory provision; which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., Commercial Registration (...). Unique number (...). Against the decision of the first circuit regarding violations and disputes of income tax

in Jeddah Province number (IZJ-2022-2634) issued in case number (Z-2020-44464) related to the zakat assessment for the years 2014 AD, 2016 AD, 2017 AD, and 2018 AD.

Second: On the Merits:

1- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appeals Committee regarding clause (Difference in Purchases for the years 2014 AD and 2016 AD).

2- Rejection of the Taxpayer's appeal and upholding the decision of the Appeals Committee regarding clause (Short-term Loans).

3- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appeals Committee regarding clause (Long-term Loans for the years 2017 AD and 2018 AD and loans and similar for the year 2018 AD).

4- Regarding the Taxpayer's appeal on clause (Advance Payments):

A- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Appeals Committee regarding (Advance Payments for the years 2017 AD and 2018 AD).

B- Rejection of the Taxpayer's appeal and upholding the decision of the Appeals Committee regarding clause (Advance Payments for the year 2016 AD).

5- Rejection of the Taxpayer's appeal and upholding the decision of the Appeals Committee regarding clause (Inventory Spare Parts for the years 2015 AD and 2016 AD).

6- Rejection of the Taxpayer's appeal and upholding the decision of the Appeals Committee regarding clause (Material Error in Calculating the Zakat Base).



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

Decision No. IR-2024-170717

Case No. Z -2023- 170717

Principle No. 7

- The balance of retained earnings that has completed a full lunar year (Hawl) is subject to Zakat, after deducting actuarial losses.

Facts

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

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

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

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (failure to deduct the value of investments in equity instruments), the Taxpayer explains that the Authority did not deduct any of the financial investments in equity instruments, while the correct figure deducted according to the declaration is SAR(117,655), according to the documents provided for these investments, they are all in the shares of local companies subject to the collection of Zakat, the company deliberated with the Authority during the discussion of this point before the Authority issued the final link, and the Authority stated that the clause could not be deducted because it contains a large value movement within the financial statements, which means that these investments are for speculation and not for the purpose of channeling, and we respond to the Authority in this regard that most of this movement is a movement of fair value adjustments in accordance with international accounting standards and not a movement of sale and purchase in addition, the Authority has added to the statutory text what is not in it, as the text of paragraph (II/4/a) is clear that the investment may be deducted if it is in a local enterprise subject to the collection of Zakat, and thus the regulation adopts the principle of non-zakat bending as the basis for deducting the investment, by deducting the investment representing part of the equity of another company that is subject to Sharia Zakat in the same year in the liability of the company issuing the investment, and therefore its deduction from the Zakat of the company owning the investment is mandatory, note that financial investments are mortgaged to a bank as a guarantee for financial facilities worth SAR (50,000,000) from the Saudi Investment Bank. accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

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

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal is possible with regard to the clause (adding the roundabout from the leave allowance), the Authority clarifies that the issuing Circuit of the decision subject of the appeal amended the clause and did not indicate the grounds for its amendment to the Authority's decision and only referred to the amendment of that clause and where the decision of the Circuit was severely deficient, which makes the decision defective and needs to be overturned, as it is not possible to appeal a decision that did not contain clear reasons that can be answered and refuted. The judicial authority shall, after deciding that the case is ready for adjudication, issue a decisive judgment for the dispute, which is not likely to be a matter of jurisprudence or interpretation, and where the decision under appeal stipulated amending the decision of the Authority without clarifying what is meant by the amendment to ensure the rights of the parties to the case alike, which is why the Authority considers that the litigation is not terminated in its subject matter and the Adjudication Circuit has not exhausted its mandate in the adjudication. Therefore, the Authority requests that this clause be returned to the decision-issuing Circuit to remove that ambiguity. With regard to the clause (difference in the amount of retained profits), the Authority clarifies that it has added the retained profits in the amount of SAR(1,491,686), which represents a balance The first period after deducting the actuarial losses, which is the balance on which the transfer took place, and by reviewing and referring to the list of changes in property rights, it is clear that the procedure of the Authority is correct. As for what the Taxpayer demands from the deduction of the transferor for the regular reserve of SAR(14,592), it is incorrect as the transferor is from the profit of the year and not from the retained profits. Accordingly, the objection of the Taxpayer was rejected based on paragraph (8) of Clause (1) of Article (4) of the Regulations Governing the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. The decision of the circuit under appeal referred to the amendment of the procedure of the Authority and did not clarify what the amendment to the procedure of the Authority and its value. The decision of the adjudication circuit in the clauses under appeal is required for the above reasons.

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

## Grounds:



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

the Taxpayer's appeal relates to the clause "Not deducting the value of investments in equity instruments." The Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the Authority did not deduct any of the financial investments in equity instruments, while the Defendant (the Authority) stated in its response that it did not deduct investments in equity instruments from the Zakat base that it did not deduct investments in equity instruments from the Zakat base, as the movement of the clause is shown in Note No. (7) of the financial statements and the existence of movement, which indicates that the purpose of trading, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "Investments in establishments within the Kingdom — participation with others - if those investments are subject to zakat collection under this regulation, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and since there must be two essential conditions for considering investments as representing capital assets and may be deducted from the zakat base, which are the documented intention of the authorized person clarifying the intention of the investment, and the absence of sales transactions during the year on those investments, and upon reviewing the case file and what it contains of defenses and documents, it appears that the authority argues against the deduction of investments due to the existence of exclusion movements according to clarification number (7) in the financial statements, indicating that the purpose of the investments is trading and not for capital purposes, and since the Taxpayer argues that all investments are in shares of local companies subject to zakat collection, and that the majority of that movement is a movement for fair value adjustments and not a movement of buying and selling, and upon reviewing the attached documents in the case file, the Taxpayer attached the movement of investments in the portfolio (...) and the portfolio (...), and it became clear that there was no sale movement in investments (...) in the portfolio (....) In the amount of (584,000) riyals, and that the change in the value of the shares is due to fair value adjustments, which led the Circuit to decide to deduct this investment from the zakat base. As for the portfolio (...) It became clear that there was no sale movement on the following investments: (... — ... - ...-...-...-...-...-...) as the difference in the investment balance is due to additions to the investments, the Circuit decided to deduct these investments from the Zakat base. As for the shares of the company (....) In the portfolio (...) It became clear that there was a substantial exclusion movement on them during the year in question, and thus they are not deducted from the zakat base, and it also became clear from the analytical statement of investments included in the



Taxpayer's appeal that there is an clause "cash" amounting to SAR(23,585,223) among the investments that the Taxpayer requests to deduct, and since this clause does not represent an investment and is not one of the deductible clauses, it follows that its deduction from the zakat base is not accepted, which leads the Circuit to partially accept the Taxpayer's objection by deducting investments amounting to SAR(82,493,360) and amending the decision of the Circuit regarding this clause.

whereas, with regard to the Authority's appeal regarding the clause (adding the turnover from the vacation allowance), the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that the Circuit issuing the decision under appeal amended the clause and did not indicate the grounds for its amendment of the Authority's decision and merely referred to the amendment of that clause, while the Taxpayer argues that the Authority added the vacation expense to the profit and added the first period balance and subtracted the paid amount on the basis that it is the turnover, both procedures are incorrect, and based on paragraph (1/5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" .5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What is used in trade and a year has passed on it." Based on the above, and upon reviewing the case file, it is clear that the authority argues that the Circuit that issued the decision subject to the appeal amended the clause without stating the grounds for its amendment, and upon reviewing the case number ( Z - 2021- 50222) it is clear that a modified decision was issued regarding the disputed clause on 30/05/2024, however, upon reviewing the modified decision, it became clear that it concluded to amend the authority's procedure by "accepting vacation expenses from the adjusted net profit of 144,531 riyals and adding the carryover to the zakat base after deducting the amount used of SAR 435,702 ", and upon reviewing the authority's response memorandum before the Circuit, it is clear that the authority added the vacation provision by the same amount SAR(435,702), thus it becomes clear to the Circuit that the conclusion of the Circuit's decision to amend the authority's procedure is incorrect as it became clear that there was no amendment to the authority's procedure, which leads the Circuit to accept the authority's objection and annul the decision of the Circuit regarding this clause.

whereas, with regard to the Authority's appeal regarding the clause (Difference in the amount of retained earnings) and where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; it claims that it added retained earnings in the amount of SAR 1,491,686, which represents the balance of the first period after deducting the actuarial losses, while the Taxpayer argues that the retained earnings were declared according to the audited financial statements. Therefore, the company requests the cancellation of the Authority's action for this clause, and based on paragraph (8) of clause (I) of

Article (4) of the Executive Regulations for Zakat Collection issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- Balance of profits carried forward from previous years at the end of the year." Based on the above, and with reference to the documents and defenses in the case file, it appears that the Authority argues that the decision of the Circuit under appeal referred to the amendment of the Authority's procedure and did not clarify what the amendment is and what its value is, and with reference to Chapter Case No. ( Z - 2021- 50222), it is clear that an amended decision was issued on 05/30/2024 AD to "add the retained earnings to the first period balance after deducting the actuarial losses", with reference to the Authority's reply memorandum before the adjudication, it is clear that the Authority subjected the retained earnings balance that has come due, which is represented by the balance of the first period after deducting the actuarial losses." Thus, the text of the adjudication committee's decision ended up following the same treatment adopted by the Authority, which leads the Circuit to accept the Authority's objection and cancel the decision of the Adjudication Circuit in this clause.

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

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the Circuit'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 Circuit that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This Circuit did not find anything that would warrant correction or comment in light of the arguments presented before it. This Circuit therefore rejects the appeal and upholds the decision of the Circuit 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 grounds stated, the Circuit unanimously decided as follows:

### Decision:

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

Second: On the Merits:

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



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

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

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

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

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

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

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

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

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

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

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

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



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

Decision No. IR-2024-131744

Case No. Z-2022-131744

**Principle No. 8**

- Reserves are added to the Zakat base at the beginning of the year.

**Facts**

The appeal was considered on 18/05/2022 AD from / ... National ID number (...) as an agent for the appellant company under Agency No. (...), and the appeal filed on 08/06/2023 from the Zakat, Tax and Customs Authority (ZTA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-743) issued in Case No. (Z-2021-78645) related to the 2017 AD Zakat assessment, in the case filed by the Taxpayer against the ZTA, in which the decision of the Adjudication Circuit ruled as follows:

First: the Plaintiff's objection to the 2018 AD receivables clause was rejected.

Second: modification of Defendant's action on the line clause Loans to Affiliates for 2018 AD.

Third: dismissed the Plaintiff's objection to the long term investments clause in the Electricity and Investment Linkage Authority (EILA) to the 2018 AD maturity date.

Fourth: dismissed the Plaintiff's objection to the other reserves constituted for 2018 AD.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (Government Receivables for 2018 AD) that fuel is not considered a fixed asset, and he stated that the Authority's action was incorrect as the Authority did not deduct all receivables from the Zakat base, as it excluded the receivables owed by the Public Corporation ..., and therefore the Taxpayer demands that they be deducted from the Zakat base. regarding the clause (Other Reserves Formed for 2018 AD), the Taxpayer claims that the other reserves were not carried over from previous years, but were formed during the year and did not come due, and the Authority partially accepted the Taxpayer's objection by adding the

balance of other reserves in the amount of (SAR 362,599,000) in the amended Zakat assessment instead of ( SAR 606,713,000,000) in the original Zakat assessment. the Taxpayer also objects to the clause (Long-term investments for 2018 AD), so the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

with regard to the Authority's appeal against the decision of the Adjudication Circuit, it submitted a list of appeals, which was reviewed by the Circuit and included that the Authority requests the acceptance of its appeal and the reversal of the decision of the Adjudication Circuit regarding the clause (loans granted to subsidiaries for the year 2018 AD).

on Tuesday, 16/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause No. (2) of Article Fifteen of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; and by calling on the opponents, he/she attended ... national ID No. (...), as agent for the Plaintiff under power of attorney No. (...). (National ID No. ...), in her capacity as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) and the date 19/03/1445 AH, when the appellant's representative was asked about the lawsuit, he replied that he does not deviate from what was stated in the objection memorandum filed with the General Secretariat of the Zakat, Tax and Customs Committees and the supplementary memorandums, and that he is satisfied with them and adheres to the arguments, defenses and requests contained therein, and when this was brought to the Defendant's representative, she replied that she does not deviate from what was stated in the reply memorandum and the supplementary memorandums, and that she is satisfied with the submissions filed on the General Secretariat of the Zakat, Tax and Customs Committees' portal, and adheres to the arguments, defenses and requests contained therein. when the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the pleadings and adjourn the case to Tuesday, January 23, 2024 AD, at 11:00 a.m.

on Tuesday, January 23, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of Article 15, clause (2) of the working rules of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated 21/04/1441 AH; calling on the litigants, / ..., National ID No. (...), as the Plaintiff's agent under power of attorney No. (...), attended..., National ID No. (...), as agent for the Plaintiff under power of attorney No. (...), and ... (National ID No. ...), as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March



19/03/ 1445AH., and because the pleadings in the case have already been closed, this session is dedicated to the pronouncement of the decision.

### Grounds:



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

the Taxpayer's appeal regarding the clause (Government Receivables for the year 2018 AD), wherein his appeal is that the Authority's action was incorrect, as the Authority did not deduct all receivables from the Zakat base, as it excluded the receivables owed by the Public Corporation. .... Where paragraph (5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 1/6/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. c- What is used in trade offers and has passed the hawl." And where Fatwa No. (23408) dated 11/18/1426 AH issued by the Permanent Committee for Scientific Research and Fatwa on the debts owed by government agencies to: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is consolation, it is not obligatory on a person who cannot receive it and has nothing in his hand." Paragraph (3) of Article (20) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and whereas the correct Zakat treatment is to set off the debit and credit balance if it is for a single customer with debit and credit accounts, and after reviewing the case file and the defenses and documents contained therein; and whereas after reviewing what was stated in the Authority's reply memorandum, it appears that the Authority, when performing the deduction of receivables with the corresponding credit receivables only, as the difference claimed by the Taxpayer is receivables that were not offset by credit receivables, and the difference claimed by the Taxpayer, upon reviewing the case file, it was found that the government receivables amounted to 92 billion riyals, and therefore the entire

government receivables amounting to SAR19,675,526,000 must be deducted due to the existence of the corresponding creditors, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

regarding the Taxpayer's appeal regarding the clause (Other Reserves Formed for 2018), and where his appeal lies in the fact that other reserves were not carried over from previous years, but were formed during the year and did not fall due, the Authority partially accepted the Taxpayer's objection by adding the balance of other reserves in the amount of ( SAR 362,599,000) in the amended Zakat assessment instead of ( SAR 606,713,000) in the original Zakat assessment, which was added to the original Zakat assessment. whereas paragraph (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the determination of the Zakat threshold for those who maintain regular accounts, stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 7 - Reserves carried forward from previous years at the end of the year. 8 - Balance of profits carried forward from previous years at the end of the year. 9 - Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting their use during the year." Based on the above, and since what the Authority did after reviewing its reply note was to add an amount of SAR(362,599,000) to the Zakat base, which represents the balance of the last period other reserve (companies invested in the equity method), the balance of the first period other reserve (employee benefit liabilities) and the balance of the last period other reserve (financial assets), and it was found from the audited financial statements that it is included in the amount of SAR(106,897,000) which represents the total other reserves, as the audited financial statements show that the other reserves added to the Zakat base by the Taxpayer are as follows: - the Company's share in other comprehensive income of equity investees at the beginning of the year in the amount of SAR( 296,810,000) - Employee benefit obligations in the amount of SAR (370,715,000) - Financial assets through other comprehensive income in the amount of SAR( 32,992,000) - Total SAR (106,897,000). other reserves are as follows: - the Company's share in other comprehensive income of equity investees at year-end amounted to SAR (34,851,000) - Employee benefit obligations amounted to SAR (370,715,000) - Financial assets through other comprehensive income at year-end amounted to SAR (26,735,000) - Total amounted to SAR (362,599,000) and - Total amounted to SAR (362,599,000). since the reserves are added to the Zakat base at the beginning of the year, and the Authority deducted the reserves at the end of the year due to the existence of the corresponding investments, the amount of SAR (106,897,000) is deducted and SAR (362,599,000) is added to the Zakat base, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit in this clause.

regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. whereas, there is no fault on the part of the Circuit in adopting the grounds for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding



them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit. With respect to the rest of the clauses at issue in the case, based on the grounds for the decision.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province with number (IZ)-2022-743) issued in case number (Z-2021-78645) related to the Zakat assessment for the year 2017 AD.

Second: On the Merits:

- 1- Acknowledging the Taxpayer's appeal accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Government Payables for 2018 AD).
- 2 rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Long-term investments for 2018 AD).
- 3- Acknowledging the Taxpayer's appeal in part accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit With respect to the clause (Other Reserves Formed for 2018 AD).
- 4 rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Loans granted to subsidiaries for the year 2018 AD).



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

Decision No. IR-2024- 172650

Case No. Z-2023-172650

### Principle No. 9

- Subcontracting activities are considered part of the Zakat base, provided that a full lunar year (Hawl) has passed over them, or if they have been used to finance assets deducted from the Zakat base.

### Facts

the appeal filed on 28/01/2023 AD, from ..., National ID No. (...) was considered as agent for the appellant company under Agency No. (...) lawyer's license No. (...), and the appeal filed by the Zakat, Tax and Customs Authority on 29/01/2023 AD, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2568) issued in Case No. (Z-2021-87070) related to the Zakat assessment for 2017 AD, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: the Plaintiff's objection to the end-of-service gratuity provision was rejected.

Second: accepting the Plaintiff's objection to the subcontractors clause.

Third: modify the Defendant's procedure for the payables for projects under implementation by adding the first or last balance of the period, whichever is less.

Fourth: deny the Plaintiff's objection to the deferred revenue clause.

Fifth: rejecting the Plaintiff's objection to a dividend clause that has already passed its due date.

sixth: deny the Plaintiff's objection to the receivables clause.

seventh: the Plaintiff's objection to the Murabaha loan against real estate investments was rejected.

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



the Authority's appeal lies on the clause (Subcontractors for the year 2017), where the Authority added the mentioned clause to the Zakat base for the turn of the year on the balances according to the submitted movement. Accordingly, the Taxpayer's objection to the turn of the year on the payments added to the Zakat base was rejected based on Article 4, paragraph (first), clause 5 of the Zakat Executive Regulations, which states that (the Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 5 - Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: the Circuit issuing the decision under appeal canceled the Authority's action, as the company sold its projects to the Arab Bank on December 13, 2016, i.e. before the turn of the year, according to the journal entries that show the sale of the entire project, which shows that the amounts in dispute did not turn over the Authority responds that the decision is incorrect, as the decision indicated that the amounts in dispute did not turn around due to the sale of the projects before the turn of the year, and with reference to the financial statements, it is clear that the amounts in dispute appear in the financial statements and according to the movement provided by the aforementioned Taxpayer, the turn of the year has occurred and is subject to the Zakat base. the Authority also clarified that the amounts in dispute are subject to hawl according to the movement provided, and it is not clear to the Authority that these balances belong to the project that was sold, as upon sale, these balances are closed in the project accounts and therefore will not appear in the financial statements for the year 2017, so what is clear to the Authority is that the balances are still in the financial statements for the year 2017, therefore, what is subject to Zakat, based on the fourth article, paragraph five of the first paragraph of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which states: "The Zakat base consists of all the Taxpayer's funds that are subject to Zakat, including: 5 - Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. in the Authority's view, this provision is valid and valid and its origin has not been lost, so in what legal way did the Circuit violate the established practice, which means that the Circuit's conclusion is contrary to the legal requirement.

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

## Grounds:



regarding the Taxpayer's appeal, after reviewing the appeal list submitted by ... company, it became clear that it was submitted by ... company, and after reviewing the memorandum of association of ... company, it became clear that the memorandum of association stated the activities of the company as (practicing the profession of consulting activities in the field of zakat and income tax, educational and educational consulting activities), and after reviewing the appeal list drafted on ... company's printed materials. it turns out that it contains the company's activities announced to third parties, including (legal consultations), and since the reference to the company's services in providing legal consultations, filing lawsuits and appeals on behalf of others and other activities are limited to licensees according to the Companies Law and the Lawyers Law and their executive regulations, and since the company - according to the attached memorandum of association - is not authorized to practice the legal profession and legal consultations, which is a violation of the provisions of Articles (2), (5), (7), (10) is not authorized to practice the profession of law and legal consultancy, which is a violation of the provisions of the Lawyers Law and its Executive Regulations, and Articles (2), (5), (7), (10), (197) and (201) of the Companies Law and its Executive Regulations, and since the appellant's agent is a licensed lawyer who submitted the appeal request and signed it on the official papers of the company.... the lawyer is not licensed to practice the legal profession, while he should have submitted applications and regulations on his own printouts as stipulated in Article (13/01) of the Executive Regulations of the Lawyers Law, which stipulates that "the lawyer must take his own papers to submit his writings to the authorities, and they must include his name, the name of the headquarters, branch office, license number and date, telephone numbers, mailbox, and zip code, and he must not submit any writing to the authorities on papers that do not include this, or papers that do not belong to him." since the firm, as the appellant's representative, is not licensed to practice law, the Circuit concludes that the Taxpayer's appeal is inadmissible procedurally because it was filed without standing. whereas, with regard to the Authority's appeal, upon reviewing the case documents and the appeal list submitted by the Authority, the Circuit found that the conditions for considering the appeal procedurally are met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal is procedurally accepted because it was submitted by a competent person and within the statutory period prescribed for conducting it.

On the merits, regarding the Authority's appeal regarding the clause (Subcontractors for 2017 AD), the Authority's appeal lies in the appeal against the Circuit's rejection of its objection regarding the disputed clause, as it claims the turnover of the balances according to the movement submitted by the Taxpayer. based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the

following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What was used in trade offers and has passed a year on it." based on Article 20(3), paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, subcontractors are considered one of the components of the Zakat base provided that they are turned around or used to finance the assets deducted from the Zakat base, and where the dispute about this clause is a based dispute, and upon reviewing the documents attached to the case file and where the Circuit issued its decision to accept the Taxpayer's objection and stated that the company had sold its projects to the Arab Bank on 13/12/2016 AD, that is, before the turn of the year while the Authority argues that it is not clear to the Authority that these balances are specific to the project that was sold, as upon sale, these balances are closed in the project accounts and therefore will not appear in the financial statements for 2017 AD, so it is clear to the Authority that the balances are still in the financial statements for 2017 AD, and accordingly, what is subject to the current year, and after reviewing the attached documents from the parties to the lawsuit, it appears that the journal entry for the bank's loans.... it is not clear that it is for subcontractor projects, and the Taxpayer did not provide financial statements to validate that the balances remain until the end of 2017 AD, as well as the Taxpayer's statement that ... hesent a final clearance dated 13/12/2016 AD that the company had received all its dues, after reviewing the clearance document at both stages of the Adjudication committee as well as the appeal, it became clear that the document could not be opened due to a technical malfunction, which led the Circuit to partially accept the Authority's appeal and modify the decision of the Adjudication Circuit regarding this clause.

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

### Decision:

First: Procedurally:

- 1- Inadmissibility of the appeal procedurally by the Taxpayer / Company ..., Commercial Register (...), Unique Number (...) against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2568) issued in Case No. (Z-2021-87070) related to the 2017 AD Zakat assessment, because it was filed without status.
- 2- Accepting the appeal procedurally from the applicant Zakat, Tax and Customs Authority, against the decision of the First Circuit for adjudicating income tax violations and disputes in Jeddah Governorate No. (IZJ-2022-2568) issued in Case No. (Z-2021-87070) related to the 2017 AD Zakat assessment.



Second: On the Merits:

accepting the Authority's appeal in part and amending the decision of the Adjudication Circu it With respect to the 2017 AD subcontractors.



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

Decision No. IR-2024-178674

Case No. Z-2023-178674

### Principle No. 10

- In the Zakat treatment of accounts payable, all Taxpayer funds must be added if they are used to finance what is prepared for the Taxpayer.

### Facts

the appeal was heard on 16/02/2023 AD from / (.....) National ID number (...) in his capacity as a statutory representative of the appellant company under the Memorandum of Association, and the Zakat, Tax and Customs Authority (ZTA), on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6719) issued in Case No. (Z-2021-87353) related to the 2016 AD Zakat assessment, in the lawsuit filed by ... company against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

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

Second: On the merits:

- 1- Disregard the clause (short-term loans for 2016 AD).
- 2- Cancellation of the Defendant's decision regarding the clause (consumption differences for the years 2016 AD to 2018 AD).
- 3- Amending the Defendant's decision With respect to the clause "Parties due to related parties for the year 2016AD".
- 4- Amending the Defendant's decision With respect to the clause (Reserves payable for construction work in progress for the year 2016AD).
- 5- Cancellation of the Defendant's decision regarding the clause (Accounts payable for construction in progress for the year 2016AD).
- 6- Amending the Defendant's decision With respect to the clause (allocations provided for 2018 AD).
7. Reject all other objections.

as this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit, and included, in essence, that the Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit. this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (depreciation differences for 2016 AD), as the Authority explains that it discounted the link SAR(412,847,869), which is higher than the Taxpayer's declaration of SAR(409,777,286) and a difference of SAR(3,070,696), which is the same amount that was returned to the net profit from the depreciation difference. this is the same amount that was returned to the net profit from the depreciation difference, which means that the impact is zero on the zakat base, and because the Taxpayer discounted the assets based on the net book value according to the financial statements of the years in dispute, and after review, it was found that the Taxpayer discounted the assets at the book values in the lists in addition to discounting the depreciation differences from the financial statements therefore, the Taxpayer's procedure is incorrect, and what the Authority did was to exclude the differences because the Taxpayer discounted the assets according to the book values, and therefore the straight-line method was reversed and taken into account when discounting the assets from the deductions of the base, and therefore the differences should not be deducted from the net profit. regarding the clause (Accounts payable for construction in progress for the year 2016 AD), the Authority explains that when linking, it added the balance of the first or last period, whichever is lower, due to the Taxpayer's failure to respond and submit the account statements provided by the Taxpayer. the Authority also states that the movement presented in the Taxpayer's letter of objection is consistent with the financial statements, and therefore an amount of SAR 36,357 should be added, as construction work has been deducted from the Zakat base. she asks that her appeal be accepted and that the decision of the Adjudication Circuit on the clauses in question be reversed.

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

#### Grounds:

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



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

On the merits, regarding the Authority's appeal on the clause (depreciation differences for the year 2016 AD), where the Authority's appeal lies in its exclusion of the differences because the Taxpayer discounted the assets according to the book values, and based on paragraph (1) of clause (II) of Article 4 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438H, which stipulates that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: the net value of fixed assets (property acquisition assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle that prevents the transfer of ownership - and are used in the activity." Based on paragraph (2) of Article (7) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 01/06/1438 AH, which stipulates that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: ...". Based on the above, and upon reviewing the case file, it became clear that the dispute lies in that the Taxpayer deducted the assets at the book values stated in the statements in addition to deducting depreciation differences from the assets at book values at the end of the year and also deducting depreciation differences from the net profit, indicating the existence of double deduction, and what the authority did was to add the clause to the net profit in the amount of SAR(5,483,671) for the year 2018 AD, and that the Zakat treatment is to deduct the depreciation expense from the net profit and also calculate the book value of fixed assets at the end of the year according to the financial statements and deduct it from the Zakat base, which leads the Circuit to partially accept the authority's appeal and amend the decision of the Circuit regarding this clause.

with regard to the Authority's appeal on the clause (Accounts payable for construction in progress for the year 2016 AD), and where the Authority's appeal lies in the fact that it added the balance of the first or last period, whichever is less, due to the Taxpayer's failure to respond and submit the submitted account statements, and based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH which stipulates that "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5 - government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. c - What was used in trade offers and has passed the hawl." Based on the above, and upon reviewing the case file, the Circuit found that the dispute lies in the Authority's action of adding the disputed clause to the Zakat base for the year 2016 in the amount of SAR(36,357) and whereas the Authority argued that it added credits for construction in progress, because the Authority deducted in return accounts for construction in progress WHEREAS, the Zakat treatment of accounts payable in accordance with the statutory bases referred to above is that all the

Taxpayer's funds must be added if they are used to finance what is prepared for the property acquisition, which concludes that the Circuit partially accepts the Authority's appeal and modifies the decision of the Adjudication Circuit with respect to this clause.

with regard to the Taxpayer's appeal regarding the clause (Short Term Loans for 2016 AD), the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and this being the case, it is proven that the decision under appeal regarding the disputed clause was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and as this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on this clause, bearing in mind its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company commercial Register No. (...), distinctive number (...), and the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh (IFR-2022-6719) issued in Case No. (Z-2021-87353) related to the 2016 AD Zakat assessment.

Second: On the merits:

- 1- Partially accepting the authority's appeal and amending the decision of the Circuit regarding clause (depreciation differences for the year 2016 AD).
- 2- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (accounts payable for construction in progress for the year 2016 AD).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (short-term loans for the year 2016 AD).



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

Decision No. IR-2024-174193

Case No. Z-2023-174193

**Principle No. 11**

- Accrued expense balances are considered part of the zakat base, provided that a full lunar year has passed over those balances.

**Facts**

the appeal filed on 31/01/2023 AD, from ..., National ID No. (...) was considered as the statutory representative of the appellant company by virtue of agency no lawyer's License No. (...) and the Zakat, Tax and Customs Authority (ZTA), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2637) issued in Case No. Z-2021-87155 related to the 2019 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: the Plaintiff's objection to the supplier receivables clause was rejected.

Second: the Plaintiff's objection to the receivables clause was rejected.

Third: deny the Plaintiff's objection to the salaries, wages and allowances clause.

Fourth: rejecting the Plaintiff's objection to the rents due clause.

Fifth: modify the Defendant's action on the miscellaneous accrued expenses clause, according to the merits of the decision.

sixth: dismissing the Plaintiff's objection to the foreign procurement differences clause.

as this decision was not accepted by the Taxpayer (Company ...), he submitted an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (external procurement differences), the Taxpayer explained that the committee's decision regarding the external procurement differences clause for 2017 AD was a copy/repeat of what was mentioned in its decision for 2016 AD, and that it was not its task to investigate the evidence and data supporting the claimant's position regarding the external procurement differences, given that all supporting documents were submitted on the one hand, and on the other. on the other hand, in the linkage for 2017 AD, the Authority approved (10%) as the profit of undeclared foreign purchases, amounting to (25,400) riyals, 400 riyals were added to the Zakat base and

this appeared in the link letter, a copy of which was provided, and when we objected, our objection was rejected and the link was not reviewed (increase / decrease) and we did not receive any response from the Authority, and after submitting to the Secretariat and providing data on purchases and clearance, the Authority went and varied the value of the link to the base to an amount of (330803) riyals to talk about another topic and other amounts different in clause and value not previously reported to us, namely the talk about not capitalizing fixed assets and adding them as purchases, the Authority continued to fix the link SAR(25,400). this means that all the requirements were met in the objection related to adding the profit of external purchases and the Authority did not review and cancel the clause, and the submitted statement shows the account balances and movements during the year in accordance with the balance sheet. in addition, the audited financial statements submitted to the Authority showed the value of asset purchases (as additions during the year) in Clause 8 of the notes to the financial statements, yet it was not taken into consideration, in addition to showing an amount of SAR (165,401) as the value of imported assets, and this amount does not match our real purchases shown in the clearance report, so the Taxpayer requests that his appeal be accepted and the decision of the Adjudication Circuit regarding this clause be overturned.

this decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (Miscellaneous Accrued Expenses), where the Authority added the balance of accrued rents for the first or last period, whichever is less, amounting to SAR(251,272) and SAR (246,594) for the years 2016 AD and 2017 AD, respectively, because a detailed statement of the clause was requested, the Plaintiff submitted a detailed statement for the year 2016 AD, and the movement during the year did not match the financial statements, and he also submitted a statement of the balance of the last period for the year 2017 AD: in 2017 AD, the Taxpayer submitted a statement indicating the balance of the first and last period only and did not provide the movement during the year, and the Taxpayer also submitted unclear daily entries, so the data submitted was not considered and the first or last period, whichever is less, was added, and accordingly, the Authority's procedure in adding the balance of the first or last period is confirmed as follows: the balance that fell due and was added to the Zakat base = SAR(210,159) therefore, the objection was rejected on the basis of paragraph (5) of the first clause of the fourth article of the Executive Regulations for the Collection of Zakat and on the basis of paragraph (3) of the twentieth article of the same regulations, and the Authority's action to reject the clause in the absence of supporting documents was supported by the decision of the Tax Appeals Committee No. (1629) in 1438 AH, paragraph (1/b), and therefore the Authority maintains the validity and soundness of its procedure and requests that its appeal be accepted and that the decision of the Adjudication Circuit in the clause under appeal be overturned.

on Thursday, on: on March 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules

of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds:



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

the Taxpayer's appeal is regarding the Taxpayer's appeal regarding the clause (differences in foreign purchases), where the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the Authority's defenses are inconsistent with the linkage statement, which is summarized in the value of what was added in the linkage for the disputed year. Based on paragraph number (3) of article (20) of the executive regulation for Zakat collection issued by Ministerial Decision (2082) dated 1/6/1438 AH which stated that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and upon reviewing the Taxpayer's appeal list, the Taxpayer pointed out the contradiction between the Authority's arguments, as what was added to the linkage in the issued linkage statement amounted to SAR (25,396) and what the Authority indicated in its response note that what was added in the linkage amounted to SAR (45,430) while the Taxpayer stated that what the Authority had to do was to add the profit from the purchase difference of SAR(33.080) to the Zakat base, while the Taxpayer stated that what the Authority had to do was add the profit from the purchase difference of, with reference to the Authority's response memorandum, it is clear from the calculation provided that the value of the purchase differences to be added SAR (330,803) is greater than the linkage, so it adopts what was added by the Authority in the linkage amounting to SAR (25,396) which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding this clause.

with regard to the Authority's appeal regarding the (Miscellaneous Accrued Expenses) clause, the Authority's appeal is to challenge the Adjudication Circuit's acceptance of the Taxpayer's objection

regarding the disputed clause, claiming that the Taxpayer did not submit documents supporting his objection. based on paragraph (5) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2082 dated 01/06/1438 AH, which stipulates the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" .5 - Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What was used in trade offers and has passed a year on it." based on the text of Article 20, paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, the accrued expense balances are one of the components of the Zakat base, provided that these balances have been turned around. A review of the case file and the defenses and documents it contains shows that the Taxpayer did not submit the detailed movement of the various accrued expenses in dispute to prove that the balance has not been turned around, but only submitted the financial statements for the year 2017 AD showing the balance of the beginning and the end of the period, since the regulator placed the burden of proving the validity of the Zakat declarations on the Taxpayer, and since the Taxpayer submitted documents that did not support his appeal, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

with regard to the Taxpayer's appeal regarding the remaining clauses at issue in the case, the Circuit is not faulted for adopting the grounds for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in upholding them, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit on the remaining clauses in the case With respect to the result it reached, taking into account its reasons.



### Decision:

First: 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 Circuit regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2637) issued in case number (Z-2021-87155) related to the zakat assessment for the year 2017.

Second: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal regarding the clause (Miscellaneous Accrued Expenses).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (supplier receivables).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Workers' receivables).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (salaries and wages due).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (rents due).
- 6- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (differences in external purchases).



## Deductions from the Zakat Base





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

Decision No. IR-2024- 175065

Case No. Z-2023-175065

### Principle No. 12

- Holding companies that provide loans to subsidiaries are entitled to deduct part of the loans provided to the subsidiary from the Zakat base in an amount equal to the percentage of their investment in the subsidiary.

### Facts

the appeal filed on 02/02/2023 AD, by ..., National ID No.(...), as an agent for the appellant company under power of attorney No.(...), and the appeal filed on 12/02/2023 AD, by the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1949) issued in Case No. (Z- 2021- 68898) regarding the Zakat assessment for 2018 AD, in the lawsuit filed by the company ... against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Acceptance of the lawsuit procedurally.

On the Merits:

- 1- Cancel the Defendant's action With respect to the share in the profits of subsidiaries.
- 2- Rejecting the claim regarding the retained earnings difference.
- 3- Dismiss the claim with respect to an clause requested by related parties.

this decision was not acceptable to the Taxpayer (Company ...), so he filed a list of appeals, which was reviewed by the Circuit. The Taxpayer's appeal is based on the clause (retained earnings difference). The Taxpayer explains that the dividends are paid by a related party in a company ... owned by a company ... company... (40%) and ... (40%) and ... (20%), and that the former ...Former Holding Company owns ... (100%), and that the statement of financial position and Note (6) in the Taxpayer's financial statements for the year 2018 AD shows the payment of dividend receivables, which were paid by ... dividends paid by a related party is the result of offsetting the balance of the related party liability with retained earnings. the Taxpayer explains that the company's ... the company owns ... (100%) according to the Memorandum of Association and that the amounts due from related parties (Company ...) (2018 AD Zakat assessment

attached), in accordance with the Zakat Regulation in accordance with the equity rule, which includes the addition of capital, statutory reserves, retained earnings and current account credit to partners, and therefore the recommendation of a balance due to a related party to a company ... this leads to zakat flexing, and the amounts due from related parties (a company...) in order for the equation to be straight from the accounting and legal point of view, the required deduction from the Zakat base must be deducted from the Zakat base, and he requests that his appeal be accepted and that the decision of the Adjudication Circuit be reversed. this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, as the Authority's appeal lies on the clause (profits of subsidiaries), as the Authority explains that it deducted revenues from subsidiaries in the amount of (164,146,941) riyals, after reviewing the objection letter and its attachments, the Authority clarifies that it has deducted this amount from the net profit as claimed by the Taxpayer and that the treatment of the investment is done in one of two ways: 1- Deducting the Taxpayer's share of the results of the invested companies from the adjusted profit and deducting the investment with the beginning balance of the period to remove these results from the deducted investment.

2- No adjustment to the adjusted profits and investment discount for the end-of-period balance, which includes the Taxpayer's share of the results of the investee companies. it is noted that the Authority processed the investment in the first way, and requests that its appeal be accepted and that the decision of the Adjudication Circuit on the clause under appeal be reversed.

on Monday, March 18, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause 1 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (257 11) and dated: 08 /04 /1445AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

in the merits, and with regard to the Authority's appeal on the clause (Profits of subsidiaries), and where the Authority's appeal lies in its deduction of revenues from subsidiaries in the amount of SAR 164,146,941, and based on Article (4) clause (II) paragraph (4a) of the Zakat Collection Regulation issued by Ministerial

Resolution No. (2082) dated 1/6/1438 AH which stipulates that "The followings shall be deducted from the zakat base:" 4- (A): Investments in establishments within the Kingdom — in partnership with others — if those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Therefore, Based on the above, and by referring to the case file and the defenses and documents it contains, it became clear to the committee through the responses of the parties to the case that the dispute lies in adding the Taxpayer's share in the profits of the subsidiary companies from the investment deducted from the zakat base, and since the authority acknowledges that it has deducted the Taxpayer's share from the results of the invested companies in the amount of SAR (164,146,941) from the adjusted net profit and deducted the investment with the opening balance to remove the effect of these results from the deducted investment, and by referring to the declaration submitted by the Taxpayer for the year in dispute, it is clear that it adjusted the adjusted net profit and deducted all the apparent revenues (the company's share in the profits of the invested company) from the adjusted net profit and by the same amount, which indicates that the Taxpayer adjusted and excluded the effect of these profits from the adjusted net profit, and therefore it is not permissible to exclude them again from the investment balance in the zakat base, which leads the committee to accept the authority's appeal and cancel the decision of the Circuit regarding this clause.

regarding the Taxpayer's appeal on the clause (Retained Profits Difference), where the Taxpayer's appeal lies in not adding the retained profits difference, and based on paragraph (8) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates the following: "The Taxpayer's appeal is based on the retained profits difference: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8. The balance of profits carried forward from previous years at the end of the year." Based on Article 20(3) of the Law, which stipulates the following: "The burden of proving the correctness of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the correctness of what is contained in his declaration, the Authority may not authorize the clause whose correctness is not proven by the Taxpayer or make a discretionary link according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on all of the above, and upon the Circuit's review of the case file and the defenses and documents it contains, it found that the company claims to deduct a dividend amount of (70) million riyals, and has attached financial statements, bank statements, and a dividend decision of SAR (10,000,000) as for the amount of SAR (60,000,000) upon reviewing the financial statements and documents, it is clear that it is related to the year 2017 AD, as evidenced by the list of changes in shareholders' equity, where it turns out that in 2017 AD, the distribution of profits during the period was approved in the amount of SAR (100,000,000) as for what was distributed in cash last year SAR (40,000,000) only and the remaining SAR (60,000,000) that the Taxpayer claims relates to the year in dispute, and with reference to the list of cash flows, it became clear that the net cash used in the activities that were discharged from the company as paid

dividends appeared in the amount of SAR (70,000,000), which makes it clear that the Authority's action is incorrect, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

with regard to the Taxpayer's appeal on the "Related Parties Required" clause and where the Taxpayer's appeal is that the company ... owned by .... based on Article (4) Clause (II) Paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates that: "The following shall be deducted from the zakat base:" 4 - (A): Investments in establishments within the Kingdom – in partnership with others – if those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, the additional contributions made by the parent company to the subsidiaries may be in the form of an increase in investment or loans to be repaid to the investing company, and Based on the above, and by reviewing the case file and the defenses it contains, it became clear to the committee that the above clause represents loans provided by the company to the subsidiaries, therefore the decision issued to deduct the investment percentage is correct, and since the opinion of the tax and zakat appeal judiciary has settled that the contributions made by holding companies to subsidiaries, which represent a loan (advances) provided to the subsidiary company, the Taxpayer (the lender) has the right to deduct part of the loans and advances provided to the subsidiary from its zakat base in proportion to its investment in the subsidiary to which the loan was provided because they are considered one entity, and since the related party (Company ...) is 100% owned by Company ... As shown in the financial statements note No. (1) and in the decision of the partners to waive their shares to Company (...) for investment, in addition to the fact that by referring to note No. (6), it is clear that the Taxpayer is a member of a group of sister companies that are managed directly or indirectly by the partners in the company, and by referring to the company's articles of incorporation, this is evident, and therefore the Taxpayer requests to deduct the required amount from the related party on the grounds that zakat is paid on the amount in the related party company (subsidiary), and by reviewing the documents attached to the case file, the committee found that the amount in the financial statements of Company (...) SAR (288,826,824) as it amended the financial statements for the previous year and the amount that the Taxpayer claims to deduct SAR (293,934,874) and considering that the due to a related party of a subsidiary company is treated as a loan from the parent company to the subsidiary company and is deducted by the proportions of the parent company's ownership in the subsidiary company, and since the company ... the Circuit partially accepts the Taxpayer's appeal by deducting the amount of SAR (288,826,824) as shown in the financial statements of ... And amend the decision of the committee regarding this clause.



### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial Registration No. (...), Distinctive Number (...), and the Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-1949) issued in Case No. (Z-2021-68898) related to Zakat assessment for the year 2018 AD.

Second: On the merits:

- 1- Accept the authority's appeal and cancel the decision of the Circuit regarding the clause (profits of subsidiary companies).
- 2- Accept the Taxpayer's appeal and cancel the decision of the Circuit regarding the clause (difference in retained earnings).
- 3- Accept the Taxpayer's appeal partially and amend the decision of the Circuit regarding the clause (amount due from related parties).



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

Decision No. IR-2024- 171504

Case No. Z-2023-171504

Principle No. 13

- The Taxpayer has the right to deduct any increase in assets that is offset by a corresponding increase in liability or equity.

Facts

The submitted appeal was heard on: 26/01/2023 AD, from/..., National ID No. (...) in his capacity as a director of the appellant company under the commercial registry, on the decision of the first Circuit for adjudicating income tax violations and disputes in the city of Dammam No. (IZD-2022-2588) issued in case No. (Z-2021-73621) related to the 2015 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: rejecting the Plaintiff's objection in all the clauses at issue.

As this decision was not accepted by the Taxpayer (... company), he submitted an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (Investments for 2015 AD). The Taxpayer explained that these investments were financed from the company's funds in long-term (property acquisition) assets for the purpose of realizing an annual return when distributing the profits of these companies for this purpose. The company has the intention of these investments that they are assets (technical) and not offers (commercial) according to the decision of the company's management, and there is a written waiver from the partner and others of these investments that are valid for the company, which is a final and final waiver that gave the company the full right to exercise all its rights over these investments, so it appeared in its financial statements and within its non-current assets, and that any copy of the proof of ownership is acceptable and not limited to the share certificate, but that the letter of waiver is one of the basic pillars of proof of ownership, and this is permissible legally if the regulation does not specify the form of proof of ownership. The ownership on the share certificate is not an absolute condition to allow the deduction of investments even if the procedures for transferring ownership have not been completed for substantial reasons and justifications, one of which may be the cases filed against those companies by the shareholders, as the purchase of these investments from the company's funds is essential evidence to prove the company's ownership of them. This was supported by the decision of the Board of Grievances No.



(188/D/A/4) of 1429 AH, which states that "since the obligation and amount of Zakat is a Sharia ruling and Sharia rulings are proven according to the truth of the matter and the reality of the situation without changing that fact In the official documents or not, so it is necessary to calculate the Zakat base of the concerned company as the asset is owned by it and purchased from its funds, according to the foregoing, which was stated in the fatwa of the Standing Committee for Scientific Research and Advisory Opinion No. (22644) dated 09/03/1422 AH, which confirmed that the assets used in the work must be allowed to be deducted from the base even if they are not registered in the name of the company. as these investments are in shares in the capital of local Saudi companies in closed joint stock companies (long-term investments (property aquisition assets) and not trading shares traded on the stock market (trading offers) and appeared in the financial statements within non-current assets according to accounting standards and there is no conflict between accounting standards and Zakat standards, and these investments are Zakat from another source in the Kingdom, that is, by the invested companies, which are local Saudi companies registered with the Authority. These companies submitted their audited financial statements and Zakat declarations, paid the Zakat due on them, and finalized their Zakat status according to the audited financial statements and Zakat certificates submitted to the Authority, so how are the se funds and assets to be Zakated again from our company in the same Zakat period? it is not permissible to zakat the same amount twice in the same zakat period, as it is not permissible to (bend in zakat) double in charity, which is prohibited in the saying "Do not bend in charity." This is also supported by the fatwa of the Council of Senior Scholars in the Kingdom of Saudi Arabia No. (22665) his Eminence the Grand Mufti of the Kingdom wrote to clarify this fatwa by his letter No. (3077/2) dated 08/11/1426 AH, which stated (As for what you mentioned that some companies asked why the debts of the company are not counted in the Zakat base, the answer is that the evidence of the obligation of Zakat is general and includes all Zakat funds there is no evidence to deduct debts from this, nor does it entail the obligation of zakat twice in one money, because the creditor zakatizes the money that he owns and is in the debtor's debt, while the debtor zakatizes another money that he owns and is in his hand and can dispose of it, and there is a difference between the money in a person's hand and the money that is in his debt). Thus, His Eminence's response confirmed that Zakat is obligatory for both the creditor and the debtor, provided that the debtor did not spend the money, pay off the debt, or transfer it to what is not obligatory for Zakat, because in this case he does not owe Zakat on this debt. also, Fatwa No. (20452) dated 07/09/1415 AH. this implies that the Taxpayer is obligated to zakat only on the funds in his possession and employed in his activity. The cash used in these investments has left the company's ownership and possession and has become part of the funds and possession of the invested companies, so it is not zakatable in our company but in those companies because it is part of their funds and not part of our available funds. if the Authority did not recognize these investments as uses of the sources of funds added to the Zakat base and thus deducted them from the Zakat base calculations, why are these rejected investments not excluded from their sources of funding (equity and related parties), how come the sources of funding are fully added to the base and the uses of these sources are not deducted, the objective bases of

the Zakat base in the calculation of all sources of funds and their uses and none of them are excluded, and the Authority has supported in addition, the Permanent Committee of the Permanent Committee issued Sharia Fatwa No. (22644) dated 09/03/1424 AH, which states: "What the company buys in terms of investment property and the like for the purpose of using it and not for the purpose of trading in it is not subject to zakat." This is equal to what is transferred and what is not, as this does not affect the proof of this. The Authority's refusal to deduct investments from the Zakat base is also contrary to the text of the article referred to by the Authority Article IV - II - Paragraph (1) of the Executive Regulations for the Collection of Zakat issued by Royal Decree No. (M/40) dated 02/07/1405 AH and Ministerial Decision No. (2082) dated 01/06/1438 AH corresponding to 28/02/2017 AD, where Article IV, concerning the determination of the Zakat base, Clause (II – Paragraph 4(1), referred to the following text: - the following shall be deducted from the Zakat base: (1) - Investments in establishments inside the Kingdom in partnership with others if these investments are subject to the Zakat levy according to the regulation. If the investment in these establishments is not subject to the levy, it shall not be deducted from the base." Our local investments in Saudi companies are subject to the Zakat levy and the provisions of the referred article apply to them and therefore they are deductible from the Zakat base. the Authority's Circular No. (2/8443/2/1) dated 08/08/1392 AH stipulates conditions for deducting investments, including the fact that they are not acquired for trading or speculation and financed from the company's funds and their returns are included in the Zakat declaration, and therefore they are deductible from the Zakat base because the basis for the financial event lies in the availability of substantive documents supporting it and not the procedural, financial event lies in the availability of substantive documents supporting this and not the procedural, and this is supported by some decisions of the General Secretariat of the Tax Committees, such as its decision No. (1859) for the year 1439 AH, in order to achieve the principle of justice because there is a clear right in the company to accept its deduction from the Zakat base. most of the invested companies are troubled and have achieved losses and have been sued by our company and others, and no amounts have been collected or recovered from these investments, and this is one of the main reasons for not transferring ownership until now, so how can the company pay Zakat on an investment that achieved a loss on the equity added to the base in our company and again in those invested companies.

Regarding the Taxpayer's appeal regarding the clause (Land and Buildings for 2015 AD), the Taxpayer explained that the Authority and the First Circuit refused to accept the deduction of land and buildings (long-term technical assets purchased more than (5-10) years ago without any sale or trade as they are not intended for sale from the Zakat base in violation of the Zakat Law and the Executive Regulations amounting to SAR (12,032,125) and the Authority and the First Circuit did not accept the deduction of these properties from the base on the grounds that they are not transferred in the name of the company and are for personal use and not used in the company's activity, contrary to the Zakat Executive Regulation, which emphasizes that fixed or non-current assets are an essential clause of the Zakat base in accordance with Article 4, Clause II, Paragraph (1), and the regulation specifies two conditions the first is to pay its value from





the company's funds and the second is to be within the limits of equity, and these two conditions have been met as they were financed from the company's funds and cash available to it and most of them are used to achieve the company's purposes and achieve its revenues, whether currently or in the future. According to the attached table, it was found that clause (1,2), whose value is respectively SAR (707,625) and SAR (2,567,500) are real estate, i.e. Land and building together, and they were not mistakenly separated in the accounts and are not land only and are used in the company's activity, as the first is a villa for the residence of the company's general manager.... In his capacity as an employee of the company registered with the social insurance, and the second is the building of the company's branch headquarters in Jeddah, part of which is dedicated to the residence of the branch manager .... In his capacity as an employee of the company and registered with the social insurance, i.e. It is used in the company's activity and the realization of its revenues, and the director of the company and the director of the Jeddah branch are employees of the company and according to the Labor and Workers Law, which states that "the enterprise must provide housing or housing allowance for its employees" and the company chose to allocate their own housing for them as the law does not specify the value, form or conditions of housing for workers, and the land of the new Jeddah branch headquarters worth SAR(257,000) on which a fence has been erected, appeared as part of the construction under implementation (SAR 43,000), on which a new headquarters for the Jeddah branch will be built, i.e. It is also dedicated to the company, its uses and the realization of its revenues from its activity. Therefore, we hope to deduct the properties worth SAR(707,625), (2,567,500) SAR(257,000), the law did not specify the form of documentary proof required to prove ownership, not just the deed, as the letter of assignment is a form of transfer of ownership and its proof and its appearance in the company's records and financial statements supports that these lands belong to the company, and this is supported by the decisions of the tax committees and legal opinions that the basis for proving and calculating Zakat clauses is the objective and not the procedural aspect. The tax committees have recognized in similar cases that the availability of substantive and not procedural documents is the basis for calculating zakat, and since lands are fixed assets or investment properties (property acquisition assets), they are deducted from the zakat base if they are transferred on the deed or not because the basis for calculating zakat is the intention of the company, as they are property acquisition assets funded by the company's funds and are fully utilized in its operational activity and achieving its profits and not for personal use, according to what was stated by the Authority. Land valued at SAR8,757,000 is also financed from the company's funds, they are also financed from the company's funds and are long-term real estate investment assets (property acquisition assets) that are not intended for sale and trade and are of the type of long-term real estate investments held by the company for long periods and the company has recorded them in its accounts within its non-current assets and has the intention to establish real estate investment facilities for the company for leasing and to establish fixed assets on them intended as warehouses for use or offices for the company, and there is an assignment in favor of the company there is a waiver in favor of the company for these lands and a letter supporting the company's intention to purchase these lands as fixed assets and real estate investments to



achieve a monthly return and their appearance in its financial position as long-term assets supports this, and therefore they are assets of the company and are intended for the company's use and realization of its current or future revenues. The other thing is that there are other equity and credit accounts of the partners other than their current accounts payable, according to the FRA, that cover the value of these lands, namely partner equity. The decisions of similar tax committees have supported the deduction of immovable lands to the extent of property rights and (not only the partners' current account), as private property rights are the sources of financing for these lands, so how can all sources of financing be added to the base and not reduce the investment aspects of this financing as deductions from the sources of financing, including fixed assets (lands), so either the rejected amount should be reduced from property rights if the Authority insists on rejecting these lands as deductions from the base in exchange for the reduction of these lands from the property rights and the partners' current account as sources of financing it is not permissible to "bend" in charity, as all property rights are included in the base and the calculation of zakat on them is repeatedly calculated by the Authority in the event that they are rejected by the Authority, and this is indicated in Sharia fatwas, such as decision No. (20452) dated 07/09/1415 AH and No. (23408) dated 18/11/1426 AH as it is not permissible to zakat the same amount twice in the same year or added to the deductible lands, and also emphasizes once again that the current accounts of the credit and debit partners in the financial statements represent one common account for all partners because it is a solidarity company and therefore the current account of the creditor partner.... The amount of SAR (108,337,186) is a joint account of all the joint partners and not a single partner, as well as the rest of the accounts of the debtor partners do not belong to each partner in his own name but are also joint accounts. Not because they are separate accounts, but rather joint accounts registered according to the source of their deposit or withdrawal from the partners, but they belong to all partners because it is a solidarity company and there is no Adjudication between the right or obligation of the partner appearing in the accounts and the rights and obligations of the other partners because the responsibility is solidarity among them, so their joint current accounts are considered one account, and therefore part of this credit account belongs to the partner ... And the partner... This covers the value of the land registered in their name, and a reference to the fact that the determination of the Zakat base by law requires the deduction of fixed assets under the first conditions, the first of which is proof that the Taxpayer has paid the full value of their value, and the second is that the value is within the limits of property rights and the intention is for the purpose of property acquisition and not trading, and this has been achieved here, as this has not affected the net profit subject to Zakat as this did not affect the net profit subject to Zakat, this was confirmed by the Authority's Circular No. (1173) on 12/07/1409 AH and the Authority's Circular No. (1/2/8443) dated 08/08/1392 AH and No. (22644) dated 09/03/1424 AH This is an established and stable principle applied to both Taxpayers and is consistent with the Sharia rules on the subject of capital gain subject to Zakat. This confirms that these lands were purchased from the cash available to the company, and this is in accordance with the Shari'ah fatwa, which states that "what was made from revenues in the purchase of assets or spent by its owner in other than trade offers before the

completion of the circulation, there is no zakat in it." In practical terms, the Zakat base in another form is Zakat in equity minus all non-current assets or working capital, i.e. The difference between current assets and current liabilities how can fixed assets be added to the Zakat base despite the fact that these assets did not exceed the elements required for the base (property rights), and the legal opinion issued by the Permanent Committee for Scientific Research and Fatwa No. (23408) dated 18/11/1426AH, which states that what was made from the revenues of the establishment that must be zakatable in the purchase of assets or its owner in non-trade offers before the completion of the Tawl, there is no zakat on it because it was spent before the completion of the Tawl on it. Also, one of the pillars of the Zakat base is the deduction of fixed assets and the like, regardless of their size and type, as long as they represent non-current assets and help in current and future production, and these lands, even if the sukuk is not registered in the name of the company, are financed from the company's capital and its available cash funds, and the capital and other property rights of the partners are worth more than these lands, and all these rights are subject to Zakat in the base the value of the partners is greater than these lands and all these rights are subject to zakat in the base, so how can it not be deducted from it what was used to buy lands and the content of the legal opinion No. (22644) dated 09/03/1424 AH which states that (what the company buys of property for the purpose of use and not for the purpose of trading in it is not entitled to zakat and this is equal to what is transferred and not transferred ownership) the fatwa issued and the fatwa issued by the Standing Committee is that what the company buys from real estate, cars and the like for the purpose of use and not for the purpose of trading is not subject to Zakat, and this is equal to what has been transferred or not, as this has no effect as long as these lands are within the limits of property rights and do not require the transfer of ownership in the name of the company therefore, the Authority adopts in its Zakat assessments issued to most Taxpayers to deduct the purchase payments of fixed assets from the Zakat base and before transferring their ownership on the deed, as it is only required here to prove that they are (property acquisition assets) owned by the company in any form, such as a letter of assignment, for example, and that they were paid from the company's funds, and this has been achieved in our case. Also, the principle of deducting fixed assets from the Zakat base is the essence and not the form as long as these properties were paid for with the company's funds and there is an assignment of them to the company and they are property acquisition assets that appeared in the company's records and financial statements as long term property acquisition assets according to the accounting standards and are not intended for trading we also point out that the reason for registering the sukuk in the name of the partners is to facilitate the procedures for purchasing these lands and obtaining construction and service licenses on them, and that the reason for not owning them is that there are some procedural issues from some official authorities that prevented the transfer of ownership, for example, a land worth SAR (257,000,00), which turned out to be sold more than once with the same deed. Accordingly, the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit regarding the clauses under appeal be reversed.

on Thursday, March 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause No. (2) of Article Fifteen of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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 subject of the Taxpayer's appeal regarding the clause (Investments for 2015), the Taxpayer's appeal lies in the appeal against the Circuit's rejection of his objection regarding the disputed clause, as he claims that these investments were financed from the company's funds in long-term assets (property acquisition) rather than trade offerings for the purpose of realizing an annual return when distributing profits. And based on Article (4) paragraph (2) clause (4/A) of the zakat collection regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, since two basic conditions must be met for the investment to be considered among the long-term investments that may be deducted from the Zakat base, namely the documented intention of the authorized person stating the intention of the investment, and the absence of sales made during the year on these investments, where it is clear that the dispute lies in the fact that these investments are registered in the names of the partners, and by reviewing the documents attached to the case file it is clear that the Taxpayer submitted declarations of relinquishing these shares in the companies in which he is a shareholder (... , company ..., company ... and company ...), in addition to all payments made on these shares from the Taxpayer. in addition to all the payments made on these shares by the Taxpayer, as the Taxpayer is the one who financed these investments as he submitted all the documents proving his payment for these investments, and since these investments affected the Taxpayer's assets by increasing and were offset by financing the liabilities and property rights of the company, as they were financed by the company and according to the accounting formula, any increase in assets is offset by an increase in liability or property right and this increase affects the Zakat base, the

Taxpayer has the right to deduct the corresponding amount, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

with regard to the Taxpayer's appeal regarding the clause (Lands and Buildings for 2015), the Taxpayer's appeal lies in the appeal against the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that it is a long-term (property acquisition assets) purchased several years ago without being sold or traded, so it is not intended to be sold from the Zakat base. Based on paragraph (1) of clause (Second) of article (4) of the Zakat Collection Regulation issued in 1438 AH, which states: "The following shall be deducted from the zakat base:" 1 - Fixed assets, including the following: The net value of fixed assets (property acquisition assets) and any payments for purchasing fixed assets and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer (unless there is an obstacle preventing the transfer of ownership) and that they are used in the activity." And based on paragraph (3) of article (20) of the executive regulation for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven to be accurate as stated in his declaration, and the authority may not approve the clause that is not proven to be accurate by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, it is clear that it is permissible to deduct the assets in the name of the partners from the zakat base provided that these assets are used in the activity with evidence presented that justifies the non-transfer of ownership to the company. Upon reviewing the documents attached to the case file, it is clear that the Taxpayer submitted declarations of the partners' waiver of these lands to the Taxpayer, in addition to all payments made by the Taxpayer to finance and purchase the assets as the Taxpayer is the one who financed these assets, and all documents proving their payment. Since this clause has affected the Taxpayer's assets by increasing and is matched by financing on the liabilities and equity side of the company, as the financing was from the company and according to the accounting equation, any increase in assets is matched by an increase in liabilities or equity, and this increase affects the zakat base, the Taxpayer has the right to deduct what corresponds to it, which leads the circuit to accept the Taxpayer's appeal and annul the decision of the circuit regarding this clause.

with regard to the Taxpayer's appeal regarding the clause "Partners' current debit difference for the year 2015 AD", wherein the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and wherein it is established that the decision under appeal regarding the disputed clauses as the issuing Circuit scrutinized



the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit With respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., commercial registration (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2588) issued in case number (Z-2021-73621) related to the zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1- The Taxpayer's appeal is rejected and the decision of the circuit is upheld regarding clause (partners' current account difference for the year 2015 AD).
- 2- The Taxpayer's appeal is accepted and the decision of the circuit is annulled regarding clause (investments for the year 2015 AD).
- 3- The Taxpayer's appeal is accepted and the decision of the circuit is annulled regarding clause (lands and buildings for the year 2015 AD).



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

Decision No. IR -2024-168661

Case No. Z-2023-168661

**Principal No. 14**

- In the event of any dispute arising prior to the issuance of the Implementing Regulations of the Zakat Collection Law in 1440H, the provisions of the Implementing Regulations issued in 1438H shall apply.

**Facts**

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

- 1- Annulment of the decision of Defendant With respect to the 2015 AD and 2016 AD consumption differences.
- 2- Canceling the Defendant's decision regarding the net fixed assets clause for the years 2015 AD, 2016 AD, and 2018 AD.
- 3- Annulment of the Defendant's decision regarding the travel ticket allowance for the year 2017 AD.
- 4- Annulment of the Defendant's decision regarding the travel ticket allowance - the component - for the years 2015 AD to 2018 AD.
- 5- Canceling the Defendant's decision regarding the retained earnings clause for 2017 AD and 2018 AD.
- 6- Annulment of the Defendant's decision regarding the clause of goods received without invoices for the year 2018 AD.
- 7- Canceling the Defendant's decision regarding the clause transferred to the statutory reserve for the years 2015 AD and 2016 AD.
- 8- Proving the end of the disagreement regarding the Zakat allocation clause for 2015 AD.



9- Proving the end of the dispute regarding the vacation allowance clause for the years 2015 AD to 2018 AD.

10- Proving the end of the dispute regarding the inventory allowance clause for 2015 AD and 2016 AD.

11- Recognizing the end of the dispute regarding the dye allocation clause and the difference in steel prices for the years 2017 AD and 2018 AD.

12- Recognizing the end of the dispute regarding the allowance for doubtful debts for the years 2015 AD, 2016 AD, and 2018 AD.

13- Confirmation of the end of the dispute regarding the legal expenses clause for 2016 AD.

14- Confirmation of the end of the dispute regarding the trade creditors clause for the years 2015 AD to 2018 AD.

15- Recognizing the end of the dispute regarding an clause due to related parties for the years 2015 AD, 2017 AD, and 2018 AD.

16- Proving the end of the dispute regarding the accrued vacation expense balance for 2017 AD.

17- Confirmation of the end of the dispute regarding the clause of advance payments received from customers for the years 2015 AD to 2018 AD.

18- Recognizing the end of the dispute regarding the employee benefits clause for 2015 AD and 2016 AD.

19- Proving the end of the dispute regarding other clauses accrued for the years 2016 AD to 2018 AD.

20- Recognizing the end of the dispute regarding the 2017 AD short-term loans line clause

21- Recognizing the end of the dispute regarding the clause of profits on import differences for the years 2015 AD to 2018 AD.

22- Recognizing the end of the dispute regarding the clause of proposed dividends for 2018 AD.

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

the Authority objects to the decision of the Appealed Decision, claiming that with regard to the clause (Net Fixed Assets for 2018 AD), the Circuit issuing the Appealed Decision annulled the Authority's action based on the principle of non-retroactivity of laws and that laws and regulations are not applied retroactively unless otherwise stated. The Authority states that the Taxpayer submitted his return and deducted the balance of net fixed assets according to the depreciation method using the decreasing premium, while the Authority did the linkage on the Taxpayer and deducted the assets according to the balance included in the financial statements in examining the objection, the Authority maintained its view that the Taxpayer is a Zakat Taxpayer, and with reference to the year referred to, it is clear that the details of the balance of the



assets are as explained in the Authority's reply memorandum, and as for the Circuit's reasoning that the regulation was issued after the submission of the Taxpayer's declaration the Authority responds that this is incorrect, as the Defendant submitted its declaration for the year 2018 AD on 09/17/1440 AH and the Regulation was issued on 01/06/1438 AH, meaning that the treatment of that clause for that year must be an application of the Regulation in accordance with paragraph (II) and Article (4) paragraph (II/1). with regard to the clause (Retained Profits for 2017 AD and 2018 AD), the Authority claims that it linked the Taxpayer to add the retained profits to the Zakat base for 2017 AD and 2018 AD in the amount of SAR(17,162,355) and SAR(18,355,648) respectively, 648 riyals, respectively, representing the balance of the first period because the Taxpayer did not provide documentary proof of the distribution based on Article 4, paragraph (I/8) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, nor did the Taxpayer provide documentary proof of the distributions during the objection stage, represented by the partners' decision to distribute therefore, based on the above article, the Taxpayer's objection was rejected, and the Circuit canceled the Authority's action due to the Defendant's submission of the supporting documents. Accordingly, the Authority reviewed the case papers, including dividend distributions in the amount of SAR(2,500,000) for the year 2017 and SAR(250,000) for the year 2018 AD, and where the Taxpayer provided supporting documents showing their distribution before the turn of the lunar calendar, which means that the Authority believes that the distributions should be accepted according to the supported distributions of SAR(2,500,000) for the year 2017 AD and SAR(250,000) for the year 2018 AD, as for the remaining amount, the Taxpayer did not prove the submission of these profits, which should be added to the Zakat base as detailed in the Authority's reply note. the Authority also objects to the clause (statutory reserve for 2015 AD and 2016 AD), and therefore, the Authority requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above -mentioned reasons.

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

### Grounds:

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

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

on the merits of the Authority's appeal regarding (Net Fixed Assets for 2018 AD) whereas, its appeal lies in the fact that the Taxpayer submitted his return and deducted the balance of net fixed assets according to the depreciation method using the decreasing premium, while the Authority linked the Taxpayer and deducted the assets according to the balance included in the financial statements, and the Authority adhered to its viewpoint when studying the objection as a Zakat Taxpayer, and that the Defendant submitted his return for 2018 AD on 09/17/1440 AH and the regulation was issued on 01/06/1438 AH, meaning that the treatment of that clause for that year should be in accordance with the regulation. Where paragraph 1/(Second) of Article (4) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH states: "The following shall be deducted from the zakat base:" The net value of fixed assets (property acquisition assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." And where paragraph (2) of Article (7) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 1/6/1438 AH states: "Fixed assets are depreciated according to the straight-line method, and their depreciation rate is as follows: ...". Based on the above, and since the authority's appeal revolves around what was stated in the circuit's reasoning that the regulation was issued after the Taxpayer submitted their declaration, the authority responds that this is incorrect as the Taxpayer submitted their declaration for the year 2018 AD on 17/09/1440 AH and the Zakat regulation was issued on 01/06/1438 AH, meaning that the treatment of that clause for that year should be in accordance with the regulation as stated in Article Seven paragraph (Second) and Article Four paragraph (Second/1) of the executive regulation for the collection of Zakat. Upon reviewing the case file and the defenses and documents it contains, it is clear that what the authority referred to is correct as the year of dispute is 2018; therefore, the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH should be applied, which leads the circuit to accept the authority's appeal and cancel the decision of the circuit regarding this clause.

with regard to the Authority's appeal regarding the clause (Retained Dividends for the years 2017 AD and 2018 AD), its appeal lies in reviewing the case documents, including dividends of SAR(2,500,000) for the year 2017 AD and dividends of SAR(250,000) for the year 2018 AD, where the Taxpayer provided supporting documents showing their distribution before the turn of the lunar calendar, so the Authority believes that the distributions should be accepted according to the supported distributions, as for the remaining amount, the Taxpayer did not prove the submission of these dividends, which should be added to the Zakat base. And since paragraph (8) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH stated:

"The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8 - The balance of carried forward profits from previous years at the end of the year." Based on the above, and where the Authority's appeal lies on the Circuit's decision to cancel the Authority's action due to the submission of supporting documents by the Defendant, and after reviewing the case file and the defenses and documents it contains, it appears that the Taxpayer has submitted documents proving the distribution of profits before the turn of the lunar calendar in the amount of SAR(2,500,000) for 2017 and SAR(250,000) for 2018 AD, as for the remaining amount of SAR 14,662,355 for 2017 AD and SAR 18,105,648 for 2018 AD, the Taxpayer did not prove the submission of these profits, which must be added to the Zakat base, which concludes that the Circuit partially accepts the Authority's appeal and modifies the decision of the Adjudication Circuit in this clause.

whereas, with regard to the Authority's appeal regarding the clause (statutory reserve for the years 2015 AD and 2016 AD), and after the Circuit's reflection on the merits of the dispute, and after the Circuit's review of the Authority's appeal, and where the Circuit may adopt the grounds for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with what these reasons contain, it is certain that it has not found any objections to the decision that merit a response beyond what is contained in those reasons, and where this is the case and it is proven that the decision under appeal regarding the disputed clause was consistent with sound reasons that it was based on and sufficient to carry its judgment the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and where this Circuit found that the conclusion reached by the adjudication Circuit in its decision is correct and that the grounds on which it based its decision are sufficient to support that decision, and where this Circuit did not notice anything that warrants censure or comment in light of the defenses raised before it, which leads this Circuit to reject the Authority's appeal and uphold the decision of the adjudication Circuit in this clause on the basis of its reasons.

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

#### Decision:

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

Second: On the Merits:

1- Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (net fixed assets for the year 2018 AD).



2- Acceptance of the authority's appeal partially and modification of the decision of the circuit regarding the clause (retained earnings for the years 2017 AD and 2018 AD).

3- Rejection of the authority's appeal and upholding the decision of the circuit regarding the clause (legal reserve for the years 2015 AD and 2016 AD).



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

Decision No. IR-2024- 168768

Case No. Z-2023-168768

### Principle No. 15

- Real estates under development are considered deductible from the Zakat base, provided that two conditions are met: (1) a documented intent by the authorized person clarifying the intended purpose of the properties, and (2) the absence of any sales transactions during the year recorded in the account.

### Facts

the appeal filed on 11/01/2023 AD, from ..., National ID No. (...) was considered as an agent for the appellant company under power of attorney No. (...), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2489) issued in Case No. (Z-2021-72424) related to the 2015 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Rejecting the Plaintiff's objection to the irregularity of opening the link and amending the 2015 AD Zakat return.
- 2- Proving the end of the dispute over the clause of investment losses in (...).
- 3- Rejecting the Plaintiff's objection to the import profit clause (10%).
- 4- Rejecting the Plaintiff's objection to the allowance difference clause.
- 5- Rejecting the Plaintiff's objection to the payables, accruals, and other credits clause.
- 6- Rejecting the Plaintiff's objection to the real estate under development clause.
7. Reject the Plaintiff's objection to the phase loss clause.

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

the Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause "Real Estate Under Development", the Circuit's decision rejected the Taxpayer's request to deduct real estate under development in the amount of SAR (12,539,621) on the grounds that the Taxpayer did not provide

documents supporting the nature of the properties sold and that they represent assets acquired for the purpose of development and not intended for sale and trade, making it impossible to verify the availability of the property acquisition condition for the properties sold in dispute, the Taxpayer explained that the financial statements and ownership documents prove that the properties have been held for a year or more and that the Zakat law is based on the Islamic Shari'ah, which requires the deduction of Zakat from the net assets by adding the capital, reserves and rounded profits, and on the other hand deducting the money invested in developing the properties as fixed assets that do not represent inventory of goods but are fixed assets and therefore must be deducted from the Zakat base, this opinion was supported by Appeal Decision No. (10) of 1417 AH, approved by the Minister of Finance No. (3/7513) dated 01/7/1417 AH, which confirmed that developed real estate represented in residential and commercial buildings and the lands built on them may be deducted from the Zakat base even if the intention changes to sale, as well as several letters and circulars, so the Taxpayer requests to cancel the decision of the Circuit and rule to deduct real estate under development in the amount of SAR(12,539,621) from the Zakat base. the Taxpayer also objects to the clauses (irregularity of opening the link and amending the 2015 AD Zakat return), the clause (10% import profit), the clause (difference in provisions), the clause (other receivables, payables and credits), and the clause (loss carryforward), so the Taxpayer requests the reversal of the decision of the Appeals Circuit for the above reasons.

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

#### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit 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.

the Taxpayer's appeal regarding the clause (Real Estate Under Development) is based on the fact that the financial statements and ownership documents prove that the properties have been in operation for one year or more and that the Zakat law is based on the Islamic Shari'ah, which requires the deduction of Zakat from the net assets by adding the capital, reserves and rounded profits, and deducting the money invested

in developing the properties as fixed assets that do not represent inventory of goods but are fixed assets and therefore must be deducted from the Zakat base. Where paragraph number (1) of clause (Second) of Article Four of the executive regulation for the collection of Zakat issued by Ministerial Decision number (2082) dated 01/06/1438 AH states: "The following shall be deducted from the zakat base:" 2- The Taxpayer's capital constructions under construction which are being constructed for the purpose of using them in the activity and not for the purpose of selling them." As stated in paragraph number (1) of clause (Second) of Article Four of the executive regulation for the collection of Zakat issued by Ministerial Decision number (2082) dated 01/06/1438 AH: "The following is deducted from the Zakat base: 1 - Fixed assets, which include the following: The net value of fixed assets (property acquisition assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." Based on the above, and upon reviewing the case file and the defenses and documents it contains; it is clear that the dispute lies in the Taxpayer's request to deduct properties under development from the Zakat base, and based on what was mentioned above; it is necessary to meet two essential conditions for considering properties under development as clauses that can be deducted from the Zakat base, which are the documented intention of the authorized person that clarifies the intention for these properties and the absence of sales operations that occurred during the year in question. Upon reviewing the submitted documents, it is clear that the Taxpayer submitted land deeds and an account statement extracted from the system and a detailed account statement which shows that there were no sales movements during the year in question. As for what the authority indicated that it did not accept the deduction of the clause due to the sale of those properties in the following year 2016 AD, and after reviewing the financial statements for the year 2016 AD, it was confirmed that they were excluded and it was confirmed to them that these properties are not intended for property acquisition but rather for sale and trade, yet the existence of a single sale movement for the clause does not affect as long as it has not been proven to be related to sales operations that turn it into trade offers. Therefore, since the Taxpayer submitted the documents supporting their objection, the circuit concludes to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

Regarding the remaining clauses subject to the lawsuit, there is no fault with the Circuit in adopting the grounds 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 Circuit 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 Circuit 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 Circuit to reject the Taxpayer's appeal and uphold the Adjudication Circuit'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 grounds stated, the Circuit unanimously decided as follows:

### Decision:

First: Acceptance of the appeal procedurally from the appellant, the company (...), commercial registration (...), unique number (...). Against the decision of the first circuit for adjudicating violations and disputes of income tax in Jeddah Province with number (IZJ-2022-2489) issued in case number (Z-2021-72424) related to the zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1- The appellant's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (illegality of opening the assessment and amending the zakat declaration for the year 2015 AD) is upheld.
- 2- The appellant's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (profit from imports at 10%) is upheld.
- 3- The appellant's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (difference in allocations) is upheld.
- 4- The appellant's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (creditors' accounts and other receivables and credit balances) is upheld.
- 5- The appellant's appeal is accepted, and the decision of the Adjudication Circuit regarding the clause (properties under development) is canceled.
- 6- The appellant's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (difference in losses carried forward) is upheld.





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

Decision No. IR-2024-170826

Case No. Z-2023-170826

Principal No. 16

- Debts shall not be deducted from the Zakat base, unless it is proven that they cannot be collected.

### Facts



the appeal was heard on 19/01/2023 AD from / (.....) National ID number (....) as the statutory representative of the appellant company according to the Board of Directors' decision submitted in the case file, and the appeal filed on 22/01/2023 AD from the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes (ISR-2022-1804) issued in Case No. (Z-2021-72656) related to the Zakat assessment for the years 2016 and 2018, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs:

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

Second: On the Merits:

rescind the Defendant's action With respect to the 2016 AD accrued airfare allowance, as set forth in the Reasons.

dismiss the claim With respect to the 2018 AD salary differential for employees.

revoke the Defendant's action With respect to the 2016 AD and 2018 AD balances due to government entities, as stated in the grounds.

dismissal of the claim With respect to the 2016 AD and 2018 AD balances owed by customers.

dismiss the claim With respect to the related parties clause owed for 2016 AD and 2018 AD.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (Balances due from customers for the years 2016 AD and 2018 AD) that his objection lies in not deducting the debit balances due from customers in the amount of SAR(31,553,125) for the year 2016 AD and SAR(38,981,180) for the year 2018 AD due to the fact that the Zakat Executive Regulations did not stipulate the deduction of debit balances due from customers from the Zakat base, The Taxpayer explained that the Authority confused between debit balances that can be collected and debit balances that are unlikely to be collected (bad debts), as confirmed by fatwas Nos. (9069) and (20977) and the Executive Regulations confirmed that debts that are not likely to be collected are not subject to Zakat until they are collected, and that what the Taxpayer is asking for is not to impose Zakat on the balance of a customer that is unlikely to be collected, and explained that he took all steps to collect these balances and was unable to collect him to date, as he was contracted with (an organization ..... ) on 07/04/2010 AD to lease a complex worth SAR(8,500,000) annually, and on May 2015 AD, the tenant stopped paying, and the company made many communications and warnings to demand payment from the tenant, and a case was filed against the tenant to terminate the contract and a judgment was issued in favor of the company to terminate the contract on 18/10/2017 AD, and the company obtained an execution order to evict them on 11/04/2016 AD, and a case was filed against the institution to claim the dues amounting to SAR(43,500,000) and a final judgment was issued in favor of the company for the amount, and the company has not been able to collect the mentioned amount to date, and whereas the balance owed to the Foundation (.....) from May 2015 to date, the Taxpayer has taken all available measures to collect the amount to no avail, including legal procedures until a court ruling was issued in his favor that the amount is due, and therefore the Taxpayer requests the acceptance of the deduction of (31,553,125) SAR for 2016 and (38,981,180) SAR for 2018, which represents the balance due to the company from ....., and confirms that the Taxpayer has not claimed the deduction of the balance due from ..... being a bad debt but claiming a deduction for a debit balance that is unlikely to be repaid. the Taxpayer also objects to the clause (Employee Salary Difference for 2018 AD) and the clause (Related Party Debtors for 2016 AD and 2018 AD), therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

with regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (Balances due to government entities for the years 2016 AD and 2018 AD) that the receivables are governmental receivables in the sense that they are certain to be collected and are considered from trusted parties and their ability to pay, and by reviewing the financial statements, it is clear that the amounts due to government entities amount to SAR( 31,090,805) for 2016 AD and SR(9.4) million for 2018 AD and the amount due for more than one year from these amounts is SR (1,337,091) and (1.2 million) riyals only, respectively. this means that the majority of these debts are current debts and are repaid in less than a year, as disclosed in Note No. (4) and (6) of the financial statements for the years 2016 AD and 2018 AD, and therefore this debt is in the hands of a full debtor who is not procrastinating and the

creditor (the Taxpayer) is able to collect his money, therefore, the Authority maintains the validity of its procedure and requests the reversal of the Circuit's decision on the clauses under appeal for the above reasons.

on Thursday, February 15, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds:



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

On the merits, with regard to the Authority's appeal regarding the clause (Balances due to government entities for the years 2016 AD and 2018 AD), the Authority's appeal lies in the fact that the receivables are governmental receivables in the sense that they are certain to be collected and are considered reliable and capable of repayment, and by reviewing the financial statements, the Authority found that the majority of these debts are current debts that are repaid in less than a year's time. whereas Fatwa No. 23408 (11/18/1426AH) issued by the Permanent Committee for Scientific Research and Fatwa on debts owed by government agencies stipulates that "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (Fear God as much as you can), and because zakat is a consolation, it is not obligatory on a person who cannot collect it and has nothing in his hand." Article 20, paragraph 3, states: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." based on the foregoing, and after reviewing the Authority's appeal regulations, it is clear that it did not accept the deduction of amounts owed by governmental entities, namely: - SAR



(35,436,313) for 2016 AD and SAR (10,192,549) for 2018 AD. - abha Sports Club project with an amount of SAR (2,126,777) for the year 2016 AD. - jizan Sports Club project with an amount of SAR (6,608,282) for the year 2016 AD. - flood drainage project in Al-Malqa and Hattin neighborhoods with an amount of SAR (24,481,809) for the year 2016 AD. the total amount of SAR (68,653,181) for 2016 AD and SAR (10,192,549) for 2018 AD. the Taxpayer argues that these amounts represent balances owed by the state for projects that were contracted with government entities that he was unable to collect and that these entities are stalling. Considering the facts of the dispute over the clause, it is clear that it is limited to whether or not it can be deducted and whether or not it represents a debt that cannot be collected, and since government receivables are deducted from the Zakat base according to the settled fatwas if the amounts cannot be collected for reasons beyond the Taxpayer's control and not due to negligence arising from their non-compliance what can be verified is that these balances cannot be collected from the entity by the Taxpayer's submission of proof of his claim to these entities and that the default is not due to him, but rather due to the default and procrastination of these entities in paying, which does not allow the deduction of the clause, and where the Taxpayer did not submit proof of his arguments that these entities are procrastinating in paying and also did not submit proof of his claim to these entities to pay, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit on this clause.

regarding the Taxpayer's appeal regarding the clause (Balances due from customers for the years 2016 AD and 2018 AD), and where his appeal lies that (..... organization) was contracted on 07/04/2010 to lease a complex worth SAR (8,500,000) per year. On May 2015 AD, the tenant stopped paying and the Taxpayer made many calls and warnings to demand payment from the tenant, and a case was filed against the tenant to terminate the contract and a case was filed against the institution to claim the dues of SAR (43,500,000) and a final judgment was issued in favor of the Taxpayer for the amount, but he could not collect the mentioned amount until now. accordingly, the dispute between the parties lies in the resolution of receivables owed by a company (.....) after reviewing the case file and the defenses and documents it contains, it is clear that the Taxpayer submitted the lease contract for the apartment complex concluded with (.....) in 2010, the tenant also delayed payment and was notified of this, as well as the judgment issued to terminate the contract in 2017 AD and the issuance of the judgment in favor of the Taxpayer to hand over the complex and execute the judgment, and the final judgment that obligates the company (.....) to pay the balance due and has not been able to collect the amount to date. therefore, it is clear from the Taxpayer's situation that he has taken the necessary and available measures to collect the amount, as the grounds for his inability to collect the amount are beyond his control and not his negligence, and since the principle is that all debts are not deducted from the Zakat base unless it is proven that this debt cannot be collected; therefore, it appears that the debt is on a procrastinating debtor and the outstanding balance cannot be collected, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Dispute Adjudication Circuit in this clause.

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

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

### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (....), commercial registration (.....), unique number (.....) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the second Circuit regarding violations and disputes of income tax in Riyadh with number (ISR-2022-1804) issued in case number (Z-2021-72656) related to the zakat assessment for the years 2016 AD and 2018 AD.

Second: On the Merits:

- 1- Acceptance of the authority's appeal and cancellation of the decision of the Circuit regarding clause (amounts due to government entities for the years 2016 AD and 2018 AD).
- 2- Rejection of the Taxpayer's appeal and upholding the decision of the Circuit regarding clause (salary differences for the year 2018 AD).
- 3- Acceptance of the Taxpayer's appeal and cancellation of the decision of the Circuit regarding clause (amounts due from customers for the years 2016 AD and 2018 AD).
- 4- Rejection of the Taxpayer's appeal and upholding the decision of the Circuit regarding clause (related parties with debts for the years 2016 AD and 2018 AD).



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

Decision No. CR-2024-231728

Case No. PC-2024-231728

Principal No. 17

- The Taxpayer has the right to deduct foreign investments from their zakat base, provided they comply with the stated condition — namely, submitting audited financial statements from a certified public accountant in the country of investment. This is for the purpose of calculating the zakat due on those investments and remitting it to the Authority, thereby allowing the deduction of such investments from the zakat base of the investing company to avoid double zakat.

**Facts**

the appeal filed on 15/02/2023 AD, from ..., National ID No. (...) was considered as the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 16/02/2023 AD against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2022-2485) issued in Case No. (Z-2021-80471) related to the Zakat assessment for the years 2017 AD and 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: the decision of the Defendant, the Zakat, Tax and Customs Authority, against the Plaintiff, ... (unique number...) relating to the clause of the plot of land registered in the name of the partners for the year 2018 AD, which is the subject of the lawsuit.

Second: the decision of the Defendant, the Zakat, Tax and Customs Authority, against the Plaintiff, ... (unique number...) related to the real estate investment clause at issue in the lawsuit.

Third: rejecting the other objections of the Plaintiff/company ... (unique number...) on the decisions of the Defendant/Zakat, Tax and Customs Authority related to the linkage at issue in the lawsuit.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, he claims that the Circuit's decision indicated that the company did not provide the movement of the disputed loans and accounts receivable to prove that they did not turn over, and never referred to the documents and

explanations provided by the company, which are as follows: The Taxpayer's appeal relates to the clause (Zakat base for foreign investments for the year 2018 AD): The Circuit's Decision did not address, directly or indirectly, the Sharia-based principles relied upon by the company in its method of calculating zakat on foreign investments, despite the fact that zakat is a form of worship and one of the pillars of Islam, the collection of which — according to the Royal Decree — must be in accordance with the rules of Islamic Sharia. The obligation of zakat is established — or negated — based on Sharia evidence from the Qur'an, Sunnah, and scholarly consensus, prior to any accounting standards or tax laws. Zakat is not due on capital investments and assets held for long-term property acquisition; rather, it is due on the profits generated from such investments — not on the principal itself. This is further supported by fatwas issued by the Permanent Committee for Scholarly Research and Ifta, including Fatwa No. 18680 (Question 2) and Fatwa No. 19643 (Question 5), both of which state that when a company owns shares in other companies abroad with the intent to hold them as long-term property acquisition, zakat is due only on the returns, which are then deductible from the zakat base, while no zakat is due on the principal of the investment itself. In line with this, the Explanatory Guide to the Zakat Collection Law, issued by the General Secretariat of Tax Committees in Decision No. (IR-2020-61), confirms that zakat on long-term foreign investments is due on the profit only, not the capital. However, the Circuit contented itself with requesting loan movement records and creditor balances to confirm whether a full lunar year had passed over them — as requested by the defendant (the Authority) — without considering that the investee company is an entity established in a foreign country (Singapore), listed on its stock exchange, and its accounts are not designed to produce such zakat-specific disclosures, which are not a regulatory requirement in that jurisdiction. These companies only prepare disclosures and financial reports based on the requirements of the Singaporean stock exchange and governmental authorities, and they do not cooperate with requests from investors to produce reports or disclosures that do not align with local regulatory requirements. Furthermore, the Circuit's Decision failed to note that the company had already submitted audited financial statements related to this investment, along with a zakat computation attested by a certified accountant. The Circuit's endorsement of the zakat calculation made by the Authority — without regard to these facts — will result in zakat being assessed on assets where zakat is not due, which constitutes a violation of Sharia principles governing zakat collection. Regarding the Taxpayer's appeal regarding the clause (lands and real estate registered in the name of the partner for the years 2017 AD and 2018 AD), the Taxpayer explained that the Circuit's decision referred to the failure to provide proof of the partner's payment of rents, and that the partner's current account corresponding to these assets has been added accordingly and not because he financed these assets, and the Circuit did not take into account the points mentioned below: the decision did not address that these properties are credited against the partner's current account prior to 2017 AD, and this is proven by the financial statements, as there are no additions to the properties registered in the name of the partner during 2017 AD and 2018 AD, and therefore these properties must be deducted as they are within the limits of the partner's current account added to the base based on the decision of the Director General of the



Authority No. (1413/1) and the decision of the Appeals Committees based on Circular 35/1 dated 02/03/1413 AH paragraph (18), the ownership of these properties was transferred in the name of the company in 2020 AD, and the Authority and the Circuit were provided with the title deed proving the transfer of ownership, as well as the lease contract for the year 2020 AD, and it is clear from this that the Circuit was incorrect in refusing to deduct this property from the Zakat base based on the above-mentioned reasons, and therefore the Taxpayer requests that the decision of the Circuit of Determination of the clauses under appeal be overturned for the above reasons. This decision was not accepted by the Authority, so it submitted a list of appeals, which was reviewed by the Circuit and included the following statement: The Authority requests that its appeal be accepted and that the decision of the Appeals Circuit be overturned.

on Thursday, on: 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the 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, and the papers and documents contained in the case file, and at this session, the circuit reviewed the request for postponement attached to the case file by the Authority. accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024 AD, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024 AD, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

on Saturday, on: 07/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

on Tuesday, on: 25/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.



## Grounds:



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

the Taxpayer's appeal relates to the clause (Zakat base for foreign investments for 2018), where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that zakat on long-term foreign investments is on the profit and not the principal of the investment. Based on paragraph (4/b) of clause (second) of Article (4) of the executive regulations for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. Based on the above, and where the Taxpayer has the right to deduct foreign investment from their zakat base, provided that they comply with what is stated, which is to submit to the authority audit accounts from a certified accountant in the country of investment, in order to calculate the zakat due on these investments and submit it to the authority, and then deduct those investments from the invested company's base to avoid zakat evasion, and since the dispute over this clause is a documentary dispute, and it has become clear that the Taxpayer has submitted the financial statements of the company for the disputed year 2018 and the invested company, as well as the calculation issued by a certified accountant for the zakat due on foreign investments, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the adjudication circuit regarding this clause.

regarding the Taxpayer's appeal regarding the clause (lands and real estate registered in the name of the partner for the years 2017 AD and 2018 AD), and where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims to have submitted documents supporting the transfer of ownership. Based on paragraph (Second/1) of Article (4) of the executive regulation for zakat collection issued by Ministerial Decision number (2082) dated 01/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 1- Fixed assets, including the following: Net value of fixed assets (property acquisition assets) and any payments for purchasing fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer – unless there is an obstacle preventing the transfer of ownership – and that they are used in the activity." And where the appellate committee established the permissibility of deducting the assets in the name of the partners

from the zakat base, provided that these assets are used in the activity with proof submitted, and since the dispute over this clause is a documentary dispute, and after reviewing the case file and the documents it contains, it appears that the Taxpayer has submitted the lease contract for the villa, a property inventory, and a copy of the ownership deeds, and where the transfer of ownership to the company has been proven ... (the Taxpayer), resulting in the Circuit's decision to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

regarding the Authority's appeal regarding the clause (the plot of land registered in the name of the partners for the year 2018 AD), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Circuit the Authority's request to leave the appeal as stated in the letter it issued in the appended note, which includes the following: "The Authority informs the Honorable Circuit that it has left its appeal regarding the above-mentioned clause set out in the decision referred to, as well as the procedures resulting from the appeal of the Authority..." Therefore, the Circuit accepts the abandonment of the dispute.

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

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



## Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-2485) issued in case number (Z-2021-80471) related to the zakat assessment for the years 2017 AD and 2018 AD.

Second: On the Merits:

- 1- Accepting the withdrawal of the lawsuit regarding the authority's appeal on the clause (the piece of land registered in the name of the partners for the year 2018 AD).
- 2- Rejecting the authority's appeal and upholding the decision of the adjudication circuit regarding the clause (real estate investments for the year 2018 AD).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the clause (the zakat base for foreign investments for the year 2018 AD).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (short-term loans for the year 2017 AD).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding the clause (investments registered in the name of the partner (Prince Mohammed University) for the years 2017 AD and 2018 AD).
- 6- Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the clause (lands and properties registered in the name of the partner for the years 2017 AD and 2018 AD).



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

Decision No. IR-2024-191197

Case No. ZI-2023-191197

### Principal No. 18

- Investments classified as long-term holdings (Qunyah) are considered deductible from the Zakat base, provided that two conditions are met: (1) a documented intent by the authorized person clarifying the purpose of the investment, and (2) the absence of any sale transactions during the year involving such investments.

### Facts

The submitted appeal was heard on: 29/03/2023 AD, from/ ... National ID number (...) in his capacity as the statutory representative (Chairman of the Board of Directors) under the Articles of Association of the Appellant Company, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh City (IFR-2023-600) issued in Case No. (ZI-2021-67494) regarding the Zakat assessment for the years 2018 AD and 2019 AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

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

Second: On the merits: as follows:

- 1- Annulment of the Defendant's decision regarding the life insurance clause for 2019 AD.
2. Modification of the Defendant's decision With respect to the non-discounting clause of ....
- 3- Annulment of the Defendant's decision regarding the real estate investment clause "undeveloped land"
- 4- Reject all other objections.

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

the Taxpayer challenges the decision of the Adjudication Circuit, claiming that with regard to the clause (Investments at fair value through profit or loss for the years 2018 AD and 2019 AD), the appellant (the Taxpayer) is requesting the annulment of the Circuit's decision on this clause, as it indicated that the company discounted the investments as cash outflows and that the company's intention is for long-term

investment purpose, as it indicated that it is ... it is an established fund in the Kingdom and has indicated that there is no sale on it. in the event that the deduction of the disputed clause is not accepted, the company calculated Zakat on the fund invested in it according to the approved financial statements, while the response of the Defendant (the Authority) stated that two basic conditions must be met for the investments to be considered as property acquisition offers that are eligible for deduction from the Zakat base, namely the documented intention of the authority holder that clarifies the intention of the investment and the absence of sales made during the year on those investments, and it became clear to the Circuit after reviewing the documents related to the fund of the ... It is not Zakat-registered and the fund has a separate financial liability from the issuing investment entity. He also demands that the Circuit's decision regarding foreign investments be overturned, as it indicated that the investments represent property acquisition offerings and the company's intention to hold them for long periods of time. It also indicated that it calculated zakat on companies invested abroad within the limits of what was available to it from internal data and accounts and accounts approved by a certified public accountant. As for some companies invested abroad, it is practically difficult in many cases to calculate Zakat based on the accounts certified by a chartered accountant for several reasons, while the response of the appellant (the Authority) stated that we inform Your Excellency that after reviewing the list of the Plaintiff's appeal regarding foreign investments, it was found that he accepted the the Authority's procedure. clause (Share in net loss of subsidiary), Clause (Provision for losses of subsidiary), Clause (Social insurance difference), and Clause (Gift expense).

on Wednesday, 05/29/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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.

the Taxpayer's appeal regarding the clause (Investments at fair value through profit or loss for the years 2018 AD and 2019 AD) and where the Taxpayer's appeal is:

a- Investments within the Kingdom, and based on paragraph (4/a) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH: "Investments in establishments within the Kingdom - participation with others - if those investments are subject to Zakat collection under this regulation, if the investment in those establishments is not subject to collection, it cannot be deducted from the base", and based on paragraph (4) of Article (5) of the executive regulation for Zakat collection issued by the Minister of Finance number (2216) dated 07/07/1440 AH which stated: "Investments in an establishment within the Kingdom for non-trading purposes, if that establishment is registered with the authority, and is subject to Zakat collection under the regulation. And leased assets are not considered financial investments in the commercial books of the lessor that can be deducted from the Zakat base regardless of their classification in the financial statements, nor are loans or additional financing or similar granted to the invested establishment considered investments that can be deducted from the Zakat base". Based on the above, and since two essential conditions must be met for considering investments as property acquisition assets that can be deducted from the Zakat base, which are the documented intention from the authorized person clarifying the intention of the investment, and the absence of any sales transactions during the year on those investments, and since the fund ... (Not registered for Zakat), and the fund has a financial independence from the issuing investment entity, and since the Taxpayer submitted the financial statements of the fund and calculated the Zakat (attached 2), it is necessary for the circuit to accept the Taxpayer's appeal partially and amend the decision of the Appeals Circuit to accept the investment deduction after the authority calculated the Zakat for the fund and the Taxpayer paid the Zakat.

b. Foreign investments, and based on paragraph (4) (b) of clause (II) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH: "The following shall be deducted from the zakat base:" investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer calculates in his Zakat declaration the Zakat due on these investments in accordance with the rules stipulated in this regulation and submits it to the Authority, attaching audited accounts from a certified public accountant in the country of investment and approved by the official authorities, if he does not commit to calculating and submitting Zakat accordingly, it will not be deducted from the Zakat base," according to paragraph (5) of Article (5) of the executive regulation for the collection of Zakat issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH on: "investments in an establishment outside the Kingdom for non-trading purposes, provided that the Taxpayer pays Zakat on these investments to the Authority under a certificate prepared in accordance with the provisions of the regulation and certified by a chartered accountant licensed in the Kingdom, provided that the minimum Zakat threshold for these investments is the Taxpayer's share of the net accounting profit included in the financial statements of these investments, whether or not the profit is distributed, if the Taxpayer does not commit to calculate and pay Zakat accordingly, these investments shall not be deducted from the Zakat base." Based on the above, and based on the above-mentioned articles and where the Taxpayer is entitled

to deduct the foreign investment from his Zakat base, provided that he complies with the provisions thereof, which is to pay Zakat under a certificate prepared in accordance with the provisions of the regulation and certified by a licensed chartered accountant in the Kingdom in order to calculate the Zakat due on these investments if the Taxpayer does not provide the aforementioned, these investments will not be deducted from his Zakat base, and since the Taxpayer submitted his Zakat calculation and financial statements without paying Zakat, the Circuit partially accepts the Taxpayer's appeal and modify the decision of the Determination Circuit with regard to the clause (Foreign Investments), which is necessary for the Circuit to accept the Taxpayer's appeal.

whereas, with regard to the Taxpayer's appeal regarding the remaining clauses, the Circuit is not to be faulted for adopting the grounds for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is proven that the decision under appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based, which are sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit With respect to the remaining clauses in the case, bearing in mind its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2023-600) issued in case number (ZI-2021-67494) related to the Zakat assessment for the years 2018AD and 2019 AD.

Second: On the Merits:

1- Regarding the Taxpayer's appeal on the clause (investments at fair value through profit or loss for the years 2018 AD and 2019AD):

A- Accepting the Taxpayer's appeal partially and amending the decision of the Appeals Circuit regarding the clause (investments within the Kingdom).

B- Accepting the Taxpayer's appeal and canceling the decision of the Appeals Circuit regarding the clause (foreign investments).



- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Appeals Circuit regarding the clause (share in the net losses of the subsidiary company).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Appeals Circuit regarding the clause (provision for losses of a subsidiary company).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Appeals Circuit regarding the clause (difference in social insurance).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Appeals Circuit regarding the clause (gift expenses).





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

Decision No. IR-2024-170804

Case No. Z-2023-170804

**Principal No. 19**

- The taxpayer is entitled to deduct the investment in a subsidiary from their Zakat base when Zakat is calculated on the taxpayer's share in that investment based on the subsidiary's financial statements.

**Facts**

the appeal filed on 19/01/2023 from AD/... National ID number (...) in his capacity as an agent for the appellant company under power of attorney No. (...), on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6628) issued in Case No. (Z-2021-84200) related to the 2019 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: accepting the objection of the Plaintiff/company ... (Commercial Registration No. ...) on the decision of the Defendant/Zakat, Tax and Customs Authority from a procedural point of view.

Second: On the merits:

1- Demonstrate the end of the dispute With respect to the clause (the company's share of investment losses).

2- Reject all other objections.

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

the Taxpayer disputes the decision of the Appeals Circuit, claiming that with regard to the clause "Investments in subsidiaries and associates for the year 2019 AD - Company ...", the Taxpayer complied with all the requirements of paragraph (II) (b) of Article 4 of the Zakat Regulation. -the Taxpayer submitted the financial statements for the year 2019 AD and the Zakat calculation, stating that there is no Zakat due since he has a negative Zakat base, and confirming the correctness of his calculation of the investments to be deducted from the Zakat base for the disputed year through the investment summary presented in Exhibit

No. (16). the Taxpayer claims that the decision of the Adjudication committee mentioned the existence of sales operations on the investment, which makes it a trade offer, ignoring what was stated in the company's claim sheet that there was no sale movement on the investment from 2011 AD to 2019 AD, which means that the purpose of property acquisition is for reading, and the company subscribed to 200 thousand shares in a company ... (The number of shares has remained the same since 2011 AD, except for the clearing of shares by a Saudi company. the number of shares was reduced to 100,000, but this did not affect the ownership ratio, i.e. the company's ownership percentage in the company did not change. this transaction did not take place with an external party as the absorption of losses through capital does not make this investment a "commercial" investment as no such commercial transactions took place as presumed by the Authority. the Taxpayer also objects to the clauses (Investments in subsidiaries and associates for 2019 AD -...-), (Investments available for sale for 2019 AD - Qatar Bank-), (Investments available for sale for 2019 -...-), (Fair value reserve for 2019 AD) and (Accounts payable for 2019 AD), therefore, the Taxpayer requests the reversal of the decision of the Appellate Circuit for the above reasons.

on Wednesday, February 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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 (investments in subsidiaries and associates for the year 2019 AD - a company...), and where his appeal lies that he has complied with all the requirements stipulated in paragraph (second) (b) of Article 4 of the Zakat Regulations, the Taxpayer submitted the financial statements for the year 2019 AD and the Zakat calculation, and stated that there is no Zakat due because he has a negative Zakat base, and confirms the validity of his calculation of the investments that must be deducted from the Zakat base. Whereas paragraph (5) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH states that it shall be deducted: "5- Investments in an establishment outside the Kingdom for non-trading

purposes, provided that the Taxpayer pays zakat on these investments to the authority based on a certificate prepared in accordance with the provisions of the regulation and approved by a licensed accountant in the Kingdom, with the minimum zakat base for these investments being the Taxpayer's share of the net accounting profit stated in the financial statements of these investments whether the profit is distributed or not, and if the Taxpayer does not comply with calculating and paying zakat accordingly, these investments shall not be deducted from the zakat base." Based on the above, and upon reviewing the documents submitted in the case file, and since the Taxpayer submitted the financial statements for the year ending December 31, 2019 AD, for the invested company and also submitted the zakat calculation; therefore, the Taxpayer is entitled to deduct the investment of the company ... from his zakat base when calculating zakat on the Taxpayer's share in this investment according to its financial statements, which leads the committee to accept the Taxpayer's appeal and cancel the decision of the committee regarding this clause.

whereas, regarding the Taxpayer's appeal regarding the clause (Available for sale investments for 2019 AD - Company...), and where his appeal lies that there is no sale movement on the investment from 2011 AD to 2019 AD, which means that the purpose of property acquisition is for reading, and the company has subscribed to 200 thousand shares in a company ... (The number of shares has remained the same since 2011, with the exception of offsetting the shares by the company against its accumulated losses, where the number of shares was reduced to 100 thousand shares, but this did not affect the ownership ratio. Whereas paragraph (5) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2216) dated 07/07/1440 AH states that it shall be deducted: "Investments in an establishment within the Kingdom for non-trading purposes, if that establishment is registered with the authority, and is subject to Zakat collection under the regulation. assets that are financially leased in the commercial books of the lessor are not considered an investment to be deducted from the Zakat base, regardless of their classification in the financial statements, nor are debit loans, supportive or additional financing and the like granted to the investee organization considered an investment to be deducted from the Zakat base." Based on the above, and after reviewing the documents submitted in the case file and the financial statements for the year in dispute, it is clear from Exhibit 5 that during 2011 AD, the company subscribed to 400,000 shares, and during 2016 AD, the company's ownership was reduced to 200,000 shares in order to reduce the capital of the investee company (...) therefore, since the movement that occurred on the investment did not occur as a result of trading, it must be considered that this investment is for the purpose of property acquisition, which concludes that the Circuit accepts the Taxpayer's appeal and annuls the decision of the Adjudication Circuit on this clause.

Regarding the remaining clauses subject to the lawsuit, there is no fault with the Circuit in adopting the grounds 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 Circuit 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 Circuit 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 Circuit to reject the Taxpayer's appeal and uphold the Adjudication Circuit'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 grounds stated, the Circuit unanimously decided as follows:

### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Limited, commercial registration (...), unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (IFR-2022-6628) issued in case number (Z-2021-84200) related to the Zakat assessment for the year 2018AD.

Second: On the Merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Investments in subsidiaries and associates for the year 2019 AD - Company ... -).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the committee regarding clause (Investments in subsidiaries and associates for the year 2019 AD - Company ... -).
- 3- Accepting the Taxpayer's appeal and canceling the decision of the committee regarding clause (Investments available for sale for the year 2019 AD - Company ... -).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Investments available for sale for the year 2019 AD - Bank ... -).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Investments available for sale for the year 2019 AD - ... -).
- 6- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Fair value reserve for the year 2019 AD).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the committee regarding clause (Accounts payable for the year 2019 AD).



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

Decision No. IR -2024-188983

Case No. Z-2023-188983

Principle No. 20

- If the investments in shares are held for long-term retention (Qunyah) and not for sale or trading, they may be deducted from the Zakat base.

Facts

the appeal filed on 16/03/2023 AD, from ..., National ID No. (...) was considered in his capacity as an attorney under private legal entity license no. (...) In his capacity as an agent under the power of attorney No. (...), and the appeal submitted on 19/03/2023 AD by the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for the adjudication of income tax violations and disputes in the city of Riyadh No. (ISR-2022-113851) issued in Case No. (Z-2022-113851) related to Zakat bonds for the years 2019 AD and 2020 AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit stipulated the following:

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

Second: On the Merits:

1- Cancel the Defendant's action with respect to a distributable surplus clause for policyholders for the years 2019 AD and 2020 AD.

2- Dismissing the claim regarding the long-term investments clause for the years 2019 AD and 2020 AD.

3- Dismissal of the claim With respect to the 2019 AD withholding tax provision.

4- Cancel the Defendant's action With respect to the clause of deferred underwriting costs for 2019 AD and 2020 AD.

since this decision was not accepted by the Taxpayer (Company ...), he filed an appeal list, which was reviewed by the Circuit, as the Taxpayer's appeal lies on the clause (long-term investments): a. Regarding (investments in funds), the Taxpayer clarifies that (a fund ... - Box... - Box...) with reference to the nature of the funds, it is clear that they are funds that invest in purchasing real estate for the purpose of leasing it and achieving periodic income from leasing and distributing a specified percentage of not less than (90%) of the



net annual profits of the fund in cash to the unit holders during the term of the fund, on a semi-annual or quarterly basis each year, these funds invest in purchasing a large number of rental properties that generate rental income a large number of rental properties that generate rental income, and since these funds were established to invest in properties that generate rental income, the number of which are listed in the attached table, and therefore they are considered to be property acquisition assets intended for rent and are not investments based on flipping and trading, and there is no sale of these properties, and whereas the company .... the Taxpayer claims a deduction for the value of the investment in these funds, and the terms and conditions of the disputed funds are attached, which confirms that these funds are for the rental of real estate. the Taxpayer adds that he provided the financial management's decision to invest in the funds and a copy of an account statement showing the balances of the units, and it is clear from the above that the investment intention was documented and that the company still holds its units in these funds, which confirms the company's intention is to purchase units to hold them and invest for the long term. the Taxpayer explains that the investments in the stock market are long-term investments and the Taxpayer has proven the intention to invest and that these shares have extended for a period of more than one year and most of them continue to date and that the dividends distributed from these shares are included in the financial statements and Zakat, in addition to the fact that these invested companies are Saudi companies that are registered with the Authority and pay their Zakat to the Authority. he requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed. this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), which filed a list of appeals demanding that the decision of the Adjudication Circuit be reversed and annulled.

on Thursday, April 25, 2024 AD, the First Appeals Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH

when the parties were called, ..., National ID No. (...), appeared as an agent for the Plaintiff under Agency No. (...), and Afnan Khalid Al-Wael (National ID No. ...), appeared as a representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs under No. (...) on March 19, 1445 AH., the Circuit reviewed the request for postponement attached to the case file by the Authority. accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Sunday, 05/05/2024 AD, and grant the Taxpayer a subsequent period of five working days ending on Thursday, 14/05/2024 AD, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date. the next session will be on 21/05/2024 AD to pronounce the decision.

on Tuesday, 12/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH.; At the call of the parties, ..., National ID No. (...), appeared as an agent for the Plaintiff under power of attorney No. (...), and ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., the Defendant's representative was asked about what it would like to add, and it stated that it adheres to what was previously submitted in this case. when the Plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. when the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

#### Grounds:

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

on the subject, regarding the Taxpayer's appeal on the clause (long-term investments): a- With regard to (investments in funds), and where the Taxpayer's appeal lies in the fact that the funds are funds that invest in purchasing real estate for the purpose of leasing it and achieving periodic income from leasing, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and the Circuit's review of the supplementary response memorandum s ubmitted by the Authority, it appears that it argues that the Taxpayer does not have the authority to manage the investment portfolio and therefore his intention from that investment cannot be determined since the decision to sell or buy is entirely dependent on the management of the second party, and upon reviewing the case file and the Taxpayer's supplementary memorandum, and since the Taxpayer has provided evidence of the intention of the investment, which confirms that the investment is long-term for acquisition purposes and this is supported by the absence of trading operations on these investments, and upon reviewing Annex No. (11) it is clear to the Circuit that control over the investment portfolio in terms of selling and buying the portfolio is in the hands of the investor since the work matched the intention and the



Taxpayer purchased the units with the intention of acquiring them, giving the authority to the portfolio manager to manage them does not mean that the intention is to trade, as the consideration is the nature of the fund and the absence of any speculation or sale, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit with regard to this clause.

b- With regard to (investments in shares) and where the Taxpayer's appeal lies in his proof of his intention to invest and that these shares extended for a period of more than a year and most of them continue to date based on paragraph (4/a) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, and based on paragraph (4) of Article (4) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH: "Investments in establishments within the Kingdom — Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and upon the circuit's review of the attached investment portfolio statement in the Authority's list, it was found that the Authority indicates a sale movement for the year 2019 on some stocks, which are: Moreover, the investment in the shares of the company ... And the company... And the company ... It was excluded in the year 2020, while the attached image from the Authority in its response memorandum does not clarify the buying and selling movement as it shows the balance at the end of the period, the value of the share, and the balance of the value. Upon the circuit's review of the attached documents, it was found that the Taxpayer submitted a detailed stock movement schedule in the portfolio in Appendix No. (11), which shows that there was no sale movement on the stocks that the Taxpayer claims to deduct, confirming that the investments in the stocks are intended for property acquisition and not for sale and trading, and thus they may be deducted from the zakat base, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the Circuit regarding this clause.

with regard to the Authority's appeal on the clause (Deferred underwriting costs for 2019 AD and 2020 AD), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Circuit that the Authority requested to leave the appeal as stated in the letter issued by the Authority in its reply memorandum to the Taxpayer's appeal which includes the following: "The Authority informs your



Honorable Circuit of its request to leave its appeal on this specific clause and its agreement with the terms of the decision and requests your Excellency to prove the end of the dispute." Therefore, the Circuit accepts the abandonment of the dispute.

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

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

#### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial Registration No. (...), Distinctive Number (...), and the Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-113851) issued in Case No. (Z-2022-113851) related to Zakat assessments for the years 2019 AD and 2020 AD.

Second: On the Merits:

- 1- Rejecting the Authority's appeal and upholding the decision of the Circuit regarding clause (distributable surplus for insurance policyholders for the years 2019 AD and 2020 AD).
- 2- Accepting the withdrawal of the dispute regarding the Authority's appeal on clause (deferred underwriting costs for the years 2019 AD and 2020 AD).
- 3- Regarding the Taxpayer's appeal on clause (long-term investments):
  - A- Accepting the Taxpayer's appeal and canceling the Circuit's decision regarding (investments in funds).
  - B- Accepting the Taxpayer's appeal and canceling the Circuit's decision regarding (investments in stocks).
- 4- Rejecting the Taxpayer's appeal and upholding the Circuit's decision regarding clause (the carried forward balance of the withholding tax provision).



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

Decision No. IR-2024-169938

Case No. Z -2023-169938

Principal No. 21

- Zakat is not due on amounts owed to the creditor by government entities when the delay in collection is attributable to the government entities themselves, and not due to the creditor's own negligence or failure to meet the standards and requirements set by the relevant government authority.

Facts



The submitted appeal was heard on: 15/03/2023 AD, from/the Zakat, Tax and Customs Authority, on the decision of the Third Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ITR-2022-6038) issued in Case No. (Z- 2021-44289) related to Zakat assessment for the year 2017 AD, in the lawsuit filed by the appellant against him against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled the following:

First: Procedurally:

Acceptance of the Plaintiff's objection/ Company ... (Commercial Register No. ...), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

- 1- Modification of the Defendant's decision With respect to the "Payments from Customers" clause.
- 2- Annulment of the Defendant's decision With respect to the (government debt) clause.
- 3- Rejecting the Plaintiff's objection regarding the clause (overcharged insurance difference).

this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, as the Authority's appeal is based on the clause (government debts). The Authority explains that it did not allow the deduction of government debts for the year 2017 AD from the Zakat base because this clause represents receivables of the company from government agencies and the clause is not one of the clauses that are deducted from the base in accordance with the clause

secondly, Article 4 of the Zakat Collection Regulations stipulates that debt zakat is to be paid as a prospective debt and on a person who is solvent, based on Sharia Fatwa No. 19643 dated 23/05/1418 AH, answer to

the first question, paragraph (6), which stipulates "The debts that a company owes to its debtors on one or more dates, regardless of their terms, are subject to zakat if they are in the hands of a debtor who is full and not procrastinating and the creditor is able to recover his money." accordingly, the Taxpayer's objection was rejected in accordance with this clause due to the validity of the Authority's procedure, which was upheld by Appeal Decisions No. (1066) of 1432 AH and (1463) of 1436 AH. the Circuit did not ask the Taxpayer for any detailed explanation to prove the validity of the Taxpayer's argument, and the Authority did not find any documents attached in this regard in anyway, which makes the decision worthy of annulment, and the Authority affirms that the Taxpayer's argument before the Circuit has no validity because it is not based on evidence that can be relied upon. it is not clear to the Authority on what basis the Circuit relied on the fact that these documents are related to the clause under appeal and not others, and whether what the Taxpayer submitted to the Circuit is related to the year under appeal or not, as this was not clear from it, and whether the Circuit reviewed the certification of the chartered accountant or not, and the Circuit did not explain how this clause was reached in a detailed accounting and legal manner, which must be taken into consideration, so the Authority affirms the correctness and integrity of its procedure. since the Defendant's initial objection lacked documentary proof of the clause under appeal, an explanation of how it was initially processed by the Authority, proper accounting proof of this clause, and a detailed certification by the legal accountant, Based on the above, the Authority rejected the Defendant's objection based on Article (XX) paragraph (3) of the Zakat Collection Regulation, which states: (The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in the event that the Taxpayer is unable to prove the validity of the clauses in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make a discretionary link according to the Authority's view in light of the circumstances and facts related to the case and the information available to it), so the Authority maintains the validity and regularity of its procedure, and requests that its appeal be accepted and the decision of the Adjudication Circuit on the clause subject to its appeal be reversed.

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

#### Grounds:

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



because it was submitted by a competent party and within the statutory period prescribed for conducting it.

On the merits of the Authority's appeal on the clause (government debts), and where the Authority's appeal lies in its decision not to allow the deduction of government debts for the year 2017 AD from the Zakat base because this clause represents receivables owed to the company from government agencies and the clause is not one of the clauses to be deducted from the base, and based on Fatwa No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Fatwa on debts due from government agencies, which stipulates the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran." (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." Based on the above, it is clear to the committee from the above legal fatwa that zakat is not obligatory on the creditor for the amounts due to them from government entities that they cannot collect due to delays from the government entities and not due to their own negligence or failure to comply with the standards and conditions set by the government entity. Upon reviewing the case file, it became clear to the committee that the Taxpayer did not provide evidence of their claims to the government entities, and that the inability to collect the due amounts is a result of the shortcomings of that entity, which leads the committee to accept the appeal of the authority and cancel the decision of the Circuit regarding this clause.

with regard to the Zakat, Tax and Customs Authority's appeal on the clause "Advances from Customers for 2017 AD", the Circuit is not faulted for adopting the grounds for the decision under appeal without adding to them when it assesses that these reasons do not contain anything new, because in supporting it with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and because it is established that the decision under appeal regarding the dispute regarding the disputed clauses the issuing Circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, which leads this Circuit to reject the Authority's appeal and uphold the decision of the Adjudication Circuit on appeal. With respect to the result it reached in this clause, bearing in mind its reasons.

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

#### Decision:

First: Acceptance of the appeal in the form of the appellant/Zakat, Tax and Customs Authority, against the decision of the Third Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ITR-2022-6038) issued in Case No. (Z- 2021-44289) related to the Zakat assessment for the year 2017 AD.



Second: On the merits:

- 1- The authority's appeal is rejected and the decision of the Circuit regarding the clause (advances from customers for the year 2017 AD) is upheld.
- 2- The authority's appeal is accepted and the decision of the Circuit regarding the clause (government debts) is canceled.



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

Decision No. IR-2024-171190

Case No. Z-2023-171190

### Principal No. 22

- A debt may be deducted from the Zakat base if it is proven that the inability to collect the debt is due to delays by the other party, and not due to any negligence on the part of the taxpayer.

### Facts



the appeal filed on 24/01/2023 AD from/... National ID number (...) in his capacity as Vice Chairman of the Board of Directors of the Appellant Company in accordance with the Articles of Association, the appointment decision and the commercial register, and the appeal filed on 26/01/2023 AD from the Zakat, Tax and Customs Authority (ZTA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2569) issued in Case No. (Z-2021-82235) related to the Zakat assessment for the year 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, where the decision of the Adjudication Circuit ruled as follows:

- 1- Accepting the Plaintiff's objection to the difference between revenues and VAT returns.
- 2- Rejecting the Plaintiff's objection to the clause of discretionary profits for import teams.
- 3- Accepting the Plaintiff's objection to the clause of estimated profits for unauthorized contracts.
- 4- Rejecting the Plaintiff's objection to the retained earnings difference clause.
- 5- Rejecting the Plaintiff's objection to the clause of other credits.
- 6- Rejecting the Plaintiff's objection to the non-discounting clause.
- 7) Rejecting the Plaintiff's objection to the clause on the non-deduction of overdue government debts.
- 8) (a) - Plaintiff's objection to the non-discounting clause for payments to suppliers was rejected.
- 8) (b) - Plaintiff's objection to the prepaid expenses clause is dismissed.
- 9) Rejecting the Plaintiff's objection to the clause on the non-deduction of employee advances.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (deduction of late government debts) that the Authority did not deduct the government debts in the amount of SAR(5,116,986) from the Zakat base for the year 2018 AD, and he stated that he attached all the supporting documents consisting of the analytical statement of these debts and official letters demanding the collection of the debt. He also explained that the amounts are dues of the company to government agencies from the years before 2010 AD until 2017 AD, and emphasized that he tried to collect these amounts several times without response from these agencies, so the Taxpayer requests that these debts be deducted from the company's Zakat base for the year 2018 AD. the Taxpayer also objects to the clauses (estimated profits on import difference), (retained earnings difference), (other credits), (non-deduction of investments in the capital of foreign companies - the debtor partner's neighbor), (deduction of payments to suppliers), (expenses paid), and (employee advances). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

with regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to the clause (estimated profits for unauthorized contracts) that it added the clause unauthorized contracts to the net profit due to the failure to provide supporting documents, as the Taxpayer was previously requested to provide a detailed statement of all contracts for 2018 AD (name of the contracting party - contract value - implemented from the contract - remaining contract), but the Taxpayer provided a statement of government customers worth SAR(55,003,487) and the contract of the Ministry of Defense worth SAR(603,051) and the rest for private parties, SAR(487,003,003) the Ministry of Defense contract worth SAR(603,051) and the rest for private entities, while it turned out that the amount recorded in the automated system as contracts for 2018 totaled SAR(243,151,464), and therefore the amount was profitable as follows: total contracts according to the automated system (243,151,464) - Government contracts according to the Taxpayer's statement (55,606,534) = Difference Unauthorized contracts (187,544,930), 10% unauthorized contracts difference profit (18,754,493). since the decision under appeal was based on the fact that the Authority did not provide a statement of government contracts for 2018 AD, the Authority provided an Excel statement of these contracts, which was extracted from the Authority's automated system, and since the Taxpayer did not provide a statement of all these contracts and did not provide a justification for this difference, the burden of proof falls on the Taxpayer. therefore, the Authority maintains the validity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

on Monday, February 12, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the

contents of the case file, the circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the circuit decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits of the appeal of the Authority regarding the clause (Revenue Difference and Value Added Declarations), and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the lawsuit is set, the content of the lawsuit and the answer must be monitored before the agreement is recorded, taking into account that the origin of the lawsuit is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the lawsuit or some of it is among those agreed upon." Based on the above, and where it has been proven to this Circuit the Authority's request to leave the appeal as stated in the letter issued by it in the supplementary appeal list submitted on December 24, 2023 AD, which includes: "Firstly, the Authority appeals against clause (1) of the Circuit's decision to accept the Plaintiff's objection to the difference between revenue and value-added declarations. Her point of view is as follows: - the Authority would like to inform the Honorable Circuit that it has withdrawn its appeal in relation to the above-mentioned clause in particular and the consequences of the Authority's appeal for this clause in accordance with the decision of the Adjudication Circuit, which concludes that the Circuit accepts the abandonment of the litigation."

regarding the Authority's appeal regarding the clause (Estimated Profits for Unauthorized Contracts), and where its appeal lies in the fact that it added the clause unauthorized contracts to the net profit at the time of linking, due to the lack of supporting documents. Based on the above, and where the dispute lies in the failure of the Authority to submit the statement of contracts extracted by it; as the total amount of contracts as shown is SAR(243,151,464) and that the Authority's action was to maximize the difference in contracts, and upon reviewing the case file; and where the Authority submitted an excel statement of contracts and after reviewing it, it is clear that the statement did not include all parties as it included only part of the



amount (SAR160,734,610) and this amount included the name of the entity contracted by the Taxpayer and the name of the Taxpayer as indicated in the statement, and with regard to the rest of the amount, it did not indicate the names of the contracted entities except that it came with the amounts only, which leads the Circuit to partially accept the Authority's appeal and amend the decision of the Adjudication Circuit in this clause in the amount of (160,734,610) riyals and reject the rest.

whereas, regarding the Taxpayer's appeal regarding the clause (Discounting of overdue government debts), and where his appeal lies in the fact that the Authority did not discount the government debts in the amount of (5,116,986) riyals from the Zakat base for the year 2018 AD, and states that he attached all the supporting documents represented by the analytical statement of these debts and official letters demanding the collection of the debt, and explained that the amounts are dues of the company with government agencies from the years before 2010 AD until 2017AD, and emphasizes his attempt to collect these amounts several times without response from these agencies. The fatwa number (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Ifta regarding the debts owed by government entities stated the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and since zakat is a form of support, it is not obligatory for a person who cannot collect it and does not have any of it in their hands." Based on what has been presented, it is clear that the authority did not accept the deduction of delayed government debts and argues that those debts owed by government entities represent debts on a solvent person and thus zakat is due on them. The Taxpayer argues that those amounts represent a debt owed by a solvent person and that those amounts cannot be collected due to the delay of that entity and not due to any negligence on their part. Upon reviewing the facts of the dispute regarding the clause, it is clear that it is limited to whether it can be deducted or not and whether it represents a debt that cannot be collected or not. It is clear that the Taxpayer provided an analytical statement of the delayed debts from before 2010 until 2017 and also provided official correspondence to the entities requesting those debts represented in (...), and it is clear from the Taxpayer's situation and the documents submitted that the clause represents a debt on a solvent person that cannot be collected, and the reason is not due to the Taxpayer but rather due to the delay of the entity and not due to any negligence on their part, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Circuit regarding this clause.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the Circuit'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 Circuit that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This Circuit did not find anything that would warrant correction or comment in light of the arguments presented before it. This Circuit therefore rejects the appeal and upholds the decision of the Circuit 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 grounds stated, the Circuit unanimously decided as follows:

### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company..., Commercial Registration (...), Unique Number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first Circuit regarding violations and disputes of income tax in Jeddah with number (IZJ -2022-2569) issued in case number (Z-2021-82235) related to the zakat assessment for the year 2018AD.

Second: On the Merits:

- 1 - Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (revenue differences and value-added declarations).
- 2 - Acceptance of the authority's appeal partially and amending the decision of the Circuit regarding the clause (estimated profits for unreported contracts).
- 3 - Rejection of the Taxpayer's appeal and upholding the decision of the Circuit regarding the clause (estimated profits on import differences).
- 4 - Rejection of the Taxpayer's appeal and upholding the decision of the Circuit regarding the clause (retained earnings differences).
- 5 - Rejection of the Taxpayer's appeal and upholding the decision of the Circuit regarding the clause (other credit balances).
- 6 - Rejection of the Taxpayer's appeal and upholding the decision of the Circuit regarding the clause (not deducting investments in the capital of foreign companies - debtor partner's account).
- 7 - Acceptance of the Taxpayer's appeal and canceling the decision of the Circuit regarding the clause (deduction of delayed government debts).
- 8 - The Taxpayer's appeal is rejected and the decision of the Circuit regarding the clause (deduction of advance payments to suppliers) is upheld.



9 - The Taxpayer's appeal is rejected, and the decision of the Circuit regarding clause (paid expenses) is upheld.

10 - The Taxpayer's appeal is rejected, and the decision of the Circuit regarding clause (employee advances) is upheld.



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

Decision No. IR-2024- 173743

Case No. Z-2023-173743

Principal No. 23

- The taxpayer's submission of evidence proving the payment of Zakat on their investments serves as proof of compliance with Zakat obligations related to those investments.

Facts



The appeal filed on 30/01/2023 AD, from (...), National ID No. (...), as an agent of the appellant company under power of attorney No. (...), was considered.), and the Zakat, Tax and Customs Authority (ZTA), on the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2600) issued in Case No. (Z-2021-78231) related to the Zakat assessment for the years 2016 AD to 2018AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Dismissed the Plaintiff's objection to the provision of taking into account the Plaintiff's share of profit or loss in foreign subsidiaries for the years 2016 AD to 2018 AD, and dismissed the Plaintiff's objection with respect to not taking into account the Plaintiff's share of the net profit or loss in a company ... for 2016 AD and 2017AD.

Second: accepting the Plaintiff's objection to the foreign currency translation reserve clause for the years 2016 AD to 2018 AD.

Third: rejecting the Plaintiff's objection to the foreign investment clause for the years 2016 AD to 2018 AD.

Fourth: rejected the Plaintiff's objection to the clause of accrued board fees and the amount owed to related parties outstanding for more than 12 months for 2017 AD and 2018 AD.

Fifth: Accepting the Plaintiff's objection to the investment in local subsidiaries clause for 2017AD.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer claims that the Authority did not allow adjustments to the net profit of the company for its share in the profit and

loss of foreign investments in the results of subsidiaries, and did not take into account the entire share in companies (... - Lebanon), (... - Syria) the Taxpayer points out that for the year 2016 AD, the deduction was not allowed due to the lack of a balance in the financial statements, while for 2017 AD, the Authority did not take into account the closing balance of the deducted investments and added SR (55,951) to the adjusted net profit. The Taxpayer requests that the full amount of the share in all subsidiaries for the years 2016 AD through 2018 AD be taken into account. With regard to the clause (foreign investment), the Taxpayer requests the cancellation of the Circuit's decision on this clause on the basis of not deducting the foreign investment for the years 2016 AD to 2018 AD, as the Taxpayer indicates that he submitted the audited financial statements for the disputed years and submitted the calculation of zakat for foreign investments, and provided the mail proving that the Taxpayer paid the outstanding zakat liability in the amount of (SAR 519,359), and adds that the Circuit will allow the deduction of foreign investments from the zakat base based on the explanations and documents submitted by the Taxpayer. Regarding the clause (Accrued expenses and amounts due to related parties), the Taxpayer requests that the Circuit's decision on this clause be canceled on the basis of the objection filed by the company before the Authority against the rulings issued by it, on the grounds that the amounts added to the Zakat base were not used to finance fixed assets.

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

with regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (foreign currency translation reserve), so the Authority explains that it did not allow the currency translation reserve to be deducted from the Zakat base because it is not deductible and there is no provision in the Zakat Collection Regulation issued in 1438 AH to deduct it during the stage of studying the objection, the Authority held a hearing with the Taxpayer on 18/08/2021 AD, in which he stated in accordance with what was stated in his objection letter, and the Authority asked him to provide a simple definition of the foreign currency translation reserve from its inception to its use and its daily restrictions, and after studying and reviewing it, it was found in addition to what has been clarified above, the Authority would like to state that the Zakat Collection Regulation in its Article (4) specifies the clauses that are deducted from the Zakat base, and there is no provision for deducting the currency translation reserve with regard to the Circuit's reasoning, the Authority responds that it is incorrect and contrary to the statutory requirement, and the Circuit issuing the decision under appeal overturned the Authority's decision as it took into account the results of the foreign currency translation valuation the reason for not deducting foreign investments within the elements of the Zakat base is that the foreign financial statements have not been approved by the official authorities in the country of investment, as the actual calculation or payment of Zakat has not been proven, which is represented in the investments since the foreign currency translation reserve clause is directly related to the clause of recognizing gains or losses from a foreign investment that was not deducted within

the Zakat base for the grounds referred to above, as the decision of the Adjudication Circuit is not based on fact or reality, so how can the gains or losses incurred from foreign investments that have not been accepted and the impact resulting from these differences be recognized? in addition, the Circuit's decision referred to its reliance on Article (IV) paragraph (h) of the Zakat Regulation does not apply to the clause as it is related to the results of revaluation of securities from profit or loss according to the market value, while the clause is related to foreign investments that have not been accepted, which supported the Authority's action in the third paragraph of the same decision. regarding the clause (Investment in local subsidiaries), the Authority states that it deducted the balance of the first period of investments after adding the additional contribution to the capital during the year (61,633,888) SAR for the year 2017 AD, and after studying and reviewing the movement of investments for the company's factory ... for the year 2017 AD, there is an additional investment amount of 50 million, representing losses incurred during the year and not an additional contribution to capital. After reviewing the financial statements of the subsidiary, it appears that the Taxpayer owns 100% of it. The Taxpayer reported a reduction in zakat, and upon reviewing the subsidiary's tax return, it was found to be zero, and no zakat was paid during the year in question. The losses carried forward at the beginning of the year were deducted from the zakat base in the amount of SAR 78,366,111. Upon reviewing the list of changes in the equity of the subsidiary, this loss appears at a value of 50 million. Accordingly, it is clear that the Taxpayer used the amount of 50 million to reduce the opening balance of the accumulated loss, which the subsidiary benefited from by deducting it in full from its zakat base, as explained above. In addition, the Taxpayer benefited from the net loss of SAR 19,439,700 by adjusting the net profit in the consolidation. Accordingly, it is clear that the amount of SAR 50 million was not subject to zakat twice and no zakat was paid on it to be deducted from the Taxpayer's zakat base. Furthermore, it does not represent an additional investment, as explained in the financial statements. In light of the above and based on the provisions of paragraph (a/4) of Article (4) of the Zakat Collection Regulations issued in 1438 AH. As for the grounds stated by the court, the Authority responds that they are incorrect and contrary to the provisions of the law. The court that issued the decision under appeal overturned the Authority's decision, stating that the company in which the investment was made is subject to zakat collection in the Kingdom. The Authority responds to this by stating that, after reviewing the financial statements of the company in which the investment was made (the factory of the international company ...) Unique number (...). by reviewing the list of changes in equity of the investee company, it is clear that the value of the accumulated losses at the beginning of the year is SAR (78,366,111), and it turns out that there are losses borne by a related party (Defendant) in the amount of SAR (50,000,000), with reference to the linkage approved by the Authority in the investee company, it turns out that the accumulated losses were treated according to the linkage of the Authority, i.e. after the Authority's adjustments to the adjusted net profit without deducting the loss coverage of the accumulated losses provided by the Taxpayer, and therefore it clarifies what was approved from the deduction of the accumulated losses in the investee company based on Article (3/II) paragraph (9) amounted to SAR (26,273,634) and therefore what the Taxpayer did was to

cover the accumulated loss but it turns out that the deduction of the entire loss in the investee company (the company's factory ...) therefore, the Taxpayer's claim to deduct the value of the accumulated losses within the investments has been deducted in the investee company, in addition to the fact that the amount of covering the accumulated losses does not represent an additional investment as it is in the financial statements, and the Authority's treatment of the investment in the investee company (the International Company Factory ...) with the addition of the first period and the additional financing in addition to a share of the year's loss, and Based on the above, the Authority maintains the validity and soundness of its procedure, based on Article (4) paragraph (4/a) of the Zakat Regulation issued in 1438 AH.

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

#### Grounds:

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

on the subject of the Authority's appeal regarding the clause (Investment in local subsidiaries for the year 2017 AD), the Authority states that it deducted the first period balance of investments after adding the additional contribution to the capital during the year SAR (61,633,888) for the year 2017 AD. Based on paragraph (4/b) of clause (second) of Article (4) of the executive regulations for zakat collection issued by Ministerial Decision No. (2082) dated 1/6/1438 AH, which states: "The following shall be deducted from the zakat base:" 4- (A): investments in establishments inside the Kingdom - joint venture with others - if those investments are subject to the collection of Zakat under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." The Circuit considered the subject of the dispute, and with reference to the supplementary memorandum submitted by the Authority, it stated that with reference to the declaration of the subsidiary company, which is the factory of a company ... according to Article (3) of the Executive Regulations for Zakat Collection, it turns out that the accumulated losses were processed according to the Authority's link, i.e. after the Authority's adjustments



to the adjusted net profit, where the carried forward and adjusted losses after the Authority's adjustments amounted to SAR (29,426,554,88) based on Article (3) of the Executive Regulations for Zakat Collection, it turns out that the deduction of the entire loss in the investee company (the company's factory ...) was utilized therefore, what the Taxpayer claims to deduct the value of the accumulated losses within the investments has been deducted in the invested company, and therefore the amount of (50) million has not been subjected to Zakat twice and Zakat has not been paid on it to be deducted from the Taxpayer's Zakat base, in addition to not representing an additional investment as shown in the financial statements, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Determination Circuit regarding the clause "Investment in local subsidiaries for 2017 AD." The Circuit concludes that the Authority's appeal should be accepted and the decision of the Determination Circuit should be overturned.

regarding the Taxpayer's appeal regarding the clause (excluding the share in the results of subsidiaries), the Taxpayer claims that the Authority did not allow adjustments to the company's net profit by its share in the profit and loss of foreign investments in the results of subsidiaries, and by not taking into account the full share in companies (... - Lebanon), (... - Syria) on the basis that these investments are not discount clauses, and the Authority did not allow adjustments to the net profit of the company with its share in the loss of the company ... The Taxpayer points out that for the year 2016 AD, the discount was not allowed due to the lack of balance in the financial statements for 2017 on the basis that the Authority did not take into account the closing balance of the discounted investments and added SAR (55,951) to the adjusted net profit and the Taxpayer demands that the full share amount be taken into account in all subsidiaries for the years 2016 AD through 2018 AD. whereas paragraph (107) of the Accounting Standard for Equity Method Investments issued by the Accounting Standards Committee in 1423 AH (2002) stipulates that "An investment shall be measured, recognized and disclosed in the financial periods following the date of acquisition at its historical cost, adjusted for the investee's net income (loss) and dividends." Based on the above, with respect to (foreign investment in subsidiaries), namely (a company ... limited (... - Lebanon) and a ... (Syria), where the Authority stated that it did not accept the deduction of this investment because it is a foreign investment that has not been recommended, and where the decision of the Circuit concluded to reject the Authority's appeal regarding the clause Foreign Currency Translation Reserve for the years 2016 AD, 2017 AD and 2018 AD, as the Taxpayer provided proof of the recommendation of the investment and therefore what is related to it follows its judgment, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding (foreign investment in subsidiaries).

regarding the Taxpayer's appeal regarding the clause (Taxpayer's share of the net profit or loss in a company ... the Authority explained that it accepted the discount during the examination phase and stated that the company is registered with the Authority and the financial statements of the subsidiary did not show any first period balance for the year 2016 AD, and upon reviewing the financial statements of the Taxpayer, it found that the investments in 2016 AD amounted to SAR (490,763) as the Taxpayer submitted the financial statements and a balance appeared in Note No. 6, the Authority accepted the discount for 2017 AD, but the adjustment



was not made for 2016 AD because there was no balance for this year other than what was shown in the financial statements, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding (the Taxpayer's share of the net profit or loss in a company .. for 2016 AD).

regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. whereas, there is no fault on the part of the Circuit in adopting the grounds for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit With respect to the rest of the clauses at issue in the case, based on the grounds for the decision.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., Commercial Registration (...), Unique Number (...) the appeal filed by the Zakat, Tax and Customs Authority against the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ-2022-2600) issued in Case No. (Z-2021-78231) related to the Zakat assessment for the years 2016 AD to 2018 AD.

Second: On the Merits:

1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (rejecting the appeal regarding the foreign currency translation reserve clause for the years 2016 AD, 2017 AD and 2018 AD).

2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Investment in local subsidiaries for the year 2017 AD".

3- Regarding the Taxpayer's appeal on the clause (excluding the share in the results of subsidiaries for the years 2016 AD, 2017 AD and 2018 AD):

a. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (foreign investment in subsidiaries).



- b. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (the Taxpayer's share of the net profit or loss in a company... for 2016 AD).
- c. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (the Taxpayer's share of the net profit or loss in a company ... for the year 2017 AD).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (foreign investment for the years 2016 AD, 2017 AD and 2018 AD).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (accrued expenses and amounts owed to related parties for 2017 AD and 2018 AD).



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

Decision No. IR-2024- 168952

Case No. Z-2023-168952

### Principle No. 24

- The Regulations issued in the year 1438H supersede all previous resolutions and circulars related to Zakat collection.

### Facts

the appeal filed on 11/01/2023 AD from (...), National ID No. (...), as an agent of the appellant company under the agency (...), and the appeal filed on 12/01/2023 from the Zakat, Tax and Customs Authority), and the appeal filed on 12/01/2023 AD from the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ)-2022-2443) issued in Case No. (Z-2021-68548) related to the 2015 AD Zakat assessment, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: rejecting the Plaintiff's objection to the clause of withdrawals to the partners from the profits carried forward.

Second: accept the Plaintiff's objection to the fixed assets clause.

Third: deny the Plaintiff's objection to the creditors clause.

Fourth: a. Rejecting the Plaintiff's objection to the shares clause.

b. Reject the Plaintiff's objection to the (...) clause.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, the Taxpayer's appeal is regarding the clause "Investments for 2015 AD (a) Bank of ... shares" that the shares in Bank of ... (a company listed on the Saudi stock market) are investments that meet the conditions for deduction from the base according to the Executive Regulations for the Collection of Zakat, and states that proof was provided to the Authority and the portfolio account statement issued by Riyadh Capital, in addition to the financial



statement disclosure related to the clause, the Taxpayer also objects to the clause (Withdrawals to the partners from the carried forward profits for the year 2015 AD), the clause (Creditors for the year 2015 AD) and the clause (Investments for the year 2015 AD (b) shares of a company .accordingly, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

with regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal with regard to the clause (Fixed Assets for 2015 AD) lies in the fact that it discounted the fixed assets according to the approved financial statements because the Defendant is a Zakat Taxpayer and used the fixed premium in depreciation with reference to the rejection of the appeal in a previous decision for adding depreciation differences in excess and noting that he did not calculate the depreciation difference correctly and discounted assets for more than their book value in subsequent years, during the objection phase, a meeting was held with the Taxpayer on 6/21/2021 AD, and he was asked to submit Table No. (4) showing the assets and their depreciation, and the Authority's action was upheld for the same Taxpayer by Appeal Decision No. (IR-2020-61) issued in Case No. (Z -2018-1602) for the same Taxpayer. In addition, the Taxpayer's calculation of the fixed assets and depreciation difference is incorrect according to Table No. (4), and therefore the Authority maintains the correctness of its procedure in approving the fixed assets according to the financial statements, as it is more accurate in calculating the real amount of net fixed assets and preventing the Taxpayer from calculating fixed assets greater than their value, whereas, the Taxpayer did not submit a settlement in the calculation of fixed assets in accordance with the afore mentioned appeal decision until 2015 AD in order to be reviewed and audited by the Authority and continued his incorrect calculation in the years following the decision issued against him, and based on these facts, the Circuit issuing the decision canceled this clause because the Authority did not provide proof that the appellant's calculation was incorrect, and the Authority responds that the Circuit's conclusion is incorrect, whereby by reviewing the course of the Taxpayer's objection, it is clear that the Authority through its study of the objection submitted by the Taxpayer before its submission to the General Secretariat was requested to submit Table 4 (Statement of assets and depreciation of the Taxpayer...) therefore, the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above-mentioned reasons.

on Sunday, January 28, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the



decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds:



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

On the merits, regarding the Authority's appeal regarding the clause (Fixed Assets for 2015 AD), and where its appeal is that the Taxpayer's calculation of fixed assets and depreciation difference is incorrect according to Table 4, the Authority maintains the correctness of its procedure in recognizing fixed assets according to the financial statements, as it is more accurate in calculating the real amount of the net fixed assets. Where paragraph (2) of Article (7) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: Where paragraph (3/A) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, it is clear that the dispute lies in the Authority's procedure of deducting fixed assets in accordance with the approved financial statements because the appellee is a Zakat Taxpayer and using the straight line in depreciation based on the incorrect calculation of the Taxpayer of the depreciation difference in the correct manner and its deduction of assets greater than their book value, and by reviewing the case file; it was found that the Taxpayer did not submit his calculation of the fixed assets and depreciation difference, in light of the issuance of a previous decision against him with the number (IR-2020-61) mentioned above, where it was proven The calculation of the Taxpayer is incorrect, as the First Instance Committee, which was supported by the Appeal Committee, examined the statement submitted by the Taxpayer and it was found that its calculation was incorrect. Therefore, the burden of proof in the case under consideration falls on the Taxpayer to prove the validity of its calculation. The Authority also indicated that the Taxpayer did not submit a settlement in the calculation of fixed assets in accordance with the aforementioned appeal decision until 2015 in order to be reviewed and audited by the Authority and continued to be incorrectly calculated in the years following the decision issued against it. This does not affect the acceptance by the Circuit of the Taxpayer's objection based on the non-retroactivity of laws. The regulation issued in 1438 AH

supersedes all previous decisions and circulars related to the collection of Zakat. Accordingly, the Taxpayer did not provide proof that his calculation is correct, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit in this clause.

with regard to the Taxpayer's appeal regarding the clause (Investments for 2015 AD (a) Bank shares...), his appeal is that the shares in a bank (a company listed on the Saudi stock market) are investments that meet the conditions for deduction from the base according to the Executive Regulations for Zakat collection, and he states that proof was provided to the Authority and the portfolio account statement issued by Riyadh Capital as well as the financial statement clarification related to the clause. article (4), clause (II), paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates that "The following shall be deducted from the zakat base:" 4 - (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, two basic conditions must be met for investments to be considered as property acquisition offers and may be deducted from the Zakat base, namely the documented intention of the authority holder that clarifies the intention of the investment, and the absence of sales made during the year on those investments, and by reviewing the case file, it appears that the Taxpayer submitted Note (15) of the financial statements related to investments, through which it appears that the shares of Bank ... the Taxpayer also submitted an extract from the system with the investment income from 2007 to 2016 and showed that there was no sale on the shares, so it is clear that the shares of the bank ... there is no intention to sell based on the documents submitted, which leads the Circuit to accept the Taxpayer's appeal and overturn the decision of the Adjudication Circuit in this clause

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the Circuit'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 Circuit that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This Circuit did not find anything that would warrant correction or comment in light of the arguments presented before it. This Circuit therefore rejects the appeal and upholds the decision of the Circuit 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 grounds stated, the Circuit unanimously decided as follows:



### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., Commercial Registration (...), Unique Number (...) The appeal submitted by the General Authority of Zakat and Tax against the decision of the first Circuit regarding violations and disputes of income tax in Jeddah with number (IZJ -2022-2443) issued in case number (Z-2021-68548) related to the zakat assessment for the year 2018 AD.

Second: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (fixed assets for the year 2015 AD).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Withdrawals to the partners from the 2015 AD carry-over profits).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the 2015 AD creditors.
- 4- Regarding the Taxpayer's appeal on the clause (Investments for 2015 AD):
  - a- Accepting the appeal and canceling the decision of the Adjudication Circuit With respect to the clause (Bank shares...).
  - b- Rejecting the appeal and upholding the decision of the Adjudication Circuit With respect to the clause (shares of a company...).



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

Decision No. IR -2024-196545

Case No. Z-2023-196545

### Principal No. 25

- Assets registered in the names of partners may be deducted from the Zakat base, provided that such assets are used in the business activity and supporting justification is submitted explaining the reasons preventing the transfer of ownership to the company.

### Facts

the appeal filed on 07/05/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR -2023-96697) issued in Case No. (Z-2022-96697) related to the 2018 Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Procedurally: accepting the Plaintiff's objection/...(distinctive number (...)) On the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

1- Revoke the Defendant's action With respect to the exclusion of land registered in the name of partners for the year 2018 AD.

2- Revoke the Defendant's action regarding the 2018 AD investments clause worth SAR 990,461.

3- Dismissing the Plaintiff's objection with regard to the partners' current clause for the year 2018 AD amounting to SAR 112,837,242.

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

the Authority objects to the decision of the Adjudication Circuit, claiming that with regard to the clause (exclusion of lands registered in the name of the partners), the Authority clarifies that when linking, it excluded the lands because they are not in the name of the company, and when examining the objection, the Taxpayer provided a copy of the land deed in the Laban neighborhood and maintained his objection that if the lands are not resolved, they should also be excluded from the partners' streams referring to the company's activity, it is clear that it consists of establishing and developing housing, entertainment,





commercial and industrial projects and selling or leasing them for the benefit of the company, buying land to erect buildings on it by selling or leasing it for the benefit of the company, and owning and selling real estate for the benefit of the company, i.e. they are trade offers and not property acquisition offers as they are intended for sale and therefore are not deducted from the base

in addition to the fact that they are not in the name of the company but in the name of the partners, as shown in Note No. (8) of the financial statements and instruments submitted by the Taxpayer, and they correspond to an activity of the Taxpayer, which is the purchase and sale of land and real estate, which means that they are goods even if their stay in the books of the Taxpayer exceeds more than a year, as they are in this case current assets intended for sale and the period of their stay with the company depends on supply and demand factors in the market, as two basic conditions must be met to consider such investments as long-term investments, namely the availability of documented intention of the authorized person before the decision to invest and the absence of trading operations that took place during the year on these investments in response to the Taxpayer's list, the Authority responds that the land that is not in the name of the company and whose ownership has not been transferred according to the latest financial statements has been excluded, and since the land that the company claims to deduct from the Zakat base is not in the name of the company and is not used in the activity, the Taxpayer's objection is rejected based on Article (IV II/1) of the Executive Regulations governing the collection of Zakat. regarding the "Investments" line clause, the Authority discounted real estate investments at the time of linking and did not discount the investment in the ... in Cairo Square for failure to provide documents and its purpose, which was discussed on 05/10/2021 AD, and the draft link was sent on 27/10/2021 AD, and due to the failure to provide data supporting his point of view and the failure to respond to the previously requested data attached to his objection, the Taxpayer's objection was rejected based on Article (20/3) of the executive regulations regulating the collection of Zakat, in accordance with Article (20/3) of the executive regulations regulating the collection of Zakat as for what the Taxpayer referred to in his claim list, it is not legally valid for what the Authority explained above, and there is no validity to what he addressed in his list, as it is not based on valid evidence that can be relied upon, and as for the Circuit's recommendations, the Authority answers that they are incorrect and contrary to the statutory requirement, and the Authority maintains the validity and soundness of its procedure.

on Sunday, 16/07/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

## Grounds:

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

On the merits, and as for the Authority's appeal with regard to the clause (Exclusion of lands registered in the name of the partners), the Authority clarifies that when linking it excluded the lands because they are not in the name of the company, and when studying the objection, the Taxpayer submitted a copy of the instrument of land in Laban district and adhered to his objection that in the event that the lands are not deducted, they should also be excluded from the partners' neighbors, and by reference to the company's activity, it becomes clear that it is represented in the establishment and development of housing, recreational, commercial and industrial projects and selling or leasing them for the benefit of the company and buying land to build buildings on them by selling or leasing them for the benefit of the company and owning and selling them Real estate is for the benefit of the company, that is, it is trade offers and not investment offers as they are prepared for sale and therefore not deducted from the Zakat base in addition to the fact that they are not in the name of the company but in the name of the partners as shown by clarifying No. (8) the financial statements and the instruments submitted by the Taxpayer, and they are also approved for the activity of the Taxpayer, which is the purchase and sale of land and real estate, which means that they serve as goods even if their stay in the Taxpayer's books exceeds more than a year, in this case they are current assets prepared for sale and the period of their stay with the company depends on the supply and demand factors in The market, as well as the availability of two basic conditions for considering such investments as long-term investments, which are the documented intention of the authorized person before the issuance of the decision in investments and the absence of trading operations that took place during the year on those investments, and this is not available to the company, as it turns out that part of the land has been disposed of, and in response to what was stated in the Taxpayer's regulation, the Authority answers that the land that is not in the name of the company has been excluded and its ownership has not been transferred according to the latest financial statements and in view of the fact that the land that the company claims to deduct from the Zakat base is not in the name of the company and is not used in the activity and the rejection of the Taxpayer's objection based on Article (Fourth Second/1) of the Executive Regulations governing the collection of Zakat. based on paragraphs (1) and (2) of clause (II) of Article (IV) of the Executive Regulations for Zakat Collection, which stipulates the following: "The following is deducted from the Zakat base: 1- Fixed assets, which include the following: The net value of fixed assets (property acquisition assets) and any payments for purchasing fixed assets and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer (unless there is an obstacle preventing the

transfer of ownership) and that they are used in the activity." Based on the above, it appears that the assets in the name of the partners may be deducted from the Zakat base provided that these assets are used in the activity with proof of the justifications that prevent the transfer of ownership to the company. The Circuit reviewed the case file and the documents it contained, and found that the Authority partially abandoned the appeal in the amount of ( SAR 29,320,296). regarding the difference amounting to SAR 34,610,618, and the Taxpayer provided a declaration from the partners that the land belongs to the company and stated in his reply memorandum that there are ongoing development operations on these lands, noting that the Taxpayer's activity, according to the commercial register attached to the Adjudication stage (Real Estate Register 1444), "is to establish and develop residential, recreational, commercial and industrial projects, sell and lease them for the benefit of the company, purchase land to erect buildings on it by selling or leasing for the benefit of the company and own and sell real estate for the benefit of the company..." therefore, the Circuit accepts the partial dismissal of the appeal in the amount of (SAR 29,320,296), reject the Authority's appeal, and uphold the decision of the Adjudication Circuit in the amount of (SAR 34,610,618).

whereas, with regard to the Authority's appeal regarding the clause (Investments), the Authority, at the time of linking, discounted real estate investments and did not discount the investment in a tower ... in Cairo Square for failure to provide documents and its purpose, which was discussed on 05/10/2021 AD, and the draft link was sent on 27/10/2021 AD, and due to the failure to provide data supporting his point of view and the failure to respond to the previously requested data attached to his objection, the Taxpayer's objection was rejected based on Article (20/3) of the executive regulations regulating the collection of Zakat, in accordance with Article (20/3) of the executive regulations regulating the collection of Zakat as for what the Taxpayer referred to in his claim list, it is not legally valid for what the Authority explained above, and there is no validity to what he addressed in his list, as it is not based on valid evidence that can be relied upon, and as for the Circuit's recommendations, the Authority answers that they are incorrect and contrary to the statutory requirement, and the Authority maintains the validity and soundness of its procedure. based on paragraph (4a) of Article 4 of the Executive Regulations for Zakat Collection, which stipulates the following: "The following shall be deducted from the zakat base:" 4- (A): investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, if the investment in those establishments is not subject to collection, it is not deducted from the base." Based on the above, where two basic conditions must be met for investments to be considered as property acquisition offers and may be deducted from the zakat base, namely the documented intention of the authority holder that clarifies the intention of the investment, and the absence of sales made during the year on those investments. however, the Authority referred to the financial statements for the subsequent year (2019 AD) and found that there was a sale movement on these investments, indicating that the subsequent year is considered revealing of the company's intention towards the project and stating that it turned out to be for sale, and upon reviewing the case file, the Circuit found that the appellant against her submitted an account of the investment from the ledger for only one



year the appellant did not clarify the years he owned this investment and what his intention was, especially since in the year after the year of the dispute he disposed of the investment by more than 40% of its value, which makes it necessary for the Circuit to accept the Authority's appeal and cancel the decision of the investment Adjudication Circuit.

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

### Decision:

First: Acceptance of the appeal procedurally from the Zakat, Tax, and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (ITR-2023-96697) issued in case number (Z-2022-96697) related to the zakat assessment for the year 2018 AD.

Second: On the Merits:

1- Regarding the clause (exclusion of land registered in the name of partners):

a- Accepting the partial abandonment of the appeal in relation to the Authority's appeal in the amount of SAR(29,320,296).

b- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit in the amount of SAR(34,610,618).

2- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding (Investments).



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

Decision No. IR-2023-168162

Case No. Z-2023-168162

### Principle No. 26

- Housing loans granted to employees may be deducted, provided that the company is not entitled to any financial gains or fees in return for such loans, in accordance with the Implementing Regulations of the Zakat Collection Law issued in 1440AH.

### Facts

the appeal filed on 08/01/2021 AD, from /... (Licensed by the Ministry of Justice under the attached license) as an agent of the company. the appeal filed on 10/01/2021 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Dammam City No. (IZD-2022-2378) issued in Case No. (Z-2022-113359) related to the Zakat assessment for 2019 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority (ZTA):

- 1- Modify the Defendant's decision regarding the deduction of the company's share of profits from...
- 2- Dismissing the Plaintiff's objection With respect to the other non-traded assets clause (Home Ownership Program)
3. Annul the Defendant's decision regarding the reimbursement section of the declaration.

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

with regard to the Taxpayer's appeal against the decision of the Severance Circuit, the Taxpayer appeals the decision of the Severance Circuit, stating that he disagrees with the decision of the Circuit as the company (...) is a company... with a commercial register number (...) a copy of the Zakat declarations and audited financial statements for the years 2019 AD and 2020 AD, and the company relies on the equity method of accounting to record its investments in other companies, where they are initially recorded at cost and adjusted later, and the company reports that the share of income from these investments has been subject to Zakat in the Zakat declaration, as the share of income from local invested companies has been excluded to avoid flexing in Zakat. with regard to the clause (Exclusion of other non-current assets (Home Ownership Program)), the Taxpayer appeals the adjudication decision where he stated that the company builds



housing units for its Saudi employees and the houses under construction are capitalized as part of the construction in progress. Upon completion and distribution of these houses to eligible employees, allocation agreements are signed, which stipulate that the housing unit remains owned by the company until the conditions in the allocation are met, which is the employee's stay for a period of time in the company and it is not entitled to sell or rent it, and the housing allowance is deducted.

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

with regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority appeals the decision of the Adjudication Circuit, stating that it has taken into account the amounts paid with the return amounting to SAR 36,362,273 and SAR 53,114,338 for the years 2019 AD and 2020 AD, respectively, according to the statement of account in the system, an explanation of which is attached to the appeal regulations, as it is clear from the above statement of account that what was paid by the Taxpayer when he submitted the return was taken into account, as the amounts appear in the statement of account with a negative movement since they were paid by the Taxpayer to the Authority. according to the above, it is clear to Your Excellency that the Circuit's decision is incorrect and that the Authority's action is correct and valid.

on Tuesday, 09/01/2024, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated: 21/04/1441 AH.; At the call of the parties, Mr. ..., National ID No. (...), appeared as the Plaintiff's agent under power of attorney No. (...), and Mr. ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., the Circuit decided to close the pleadings and reserve the case for adjudication.

### Grounds:

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

on the merits of the Taxpayer's appeal regarding the provision (disallowing the deduction of investments up to the share in the profits of the ... company), and where the Taxpayer's appeal lies in his claim to exclude the company's share in the profits of the investee company "Company ..." when calculating the profit subject to Zakat, and upon reviewing the grounds for the contested decision, it appears that it was concluded to

amend the Authority's decision regarding the exclusion of Zakatable profits from the profits of the investee company to avoid double deduction, and the deduction of investments after excluding the company's share in the profits to avoid double deduction, which shows that the Authority accepted the company's request to exclude the company's share in the profits of the investee company "Company ..." therefore, the company's request regarding this clause should be dismissed, and the operative part of the decision should be amended to "accept the Plaintiff's objection" instead of "modify the Defendant's decision".

whereas, regarding the Taxpayer's appeal regarding the clause "Exclusion of Other Non-Current Assets (Home Ownership Program)", and based on Article (5) of the Zakat Collection Executive Regulation issued by Ministerial Decision No. (2216) dated 07/07/1440 AH and amended by Ministerial Decision No. (58705) dated 21/9/1444 AH, which stipulates the following: "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" (f) Housing loans paid to employees through employee housing support programs, if their contracts include a statement that the financing was through Hassan loan or forward sale without the company accruing any financial profits or fees in excess of the principal amount of the financing."

Based on the above, and since the dispute lies in the appellant's claim to deduct long-term receivables from the Zakat ownership program for the years 2019 AD and 2020 AD, while the Authority considers that it is not permissible to deduct the clause as the receivables owed to employees under the ownership of housing units are not considered deductible clauses in accordance with the provisions of the Executive Regulations for the Collection of Zakat for the year 1440 AH, and by reviewing paragraph (f) of Article (5) of the Zakat Regulation for the year 1440 AH and amended by Ministerial Resolution No. (58705), it is clear that it allowed the deduction of housing loans granted to employees in the event that the company does not accrue any financial profits or fees for those loans, and since Ministerial Resolution No. (58705), by which the above article was amended, included in Clause (Second) that the decision is effective from the date of its issuance, and therefore the company has the right to deduct other non-current assets (home ownership program) from the Zakat container for the years 2019 AD and 2020 AD, which the Circuit accepts the appeal of the taxpayer and cancel the adjudication decision regarding this clause.

whereas, with regard to the Authority's appeal on the clause (paid from the declaration), since the dispute lies in whether or not the Authority took into account the amounts paid in dispute when submitting the declaration, and upon reviewing the Authority's supplementary memorandum, it turns out that the Authority provided copies of the Taxpayer's account statement in the system, which shows that the Authority reversed the payments made by the Taxpayer for SAR(36,362,273) and SAR(53,114,338) for the years 2019 AD and 2020 AD, which appear on the account statement with a negative movement as it was paid by the Taxpayer to the Authority, which means that the appeal should be accepted and the decision of the Circuit should be annulled.

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



### Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first Circuit regarding violations and disputes of income tax in the city of Dammam with number (IZD-2022-2378) issued in case number (Z-2022-113359) related to the zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1- Dismissing the Taxpayer's appeal on the provision (disallowing the deduction of investments within the limits of the share in the profits of a company ...).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Exclusion of other non-current assets - Homeownership Program -).
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (paid from the return for the years 2019 AD and 2020 AD).





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

Decision No. IR-2024-176885

Case No. Z-2023-176885

**Principle No. 27**

- Assets may be deducted, provided that they are used in the business activity.

**Facts**



Regarding the appeal filed on 09/02/2023 AD, from/... National ID number (...) as the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 12/02/2023 AD against the decision of the Second Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ISR-2022-1830) issued in Case No. (Z-2021-71193) related to the 2015 AD Zakat assessment, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

1/A- Dismissal of the case with regard to the clause of deduction of investment property related to (...).

1/B - Cancel the Defendant's action With respect to the clause of deduction of investment property related to (projects under implementation).

since this decision was not accepted by the Taxpayer (a company ... the Taxpayer filed a list of appeals, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (Investment Property Discount), the Taxpayer explained that the company is appealing the decision of the adjudication committee, which included the rejection of the company's objection to investment property related to (...) For the year 2015, the Committee permitted the deduction of fixed assets registered in the names of the partners from the zakat base, provided that such assets were used in the business activity and that justifications for the inability to transfer ownership to the company were presented. Accordingly, it is important to note the accounting treatment of these assets: when such assets are recorded in the company's accounts, this entails recognition of the credit side used to finance them — whether from internal or external sources such as loans, additional capital, or otherwise — based on the principle of double-entry accounting, which requires balance and equality between the two sides of the balance sheet. Therefore, either the financier of the asset must be added to the zakat base and the corresponding asset deducted, or the financier is not added and

the corresponding asset is not deducted. However, when referring to the procedure followed by the General Authority of Zakat and Income (GAZI), it is observed that it did not allow the deduction of these lands while at the same time including their funding sources in the zakat base, which resulted in requiring the company to pay zakat on these lands. That is because the financing sources for these assets and real estate investments were already added to the zakat base. By not accepting the deduction of these assets, the Authority, in effect, demands zakat on them due to the lack of title transfer or their personal use. Notably, the company added the credit balance of the partners' current accounts — amounting to SAR 271,908,615 for 2015 AD — to the zakat base, and therefore the corresponding fixed assets recorded in the company's books should be deducted. The underlying philosophy of the indirect zakat calculation method, which levies zakat on assets by adding their sources of funding, logically dictates that when the funding source is added and the asset is not deducted, the asset is effectively being zakated. It is a well-established zakat principle that property acquisition assets are not subject to zakat under any circumstances — whether registered in the name of the taxpayer or not, and whether used personally or commercially. Thus, we ask the Authority: is it legally permissible under Sharia to impose zakat on property acquisition assets merely because they are not registered in the company's name, or due to personal use? If the answer is no, then they must be deducted from the zakat base. If the answer is yes, then what is the Sharia basis that justifies zakat on property acquisition assets? this is confirmed in fatwa no: (22644) issued by the Permanent Committee for Scientific Research and Fatwa, which states: "What the company buys of real estate, cars and the like for the purpose of using them and not for the purpose of trading in them is not subject to zakat, and this is equal to what is transferred or not, as this has no effect on the establishment of ownership" (attached), as this fatwa confirmed the right of the company to deduct these assets, investment properties and real estate investments mentioned even if they are not registered in the company's name, as long as they are assets, investment properties and real estate investments that belong to the company and have been paid for from the company's funding sources and are reflected in equity and long-term liabilities in the financial statements. it should be noted that the Authority has taken this action considering that these properties are not registered in the name of the company but are registered in the name of the partners, and the company objects to the action taken by the Authority, as these properties are actually owned by the company and recorded in its books and it has the full right to dispose and use them and no partner has the right to do so, and the company exercises its activity proven by the memorandum of association through these properties and other properties of the company. The Authority's failure to accept the deduction of the said real estate investments actually results in these assets being subject to Zakat and added to the Zakat base indirectly, which is a legally impermissible measure, as these assets are assets of property acquisition and use, for which the company may not be required to pay Zakat. the committee also stated that "a lease contract was submitted in 2017 for the Jeddah warehouse, which is not the year in question and is not related to the subject of the dispute." We disagree with the committee's statement, as the document confirms the company's control over the warehouse completely, as the lease contract included that the company is the

leasing party, and the leasing revenues are included in the company's revenues, which confirms the use of the property in the company's activity, which entails that it must be deducted from the Zakat base. The Honorable Committee also stated "After reviewing the Zakat return for the year in question, it appears that the balance of the partner's neighbor (zero)," and we do not know where the Committee deduced that the partner's balance (zero), while it appears in the return that the funding from the partners' neighbor is added to the full value of the base, as the other additions in the return submitted by the company in the amount of SAR(258,196,365) and the return amended by the Authority in the amount of SAR(259,614,502), which shows the addition of the partner's neighbor to the base. For further clarification, the balance of the partner's neighbor in the audited financial statements shows an amount of SAR (271,908,615), and the total liabilities and equity in the financial statements amounted to SAR(289,878,729), which clearly confirms that the amount related to the partner's neighbor has been added to the Zakat base. The committee stated that with regard to the Al-Thumama rest house property, the Plaintiff stated that this land was mortgaged to the National Bank and the mortgage was released in 2017 AD, which prevented the land from being transferred in the name of the company, while what it was necessary to mention was that the Zakat assessment was issued in 2021 AD, and the company still did not transfer this land in its name, but it was sold and its profit was entered in the financial statements, and this matter confirms that the mortgage is the reason for not transferring ownership of the property in the year in dispute, and the committee stated that the property was sold based on the company's decision according to its financial situation. The committee stated that the property was sold based on what the company decided according to its financial situation, which necessitated the abandonment of this property, and the committee recognized that the company sold the property and entered its profit in the financial statements, which confirms the company's ownership and acquisition of these assets. The principle is that all assets recognized in the company's audited financial statements belong to the company, are at its disposal, and are used in its activity immediately or in the future, and whoever claims otherwise has the burden of proof, and since the Authority has not provided any proof or evidence of this, the principle is that these assets are included in the company's activity, and this is confirmed with the sources of financing these assets entering the zakat base and affecting the zakat base, and if these assets were not included in an activity, the correct procedure would be not to add the sources of financing for them as well, but what the Authority is claiming is clearly flawed and unfair to the company's right. What the Authority is demanding is clearly flawed and unfair to the company, as the Authority demands the addition of the sources of financing for these assets while not accepting their deduction from the deductions, under the pretext that the assets are not used in the company's activity. This shows the incorrectness of the procedure from the Sharia perspective, as it is not permissible to pay Zakat on this asset, as well as from the accounting perspective, as the accounting proof is a single unit that cannot take one part of it without the other, and from the regulatory perspective, as the incorrect recognition of these assets requires that all the effects resulting from them are incorrect, not that one part is taken without what corresponds to it. By way of further clarification, those investment properties that the Authority did



not accept the deduction are the property of the company and appeared in the financial statements issued by the company as property of the company and certified by a certified public accountant, and they were recorded in the accounting system with entry No. (674) dated December 31, 2014 AD (the entry of adding assets to the company at their cost) by increasing the partners' current credit against them, and the accounting proof was (increase fixed assets and increase partners' current credit), and the company added the partners' current credit to the Zakat base (increase of the base) this means that not deducting the fixed assets corresponding to the account of the partners' current account added to the base means that these assets are subject to Zakat, and this is the idea and philosophy of the indirect method that depends on the Zakatization of assets by adding their funding sources, and this applies to the assets of the entire company, as all assets are definitely funded by funding sources, and therefore we request the Zakat, Tax and Customs Authority to accept this deduction. on the other hand, with reference to Article 4 of the Executive Regulations of the Zakat Collection Law issued by Ministerial Decision No. (2082) dated 01/06/1438H (), the following are deducted from the Zakat base: "Fixed Assets: "The net value of fixed assets (property acquisition assets), any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is a barrier that prevents the transfer of ownership - and that they are used in the activity Based on the above, the land and investment properties that are not deducted from the Zakat base are owned by the company and have been classified as long-term assets as shown in the company's financial statements and supplementary notes, and as it is known that investment properties are properties that are held for more than one year, and therefore they are property acquisition assets that must be deducted from the Zakat base, and we would like to point out that Fatwa no: (22644), which states: "What the company buys of real estate, cars and the like for the purpose of using them and not for the purpose of trading in them is not subject to zakat, and this applies equally to what is transferred and what is not, as this does not affect the proof of ownership." This fatwa confirmed the right of the company to deduct the investment property mentioned - above - this fatwa is supported by the executive regulation issued by Ministerial Decision No. (2216) dated 07/07/1440 AD, which took into account that the non-acceptance of the deduction of a Zakat asset financed from funding sources added to the base requires it to be zakatable in accordance with what was explained above, as the regulation allowed the deduction of fixed assets acquired for the purpose of use in the activity without requiring ownership as long as they are added in the financial statements, as Article 5 of the executive regulation stated "The following clauses are deducted from the Zakat base for the Taxpayer who maintains commercial books: 1- Net fixed assets and the like, including, but not limited to, the following: (a) Fixed assets acquired for the purpose of use in the Taxpayer's activity, at the book value shown in the financial statements." We also confirm that we have all the relevant proofs that can be provided to the Authority, which means that the statutory conditions for accepting the deduction of investment property have been met, and therefore the Taxpayer requests that his appeal be accepted and that the decision of the Adjudication Circuit on the clauses subject to his appeal be reversed.

on Monday, on: 22/04/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, and since the Circuit found nothing to require the presence of the parties to the case, the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds:



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

the Taxpayer's appeal is regarding the Taxpayer's appeal regarding the clause (deduction of investment properties), where the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that it is a property acquisition asset and is not legally permissible to zakatit. based on paragraph (1) of clause (II) of Article (IV) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2082 dated 01/06/1438 AH, which stipulates that "The following shall be deducted from the Zakat base: 1 - Fixed assets include the following: The net value of fixed assets (property acquisition assets) and any payments for purchasing fixed assets and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer (unless there is an obstacle preventing the transfer of ownership) and that they are used in the activity." Based on the above, it was found that at the time of linking, the Authority disallowed the deduction of investment properties represented by ... and the land behind ... accordingly, it was found that in order for the assets to be deductible, they must be used in the activity, and when referring to the documents, it was found that the Taxpayer did not attach proof of the obstacle that prevents him from transferring the ownership of real estate registered in the names of the partners, and that his statement that these lands are financed from the partner's current account is not sufficient, and it was also found from the decision of the Dispute Adjudication Circuit that the partner's current account added to the Zakat base according to the Taxpayer's declaration is zero. mortgaged to the bank... the Taxpayer also included the profit of the land in the financial statements in the year of its sale in 2021 AD and subjected it to Zakat, which shows that it is acceptable to deduct the real estate ... Since there is something that prevents the transfer of ownership in the year of the dispute, which ends with the Circuit accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (real estate ...).

regarding the ... the Taxpayer did not present anything that prevents the transfer of the ownership of the warehouse to the company, but stated in his list that the warehouse was leased in 2017 AD for SAR (150,000) for one year, and the leasing revenues were recognized in the company's financial statements, thus claiming the validity of ownership, while he did not present proof of this for 2015, the year of the dispute, as 2017 AD is a year subsequent to the dispute, which leads the Circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit regarding (Jeddah Warehouse).

with regard to the land behind the ... the Taxpayer did not provide proof of the company's ownership of the land, as it turns out that the land was in the name of ... it is not in the name of the company and the Taxpayer has not presented anything to prevent the transfer of the ownership of the land to the company for the year in question. this leads the Circuit to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit regarding (the land behind the ... hotel).

with regard to the Authority's appeal regarding the clause "Discount of investment properties (projects under implementation)", and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it is proven to this Circuit that the Authority requested to withdraw the appeal as stated in the letter issued by the Authority in the supplementary memorandum containing the following: "The Authority wishes to inform the Honorable Circuit that its appeal with regard to the above clause specifically and the consequent procedures for this clause as per the decision reached by the Dispute Adjudication Circuit in its reasoning.." Therefore, the Circuit accepts the abandonment of the dispute.

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

#### Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... , commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ISR-2022-1830) issued in case number (Z-2021-71193) related to the zakat assessment for the year 2016 AD.

Second: On the Merits:



1- Accepting the abandonment of litigation with regard to the Authority's appeal on the clause (Discounting of investment properties (projects under implementation)).

2- With regard to the Taxpayer's appeal on the clause (deduction of investment property):

(a) Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding (real estate ...) according to the grounds and rationale provided in this decision.

(b) Rejecting the Taxpayer's appeal and supporting the decision of the Adjudication Circuit regarding (Jeddah warehouse) in accordance with the grounds and rationales mentioned in this decision.

(c) Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding (the land behind the ... hotel) according to the grounds and rationale provided in this decision.



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

Decision No. R-2024-171573

Case No. Z -2023-171573

### Principal No. 28

- The proper Zakat treatment for dividend distributions is to ensure that Zakat has been paid for them by the investee company, to justify not reducing the deducted investment from the Zakat base of the investing company.

### Facts



the appeal filed on 26/01/2023 AD, from/ Company ... and the Zakat, Tax and Customs Authority (ZTCA), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Dammam (IZD-2022-2529) issued in Case No. (Z-2021-80697) related to the 2017 AD Zakat assessment, in the case filed by the Taxpayer against the ZTCA, in which the Adjudication Circuit's decision ruled as follows: The Taxpayer's claim was filed against the Zakat, Tax and Customs Authority:

1. modification of the Defendant's decision With respect to the 2017 AD Investments Clause.
2. annulment of the Defendant's decision with respect to an clause due from related parties for the year 2017 AD.
3. annulment of the Defendant's decision With respect to the clause Investments in foreign companies for the year 2017 AD.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal is in relation to the clause "Investments in local companies for the year 2017 AD", as the appellant (the Taxpayer) requests the annulment of the Circuit's decision on this clause on the basis that the Authority ignored the historical cost of the investments, which resulted in the above differences, most of which consist of amounts paid by the company to acquire investments in excess of the book value of the investments upon acquisition to include goodwill, thus the investment value recorded in the books is higher than amounts disclosed as equity in the financial statements of the investee company according to accounting principles. that the company purchased the investments mentioned in his list of claims at fair market value, which is higher





than the actual cost of the purchased stake. accordingly, the company disclosed this additional value of goodwill as part of the value of the investment in the audited financial statements. the Committee will also note that Article 5(3) of the Zakat Regulation issued by Ministerial Decision no: 2216 clearly states that intangible assets acquired through purchase such as goodwill are deductible from the zakat base during the calculation of the zakat base. the Authority's treatment above is to reject the claim to deduct goodwill from the zakat base without providing any basis or explanation for this treatment. the Authority also assigned this transaction to the fourth paragraph of Article 5 of the Executive Regulations for Zakat Collection. in this regard, the company would like to clarify that the article referred to by the Authority stipulates that the investment may be discounted and not the percentage of ownership in the investment. the Honorable Committee will note that the decision of the adjudication committee to support the Authority's treatment is a failure to recognize the audited financial statements and ignoring the value proven in the audited financial statements approved by a chartered accountant licensed to practice the accounting and auditing profession in accordance with the regulations operating in the Kingdom of Saudi Arabia, not to mention that the idea of relying in determining the value of the investment by multiplying the ownership percentage by the ownership right of the investee company is not sustainable in most matters in achieving the real value of the investment, which confirms the invalidity of the decision of the adjudication committee to support the Authority's treatment. The Company would also like to draw the attention of the Honorable Committee to the fact that the above-mentioned investments were invested from equity and funded by the partners and it was the management's intention to hold these investments on a long-term basis and not for trading purposes. In other words, the money was out of the company's ownership when it financed the said investments, which negates the most important condition under which money is subject to Zakat, which is the ownership of the money.

The appellant (the Authority) stated that it disagreed with the decision of the Circuit under appeal because the Authority deducted the investment in local enterprises in the amount of SAR 202,860,543 from the base based on the company's share in the equity of investee companies from the financial statements of investee companies after reducing it by the amount of the company's share in the profits of investee companies, and the calculation of investments was verified and the amounts matched with balances from the lists of investee companies. moreover, the Taxpayer referred in his reply list submitted before the Adjudication Circuit to misplaced circulars, as what applies to this case are the provisions of the Zakat Regulation issued by Ministerial Decision No. 2082, and it is clear that there is no statutory basis for the procedure of the Circuit issuing the decision.

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

with regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies in relation to the clause (Due from related parties for 2017 AD), as the appellant (the Authority) is requesting

the annulment of the Circuit's decision on this clause on the basis that the Circuit issued the decision under appeal... the ownership percentage, as it represents a debit movement to the owner's current account, the Authority responds that it disagrees with the conclusion of the decision of the Circuit under appeal because the Authority excluded the deduction of the clause from the Zakat base in the amount of SAR 14,000,000, as the due from related parties is for parties that do not have ownership stakes in the company, which are as follows from Note (8) of the financial statements. The Zakat Regulation has authorized the deduction of debit balances of related parties within the limits of their share of the carried-over profits, and since the related party whose debit balance the Taxpayer claims to deduct is not an owner in the company and therefore has no share in the carried-over profits, his balance cannot be deducted, and accordingly the Taxpayer's objection was rejected on the basis of Article (4) II paragraph (5) of the Zakat Regulation, while the Defendant's response stated that the company does not approve the Authority's appeal against the decision of the adjudication committee to allow the claim of related parties from the Zakat base... to bring to the attention of the Honorable Committee that the above loan was granted to the related party, i.e. and registered with the Authority with the unique number ...) in addition, ... a copy of the company's Zakat declaration is attached in Annex 6. the regulator also noted in its views that it had excluded the deduction for the loan to a company that... because it does not have any shares in the company .... in this regard, the company would like to inform the Honorable Committee that ... is 99% owned by Company... holding and 1% for ... as disclosed in Note 1 of the audited financial statements of ... attached in Appendix 7. clause (Investments in foreign companies for 2017 AD).

on Wednesday, 22/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds:

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

on the subject of the Taxpayer's appeal regarding the clause "Investments in local companies for the year 2017 AD", with regard to ... with the distinctive number (...), and based on paragraph (4/a) of Article (4) of the Executive Regulation on Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH: "Investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, and if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on Article 20 (3) of the regulation, which stipulates that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it."

Based on the above, and by reviewing the documents attached to the case file, it was found that the Authority accepted a deduction of SAR (34,589,823) from the Zakat base, in accordance with the share of the company in the equity of the financial statements of the invested company, while the Taxpayer claims to deduct the investment in accordance with its financial statements in the amount of SAR 92,143,770, due to the fact that the difference is represented by goodwill. Accordingly, after reviewing the attached documents, it was found that costs were incurred to acquire the investment in the amount of SAR 80,090,116. The Taxpayer also submitted the documentary evidence of this, represented by the share purchase agreement and proof of payment of the purchase price, and also submitted the documentary evidence of the costs related to professional fees, and by reviewing the financial statements of the company ... specifically, Note (1) shows that the net assets of ... at the time of the acquisition date (January 19, 2015 AD), the value of the investment was SAR 59,800,000 and the Taxpayer's share of it was SAR 23,920,000, thus proving that the Taxpayer paid a value for the investment greater than the net assets of the ... this results in goodwill charged to the investment balance, SAR 56,170,116. As for the remaining difference from the amount of the dispute, it turns out that it is represented by dividends to the costly company in the amount of SAR 1,383,831, where, with reference to the attached documents represented in the financial statements of the investee company for the year 2018 AD, it appears from the statement of cash flows that it distributed profits during the year, as the proper zakat treatment of these distributions is to prove their recommendation to the investee company in order to accept that they do not reduce the investment deducted from the zakat base of the investee company, as the case is not as stated, as it did not appear that the Taxpayer submitted evidence of recommendation for these distributions to the investee company, which determines that it is not accepted to add them to the investment deducted from the zakat base, which means that the Circuit accepts

whereas, regarding the Authority's appeal on the clause (Due from related parties for 2017 AD), and based on paragraph (fifth) of Article (IV), clause (II) of the Zakat Executive Regulations of Royal Decree No. (M/40)

dated 02/07/1405 AH issued on 01/06/1438 AH, "The current account owed to the owner or partner subject to Zakat shall be deducted from the Zakat base to the extent of their share in the rounded profits the current account owed to the owner or partner subject to Zakat shall be deducted from the Zakat base to the extent that it does not exceed their share of the rounded profits", and based on paragraph (II/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decree No. (2082) dated 01/06/1438 AH: "In the case of including the Taxpayer's declaration a credit current account and another debit account, the difference between them is taken, and if a credit current account appears for one of the partners and a debit current account for another partner, no settlement will be made between them....".

whereas, the dispute over this clause is the deduction of the receivable from related parties, as the Authority appeals the adjudication decision and claims that the receivable from related parties should not be deducted because the receivable from related parties is for parties that do not have ownership interests in the Taxpayer company, while the Taxpayer argues that the related party is 99% owned by a company ... holding and 1% for ... the two aforementioned companies are considered owners of the mandated company.

Based on the above, and since the proper treatment of the related party deduction is that the companies' relationship is a direct relationship, while if the relationship is indirect, this is considered as commercial transactions with other parties (third party), which should not be deducted from the Zakat base, and upon reviewing the case file, it was found that the relationship between the Taxpayer and a company ... an indirect relationship as the company's ... owned by a company ... Company .. the company's ... Company .. They also own the company in charge, so it does not affect the deduction of related parties, and what the Taxpayer has argued that these balances have been recommended by the company ... therefore, since Zakat is due on both the creditor and the debtor without there being a second, as the creditor zakatizes the money that he owns and is in the debtor's possession, while the debtor zakatizes another money that he owns and is in his hands and can dispose of, which means that the Circuit accepts the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause "Due from related parties for 2017 AD." This makes it necessary for the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding the clause "Due from related parties".

regarding the Taxpayer's appeal to the rest of the companies (a... - Company... according to its financial statements - a company... - schools...) whereas, there is no blame on the Circuit for adopting the grounds 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, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was included in these reasons, and because it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was in accordance with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the content of the dispute in it the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and this Circuit did not notice any reason to appeal or comment

on it in light of the defenses raised before it, which leads this Circuit to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit on the basis of its reasons.

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

### Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the first Circuit regarding violations and disputes of income tax in the city of Dammam with number (IZD-2022-2529) issued in case number (Z-2021-80697) related to the zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (due from related parties for 2017 AD).
- 2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Investments in foreign companies for 2017 AD).
- 3- Regarding the Taxpayer's appeal on the clause (investments in local companies for the year 2017 AD):
  - a. Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (Company ... recorded).
  - b. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Company ...).
  - c. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Discount for investment in a company ... according to its financial statements).
  - d. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Company ...).
  - e. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (Schools ...).



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

Decision No. IR-2024-136298

Case No. Z -2022- 136298

Principal No. 29

- Partner financing shall be deducted from the Zakat base in proportion to the ownership percentage.

**Facts**

the appeal filed on 07/07/2022 AD by the company ... the appeal filed on 19/07/2022 AD by the Zakat, Tax and Customs Authority against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh, No. (IFR-2022-5096) issued in Case No. (Z-2021-75637) related to the 2015 AD Zakat assessment, in the lawsuit filed by the company ... against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: as a matter of form, the Plaintiff's objection is accepted by the ... (Commercial Register No. ....), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

- 1- Annulment of the Defendant's decision regarding the clause (Foreign Investments for 2015 AD).
- 2- Rejecting the Plaintiff's objection regarding the clause (Accumulated Losses for 2015 AD).
- 3- Annulment of the Defendant's decision With respect to the 2015 AD Shrek Additional Contribution.
- 4- Amending the Defendant's decision with respect to (2015 AD Long-Term Receivables).
- 5- Modification of the Defendant's decision With respect to the clause (Partner Payments for 2015 AD).
- 6- Annulment of the Defendant's decision with regard to the clause (2015 AD Insurance Company Statutory Deposit).

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

this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals, which was reviewed by the Circuit, where its appeal lies with regard to the clause (additional contribution from a partner for 2015 AD), and the Authority explains its basis for its action when linking the non-determination of the parties to the debtor relationship (company ...) after studying the objection, it was partially accepted that the related parties deducted the amount of SAR(422,094,000) (35%) for the years under objection due to the fact that it is subject to Zakat in order to prevent flexing in the calculation of Zakat. Therefore, the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Circuit of Dispute Resolution on the clauses under appeal for the above reasons.

on Tuesday, 30/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

whereas, regarding the Authority's appeal on the clause (Additional contribution from the partner for 2015 AD), where the Authority's appeal lies in the fact that when linking, it did not deduct the debtor's related parties because it is not an element of the deduction from the Zakat base. article (4), clause (II), paragraph (4a) of the Zakat Collection Regulation issued by Ministerial Decision No. 2082 dated 01/06/1438 AH stipulates that "The following shall be deducted from the Zakat base: 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, and upon reviewing the financial statements of the investee company for the year 2015 AD, it was revealed through Note No. (19) about the additional contribution from the partner that financial fees were charged on this clause at a rate of (6%) per year, as the financing costs charged during 2015 AD amounted to SAR 35.1 million, which shows that the disputed clause

represents financing and is therefore discounted by the ownership ratio, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit on this clause.

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

whereas, with regard to the Taxpayer's and the Authority's appeal on the remaining clauses at issue in the lawsuit, the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in supporting them with the content of those reasons, it is certain that it did not find any objections to the decision that merit a response beyond what was included in those reasons it is evident that the decision under appeal regarding the dispute regarding the contested clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants criticism or comment on it

in light of the defenses raised before it, this Circuit concludes that it rejects the appeal of the Taxpayer and the Authority and upholds the decision of the Adjudication Circuit in its conclusion on the remaining clauses at issue in the case, based on its reasons.

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





## Decision:

First: Procedurally:

1- Accepting the appeal from the Taxpayer / ...Company procedurally. commercial Register (...), distinctive number (...), and the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes (IFR-2022-5096) issued in Case No. (Z-2021-75637) related to the 2015 AD Zakat assessment.

Second: On the merits:

1. Accepting the abandonment of litigation regarding the Authority's appeal on the clause (Foreign Investments for the year 2015 AD).
2. Reject the parties' appeal and uphold the decision of the Adjudication Circuit With respect to the 2015 AD Debtor Related Parties clause
- 3 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Partner's payment for 2015 AD).
- 4 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (additional contribution from Shrek for 2015 AD).
- 5 - Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (additional contribution from Shrek for 2015 AD).
6. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Accumulated Losses for 2015 AD).



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

Decision No. IR-2024-127607

Case No. Z-2022-127607

**Principal No. 30**

- A debt that arose during the year and has not completed one full year may not be deducted from the Zakat base.

**Facts**

the appeal was heard on 27/04/2022 AD, from ..., National ID No.(...) as an agent under Agency No. (...) on behalf of the appellant company, the appeal filed on 28/04/2022 AD from the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-687) issued in Case No. (Z-2021-44626) related to the Zakat assessment for the years 2015 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 Circuit ruled as follows: The Taxpayer's claim is filed against the Zakat, Tax and Customs Authority:

First: rejected the Plaintiff's objection to the deferred contributions clause for 2015 AD and 2016 AD.

Second: dismissed the Plaintiff's objection to the trade and other credits for the years 2015 AD to 2018 AD.

third, the Plaintiff's objection to the loan clause is dismissed.

Fourth: accepting the Plaintiff's objection to the investments clause for 2015 AD and 2016 AD.

Fifth : Plaintiff's objection to the employee receivables-homeownership line clause for 2018 AD is denied.

sixth: rejected the Plaintiff's objection to the net investment clause in the 2016 AD and 2017 AD leases.

seventh: accepting the Plaintiff's objection to the other long-term receivables clause for 2016 AD.

eighth: accepting the Plaintiff's objection to the share of other comprehensive loss clause for 2017 AD.

Ninth: accepting the Plaintiff's objection to the severance pay paid for 2018 AD.

tenth: dismissed the Plaintiff's objection to the assets held for exclusion for 2015 AD.

eleventh: rejected the Plaintiff's objection to the unrealized financing component of long-term receivables for 2016 AD and 2017 AD.

as this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit, which included, in essence, that the Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted a list of appeals reviewed by the Circuit, where the Authority's appeal lies on the clause (investments for the years 2015 AD and 2016 AD). The Authority explains that it deducted the balance of the last period after deducting the loan to the subsidiary company, which was not taxed, and during the stage of studying the objection, where the Plaintiff had previously submitted the financial statements of the company ...he submitted the Memorandum of Association of the company and submitted the Board of Directors' resolution approving the increase in the capital and where the additional contribution to the capital appeared according to the list of changes in partners' rights of the company. SAR (75,000,000) in 2015 AD and SAR (990,000,000) in 2016 AD, which is registered with the Authority and submitted the Zakat declaration for the two years and an examination case was opened by the Authority and the link was made for the two years and it became clear through the declaration that this contribution was added to the capital but the company did not have to pay Zakat since the base is negative, so the Authority rejected the Plaintiff's objection regarding the above clause since these amounts were not Zakat in the subsidiary company. with regard to the clause (Other Long-Term Receivables for 2016 AD), the Authority explains that it did not accept the deduction of the clause Other Long-Term Receivables from the Zakat base, as there is no statutory provision supporting the deduction of long-term receivables, and during the stage of studying the objection, the Plaintiff presented a court ruling issued in favor of ...during the stage of studying the objection, the Authority held a hearing on 21/02/2021 AD, in which it explained its viewpoint in its action taken regarding the above clause, and accordingly, the Authority rejected the Plaintiff's objection regarding the above clause, as the Zakat Collection Regulation issued in 1438 AH did not authorize the deduction of any clause from the Zakat base that has no basis in the financial statements, and there is no article in the regulation authorizing the deduction of the clause, as no clause can be deducted except by a statutory text. regarding the clause (End of service gratuity paid for 2018 AD): a- Regarding the amount of SAR (485,062), the Authority explains that when linking, it processed the allocations based on the provisions of paragraph (9) of Article (4) of the Zakat Collection Regulation issued in 1438 AH, which stipulates that: First: The zakat base consists of all the funds of the Taxpayer subject to zakat, including: 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." what the Plaintiff is claiming is the deduction of the payments included in the statement of other comprehensive income, and since the Authority, when linking, took the net profit before zakat according to the income statement, while the elements of comprehensive income were not taken when calculating the due zakat and net profit because they are the result of valuation and not real, the Authority rejected the Plaintiff's objection regarding the above clause, and the Authority maintains the validity of its procedure. it asks that its appeal be accepted and that the decision of the Adjudication Circuit be reversed.

on Sunday, March 10, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; and by calling on the opponents, he/she attended/... national ID No. (...), a s agent for the Plaintiff under power of attorney No. (...) i attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., the Circuit reviewed the supplementary memorandum submitted by the Authority during the hearing, upon presenting this to the Plaintiff's agent, he requested an extension to respond, and the Circuit decided to accept his request and informed the Plaintiff that it must respond to the Defendant's memorandum within a maximum period of Sunday, March 17, 2024 AD, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date. Provided that the next hearing shall be on 23/04/2024 AD, which shall be a hearing for pronouncement of the decision.

on Tuesday, April 23, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; Calling on the opponents, Mr. ... national ID No. (...), as agent for the Plaintiff by virtue of power of attorney No. (...) ... (National ID No. ...) attended, as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., the Circuit decided to close the pleadings and deliberations.

#### Grounds:

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

on the merits, with regard to the Authority's appeal on the clause (Investments for 2015 AD and 2016 AD), and where the basis of the Authority's appeal is that it deducted the balance of the last period after deducting the loan to the subsidiary company, which was not taxed, according to the above, and where the basis of the decision challenged in the revocation of the Authority's action is that the investee company is registered

with the Authority and that the capital contribution was added to its Zakat base, which entails that this contribution is considered an investment that may be deducted from the Zakat base of the company appealed against, and where the Authority indicated in its supplementary appeal note that these amounts are not subject to the investee company, and attached the following

with regard to the Authority's appeal on the clause (other long-term receivables for 2016 AD), and where the Authority's appeal lies in the fact that the debt arose during the year in dispute and did not exceed a year, and after the Circuit reviewed the case file and the papers it contains, and the decision of the Circuit in question, it appears that the Authority's appeal on this clause lies in the fact that the debt arose during the year in dispute and did not exceed a year, and by reviewing Note 26 of the financial statements for 2016 regarding other income it turns out that it includes the clause "Compensation from a customer" for an amount of (96) million riyals, which includes the amount in dispute (48) million riyals, and through non-current assets it is clear that there is an clause "Other long-term receivables" for an amount of (48) million riyals that arose during the year in dispute, which shows that the amount that the Taxpayer claims to deduct from the Zakat base did not exceed one year, and therefore it cannot be deducted from the Zakat base, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Adjudication Circuit on this clause.

regarding the Authority's appeal on the clause (End of service gratuity paid for 2018 AD): a- With regard to the amount of ( SAR 485,062), where the Authority's appeal lies in the fact that when linking, it processed the allocations based on the provisions of paragraph (9) of Article (4) of the Zakat Collection Regulation issued in 1438H. Based on the above, and after reviewing the case file and the papers it contains, the Circuit found through the documents provided by the Taxpayer in the Adjudication phase, represented by an analytical statement prepared manually in addition to financial settlements, and tracing them, it was found that they amount to (3.) SAR 213,562, which is less than the amount claimed by the Taxpayer, SAR 213,562, which turns out to be less than what is declared in the lists and the amount claimed by the Taxpayer, which leads the Circuit to partially accept the Authority's appeal in the amount of SAR (485,062) and modify the decision of the Adjudication Circuit for not proving its payment.

b- With regard to the Authority's appeal regarding ( SAR 3,468,000), Article 70 of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon."

Based on the foregoing, and whereas this circuit has proven the Authority's request to leave the appeal as stated in the letter issued by the Authority in the attachment memorandum the Authority informs your Honorable Circuit that the Taxpayer is requesting that the user be deducted from the allowance and not revaluation, and where the Taxpayer submitted a sample of the cash payment for the user from the allowance along with his objection, and the movement of the allowance according to Note 24 of the Notes to the Financial Statements confirmed the existence of amounts paid, as well as the statement of cash flows. moreover, the amount that the Taxpayer claims to deduct is SAR 3,953,062, while the amount used according to the financial statements is SAR 3,468,000, so the Authority would like to inform the Honorable Circuit to partially leave its appeal by deducting the user from the provision of SAR 3,468,000." Therefore, the Circuit accepts the abandonment of the dispute.

with regard to the Authority's appeal on the clause (share of other comprehensive loss for 2017 AD), and where Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the above, and where it is proven that the dispute ended with the Authority's acceptance of the claimant's requests as stated in the letter from the Authority in the supplementary note, which includes: "In light of the above, the Authority accepts the Taxpayer's view by discounting the amount of SAR 32,142,000 from the net profit without reducing it by the amount of the actuarial profit of SAR 4,111,000 since it was not deducted from the rounded balance." therefore, it is necessary for the Circuit to establish that the dispute over the appeal on this clause is over.

with regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clause was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, in accordance with its reasons.

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

### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial registration number (...), unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the first adjudication committee regarding violations and disputes of income tax in Jeddah province with number (IZJ-2022-687) issued in case number (Z-2021-44626) related to the zakat assessment for the years from 2015 AD to 2018 AD.

Second: On the merits:

- 1- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (deferred contribution) is upheld.
- 2- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (trade payables and other credit balances) is upheld.
- 3- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (long-term loans) is upheld.
- 4- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (employee receivables - ownership of houses) is upheld.
- 5- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (net investment in lease contracts) is upheld.
- 6- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (assets held for exclusion for the year 2015 AD) is upheld.
- 7- The Taxpayer's appeal is rejected and the decision of the adjudication committee regarding clause (unrealized financing element from long-term receivables) is upheld.
- 8- The authority's appeal is accepted and the decision of the adjudication committee regarding clause (investments for the years 2015 AD and 2016 AD) is annulled.
- 9- The authority's appeal is accepted and the decision of the adjudication committee regarding clause (other long-term receivables for 2016 AD) is annulled.
- 10- Confirmation of the end of the dispute regarding the authority's appeal on clause (share of other comprehensive loss for 2017 AD).
- 11- Regarding the authority's appeal on (end-of-service benefits paid for 2018 AD):
  - A- The authority's appeal is partially accepted and the decision of the adjudication committee regarding (amount of SAR(485,062)) is amended.
  - B- Acceptance of the abandonment of the dispute regarding the authority's appeal concerning (amount of SAR(3,468,000)).



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

Decision No. IR-2024- 187839

Case No. Z-2023-187839

**Principle No. 31**

- The general principle in Zakat calculation is to start with the accounting profit and adjust it by adding expenses that are not deductible under Sharia. Thereafter, the Zakat base is determined, which includes both the taxpayer's assets and liabilities. Government grants that have not been received must be adjusted in the Zakat base, as they are considered elements of the balances sheet.

**Facts**

the appeal filed on March 16, 2023 AD, by (...), National ID No. (...), as an agent of the appellant company under power of attorney No. (...), and the appeal filed on 05/04/2023, by (...), and the appeal filed on 05/04/2023 AD, from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6702) issued in Case No. (Z-2021-47421) related to the 2015 Zakat assessment, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: accepting the objection of the Plaintiff/company ... (Commercial Registration No. ...) on the decision of the Defendant/Zakat, Tax and Customs Authority in terms of procedurality.

Second: On the merits:

1- Amending the Defendant's decision With respect to the clause (not deducting the government subsidies due at the end of the year from the net profit for the years 2015 AD and 2016 AD).

2- All other objections were rejected.

Since the decision was not accepted by either party, both submitted appeals, summarized as follows:

Regarding the Taxpayer's Appeal against the Adjudication Circuit's decision, the appeal concerns the clause of "Adding Loan Balances to the Zakat Base for 2015". The taxpayer requests cancellation of the decision on this point and argues that the disputed loans, as described by the Authority, are long-term revolving loans that are settled during the year by issuing a new loan of the same value and term. This, according to the taxpayer, proves the loans are inherently renewable and continuous in nature.





Furthermore, as clarified in the financial statement disclosures, these loans were intended to finance the poultry farm and another factory, which shows that the loans were used to finance capital assets. Regarding 2017 and 2018, the taxpayer disagrees with the Authority's application of Paragraph (3)(b) of Article Four of Ministerial Resolution No. (2216) dated 07/07/1440 AH, arguing that the Authority is applying this provision retroactively to years not covered by it, while ignoring that under Ministerial Resolution No. (2082) of 1438 AH, loans are only zakatable if they have completed a full lunar year or were used to finance long-term assets deducted from the zakat base.

The taxpayer emphasizes that if the Authority were correctly applying the provisions, other parts of the same regulation that are in the taxpayer's favor should also be considered. He argues that treating loans as "revolving" for zakat before the issuance of the Zakat Bylaws is incorrect, as the regulation only applies from 2019 AD onwards.

With respect to 2015 AD and 2016 AD, the taxpayer cites Fatwa No. (22665) dated 15/04/1424 AH regarding zakat on loan and creditor balances, which lays out the conditions for such loans to be subject to zakat. He explains that loans must either complete a lunar year or be used to finance zakat-deductible assets. Since the loans were used for the company's core business operations, and any amounts that did complete a year were already voluntarily included in the zakat base, the Authority's proceedings are in correct.

Short-term loans were repaid within a maximum of six months and used for operating activities. These loans were not used to finance deductible assets. Therefore, the taxpayer refutes the Authority's claim that the loans are inherently revolving and thus subject to zakat, as each short-term loan was governed by a distinct contract with a clear amount, term, and purpose, and was actually repaid, not simply rebooked.

He further clarifies that the definition of "revolving" loans applies only when repayments are book entries, not actual cash settlements. Here, actual repayment took place, which confirms the loans are short-term in nature.

For any loans or financing sources used to fund fixed assets, the taxpayer already added them to the zakat base, including SAR 415,206,845 for 2015 AD (as submitted in the objection through the Authority's "ERAD" portal). The taxpayer states no objection to adding SAR 192,609,351 for 2016 AD and SAR 29,746,155 for 2017 AD — amounts confirmed to have financed fixed assets — provided the Authority reverses its position on adding loans to the zakat base generally.

As for the Authority's Appeal, it pertains to the non-deduction of government grants accrued at year-end from the 2015 AD net profit. The Authority clarifies that it deducted the government grants accrued in 2015 AD and 2016 AD from the zakat base only and rejected the taxpayer's request to deduct them from net profit. It argues that grants are part of the zakat base.

The Adjudication Circuit had amended the Authority's calculation on the grounds that the grants had not yet been received. The Authority replies that based on the decision and the taxpayer's memorandum, the



years in question (2015 AD–2016 AD) predate Ministerial Resolution No. (2082) dated 01/06/1438 AH, meaning taxpayers were not yet required to calculate zakat based on whichever is greater: zakat base or adjusted net profit.

Still, the Authority maintains that Article Two of Ministerial Resolution (2082) explicitly replaces all prior circulars, decisions, and instructions with the procedures in the new regulation. Therefore, the Authority considers it entitled to apply the regulation and its zakat treatment to prior years as long as the objective is to align with Sharia-compliant zakat collection.

Regarding the definition of government grants, according to accounting standards, grants are cash assets or liability reductions provided by the government in return for the company carrying out certain programs or policies. These are short-term transfers meant to fund the company's ongoing operations or to cover exceptional circumstances. Since such grants affect income, they are naturally disclosed in financial statements.

If a grant is recorded in the income statement as revenue, then it should be deducted from the zakat base, meaning it should not be zakated, provided it has not yet been received. Hence, the correct treatment is to deduct accrued but unreceived grants from the zakat base, not from net profit.

On Sunday, 04/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes convened its session via virtual hearing, as permitted under Article (15)(2) of the Rules for the Tax Violation and Dispute Resolution Committees (Royal Decree No. 26040 dated 21/04/1441 AH). After reviewing the appeals, memoranda, case file, and evidence, and confirming the case was ready for adjudication, the Circuit closed the pleading stage and reserved the case for final judgment.

### Grounds:



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

on the subject of the Authority's appeal regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for 2015 AD), the Authority clarifies that it only deducted the outstanding balance of government subsidies for 2015 AD from the Zakat base, and the Taxpayer's objection to deducting the outstanding subsidies from the net profit and not from the Zakat base was rejected, as subsidies are among the clauses in the Zakat base. Based on Fatwa No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Ifta regarding debts due from government entities, which stated the following: "Amounts owed to a person by any government



entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran: " (So fear Allah as much as you are able), and because Zakat is a form of support, it is not due on a person who cannot collect it and has nothing of it in his hand," as stated in paragraph (6) of clause (first) of Article (four) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, stating: First: The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 6- Governmental and non-governmental aid when received", and based on the foregoing, and the Circuit's reflection on the subject of the dispute, as the Taxpayer primarily objects to the non-deduction of non-received government subsidies from the net profit adjusted according to the charge on the income statement, considering their non-entitlement, and not as issued by the decision in question, while the Authority demands the cancellation of the decision of the Adjudication Circuit, as the correct treatment of the clause is to deduct the due subsidies from the Zakat base account by linking and not from the net profit. By reviewing the case file and the documents contained therein, it is clear that the basis of the dispute lies in the Taxpayer's claim to deduct the benefits due and charged to the income statement from the adjusted net profit. Since the origin of Zakat is the calculation of the accounting profit and its amendment by adding expenses that are not allowed to be deducted legally, and then calculating the Zakat base, which includes what is on the Taxpayer and what is on it, and the government subsidies that are not received must be adjusted in the Zakat base, as they are considered elements of the statement of financial position. The Taxpayer also argued that the appeal decision issued against the company for the years 2003 AD and 2004 AD. The decision included the adoption of the deduction of these revenues from the adjusted net profit, and by reference to the aforementioned decision, this Circuit found that the clause was a carryover loss and was therefore affected by these accrued revenues. As for the clause of government subsidies due, the decision indicated that the correct treatment is that the subsidy due from the Zakat base account is deducted in the linkage and not from the net profit, as the adjusted net profit depends heavily on the accounting net profit and the revenues and expenses related to reaching it, and then it is amended from a Zakat perspective and includes expenses that are not permissible to be deducted Zakat such as are not documentary approved and not related to the activity, in addition to the fact that the decision of the Adjudication Circuit was defective, as the Taxpayer is demanding the deduction of different amounts from what actually needs to be deducted, and the claim was not in the place of the deduction of the adjusted profit or the Zakat base, but rather it was based on the accrued revenues charged on the income statement or its balance shown in the financial position, which leads the Circuit to accept the appeal of the authority and cancel the decision of the Adjudication Circuit regarding the clause (non-ded government subsidies due at the end of the year from the net profit for 2015 AD).

whereas, regarding the Taxpayer's appeal regarding the clause (adding loan balances to the Zakat base for 2015 AD), the Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be annulled, and the Taxpayer relied on Fatwa No. (22665) dated 15/04/1424 AH regarding the subjection of

credit balances and loans, which specified the conditions that must be fulfilled in order to subject loans to Zakat, and pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulation is that these loans must have reached the end of the year or were used to finance long-term assets discounted from the Zakat base he pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulations is that these loans have already passed the hawl or have been used to finance long-term assets that are deducted from the Zakat base, and therefore the amounts that the Authority added to the base do not apply to the mentioned criteria for subjecting the company to Sharia Zakat, as the loans obtained by the company were for the purpose of contributing to the financing of the main activity of the company. Where paragraph (5) of clause (First) of Article (Fourth) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What has been used in trade offers and has completed the year", as clarified by the fatwa issued by the Permanent Committee for Scientific Research and Ifta No. (22665) dated 15/04/1424 AH that: "What the company takes from money as a loan from investment funds or others does not escape one of the following cases: A/ That the year passes on all or part of it before spending it, so what has passed on it the year is due Zakat. 2/ That all or part of it is used to finance fixed assets, so there is no Zakat on what has been used for that. 3/ To be used in financing the company's current activity, which is considered one of the offers of trade, in which Zakat must be paid in consideration of what has become of it and to be evaluated at the end of the year." Based on the foregoing, loans are one of the components of the Zakat base of any kind, source or classification, provided that they are transferred or used to finance the assets deducted from the Zakat base without the requirement of transferring them, and by informing the Circuit of the case file, it is clear that the Taxpayer pays, considering that the revolving and renewable loans were issued after the years of the above objection and that their application is inappropriate. Referring to the Zakat and Fatwas list above before the issuance of the new regulation, it was found that the 1440 AH list was complementary to it and did not challenge the previous procedures and articles, but rather complementary. By reviewing the documents attached to the case file, it was found that the movement matched the financial statements and it was not clear that the short-term loans were revolving or renewable loans, as it was not clear that by comparing the dates of repayment of loans with the dates of receipt of the amounts, and by referring to the detailed movement, it is clear that what happened to the divergence was in the amount of SAR (93,825,000), and as for the loans of the Agricultural Development Fund according to the clarification Loans in the financial statements turned out to be for the purpose of completing the poultry farm project and for the purpose of completing a factory ..., which means that their main purpose is to finance the assets and that the current situation in them was SAR (196,500,000), and there is no addition, although the additions during the year funded assets and must

be added to the base if they exist, which ends with the Circuit partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Circuit regarding the clause (adding loan balances to the Zakat base for 2015 AD).

whereas, regarding the Taxpayer's appeal regarding all matters related to the years 2016 AD, 2017 AD and 2018 AD, and upon reviewing the three decisions referred to in its appeal list, it was found that the Taxpayer registered a case for each of the years, and the Circuit issued four decisions in four cases for all years, resulting in four duplicate decisions, which is contrary to the nature of the judicial process and violates the principle of res judicata, in addition to the fact that the decisions in this form make it impossible to study each case properly, as the Plaintiff has submitted defenses and documents for each year in a separate case it is impossible to study each case properly, as the Plaintiff submitted defenses and documents for each year in a separate case, and merging the cases in this manner results in the loss of defenses and documents in separate case files, in addition to the repetition of four identical decisions, and where the Plaintiff is objecting in this case to the year 2015 AD, which requires the Circuit to cancel the decision of the Adjudication Circuit in all matters related to the years 2016 AD, 2017 AD and 2018 AD.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), distinctive number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6702) issued in case number (Z-2021-47421) related to the Zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1 - Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for the year 2015 AD).
- 2 - Acceptance of the Taxpayer's appeal partially and amending the decision of the circuit regarding the clause (adding loan balances to the Zakat base for the year 2015 AD).
- 3- Cancellation of the decision of the circuit in all matters related to the years 2016 AD, 2017 AD, and 2018 AD.



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

Decision No. IR-2024-170015

Case No. Z-2023-170015

**Principle No. 32**

- The portion of loans and advances corresponding to the investment percentage does not constitute lending to a third party. Accordingly, the taxpayer (lender) is entitled to deduct from their Zakat base the portion of loans and advances granted to the subsidiary, in an amount equivalent to their ownership percentage in that subsidiary.

**Facts**

The submitted appeal was heard on: 15/01/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (ITR-2022-6028) issued in Case No. (Z-2021-47573) related to the Zakat assessment for 2016 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: Procedurally:

acceptance of the Plaintiff's objection/ (.....) (.....), on the decision of the Defendant/ Zakat, Tax and Customs Authority.

Second: On the merits:

- 1- Cancellation of the Defendant's decision with regard to the clause (not accepting deductions for investments in listed Saudi companies).
- 2- Annulment of the Defendant's decision with regard to the clause (not accepting the deduction of a loan owed to Company A).
- 3- Reject all other objections.

Whereas this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted an appeal regulation that was reviewed by the Circuit, where the appeal of the Authority lies on the clause (non-acceptance of a deduction of a loan due to Company A), the Authority explained that it did not accept the deduction of loans provided to (A) as it was not recommended by the subsidiary, and after referring to the investment movement submitted by the Taxpayer, these investments were deducted from the Zakat

base and included loans provided to the subsidiary, and as for what was stated in the Taxpayer's objection that (A) the investment movement and financial statements showed that (A) (With a difference in the wording) and did not clarify that it is a company (A), and since the movement submitted by the Taxpayer included the value of the loan within the clause of investments and therefore it was deducted from the Zakat base, and the grounds for the Circuit's decision are answered that it is incorrect and contrary to the correct statutory requirement, and this was directed by the Authority to review the declaration submitted for the year subject of appeal to the appellant company, which showed that the loan was not deducted within the investments, and the Authority also reviewed the financial statements of the company for 2017 and it became clear that the clause was included in the non-current assets as an clause of amounts due from the parties Related to the amount of SAR (30,509,598), and by reference to the financial statements of the company (A) (the company receiving the loan) for the year 2017 AD, the distinctive number (.....) the financial statements of the investee company showed the partners' loans within non-current liabilities, including the Taxpayer's loan in the amount of SAR (21,600,000), and by reviewing the return submitted by the investee company for the year 2017 AD, it is clear that the partners' loans were added to the Zakat base in the amount of SAR (119,781,810), including the Taxpayer's loan in the amount of (21,600,000) riyals, the Circuit's decision concluded that the entire loan should be deducted in the amount of SAR (21,600,000) due to the fact that it is subject to Zakat in the investee company in order to prevent bending, which is incorrect, as it is clear that what must be deducted is the loan in an amount equal to the percentage of the Taxpayer's share in the capital of the investee company, and therefore the Authority maintains the validity and integrity of its procedure and requests that its appeal be accepted and the decision of the Adjudication Circuit regarding the clause under appeal be overturned.

on Thursday, February 29, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

#### Grounds:

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

On the merits, and with regard to the Authority's appeal on the clause (non-acceptance of the deduction of a loan due A), where the Authority's appeal lies in its non-acceptance of the deduction of loans provided to (A), as it was not recommended by the subsidiary. Based on Paragraph (Second/5) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, it is "the current account owed to the owner or partner subject to Zakat, not exceeding their share in the profits carried forward." Based on the above, since the investee company has submitted its Zakat declarations, and the loans and advances to the subsidiary company has submitted its declarations to the Authority, special Zakat treatment is required to avoid discouraging Zakat, as part of the loan and advances (according to the investment percentage) does not represent lending to another party. Therefore, the Taxpayer (lender) is entitled to deduct part of the loans and advances to the subsidiary company from his Zakat base to the extent equal to his investment percentage in the subsidiary company to which he provided the loan. as a result, the Circuit ended up accepting the Authority's appeal in part and modifying the decision of the Adjudication Circuit on this clause.

with regard to the the Authority's appeal regarding the clause (not accepting the deduction of investments in listed Saudi companies), the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that the Circuit did not find any of the objections to the decision worthy of a response beyond what was included in these reasons as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Authority's appeal and uphold the decision of the adjudication Circuit With respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

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

### Decision:

First: Acceptance of the appeal procedurally from the Zakat, Tax, and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (ITR-2022-6028) issued in case number (Z-2021-47573) related to the zakat assessment for the year 2018 AD.

Second: On the Merits:

- 1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not accepting the deduction of investments in listed Saudi companies).
- 2- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not accepting the deduction of an outstanding loan.....).





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

Decision No. IR-2024-170651

Case No. Z -2023-170651

**Principle No. 33**

- The user has the right to apply the straight-line method of depreciation.

**Facts**

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

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

Second: On the merits:

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

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

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

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

2. Regarding the clause (Credits):

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

Plaintiff's objection is denied (2018 AD).

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

#### 4- Rejecting the objection on all other clauses.

Whereas this decision was not accepted by the Taxpayer (.....), he submitted an appeal regulation that was reviewed by the Circuit, where his appeal lies with regard to the clause (adding debts to the Zakat base for the year 2016 AD), so the Taxpayer is aware of what is stated in the executive regulations for the collection of Zakat, in which the Zakat base is specified for those who hold commercial books, as stated in paragraph (10), which stipulates that any clause of liabilities must be added to one of the clauses deducted from the Zakat base, so the criterion for adding debts to the Zakat base is whether these debts are funded or not. With regard to the clause (not deducting the full value of the assets for the year 2016), the Taxpayer explains that the value of the assets according to the financial statements is SAR(73,245,819) and the value of the assets according to the amendment of the Authority is SAR (64,569,144), as the committee relied on the income tax law applied to the persons mentioned in Article Two of the Income Tax Law and accordingly took its decision to reject the clause, and since the clause in objection is a Zakat clause and must be based on the Zakat collection list, the Authority also justified its rejection of this clause that the Taxpayer filled out the asset schedule No. (10) on which the value was calculated. The depreciation calculated by the table in the number that Table No. (10) applies the group method to calculate the depreciation percentage applied according to the tax law. The Taxpayer states that he was unable to submit the declaration without filling the assets table. When the Taxpayer was linked to the Taxpayer by the Authority, the terms of the linkage were reviewed and the regulations were reviewed so that he can understand the procedure carried out by the Authority. According to Article (6) of the Executive Regulations for the Collection of Zakat, which states (If the establishment uses depreciation ratios for its assets that are less than the ratios prescribed above, the depreciation premium may not be increased by the Authority to conform With the prescribed percentages), and since all these assets are used in economic activity, and the chartered accountant has verified their supporting documents and what is stated in the Executive Regulations for the Collection of Zakat, which stipulates (the net fixed assets (property acquisition assets) and any payments for the purchase of fixed assets and the value of spare parts not intended for sale, and provided that the assets are owned by the Taxpayer – unless there is an obstacle that prevents the transfer of ownership – and that they are used in the activity), and with regard to the clause (spare parts for the years from 2016 to 2018), the Taxpayer explains that it was counted in this clause was a mistake by the Authority and the error is due, but the fact that the Taxpayer did not object does not exempt the Authority from reverting to the error because it is a violation of Sharia and order and the instructions of the guardian in this regard, and the documents of the Taxpayer conclusively support the error by the Authority in the method of calculation, and therefore he demands to accept his appeal and overturn the decision of the Adjudication Circuit in the clauses subject of his appeal.

on Monday, February 12, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, through video communication in accordance with the procedures for remote video litigation; based on the provisions of

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

### Grounds:



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

referring to the case file and the attached documents represented in the Authority's reply memorandum, it is clear that it added the clause to the Zakat base on the basis that it is a financed asset, and based on the list of cash flows, it stated that the total addition to fixed assets during the year amounted to SAR 37,903,658, while cash flows from operating activities amounted to SAR 3,882,866, and stated that it is certain that these additions were financed through loans and other commitments. however, by referring to the cash flow statement, it is clear that there are other cash flows from which the asset additions can be financed as follows: -flows from operating activities SAR (3,882,886) - Cash at the beginning of the year SAR (1,671,801) - Change in capital SAR (12,925,000) - Due to related parties SAR (20,213,639) Total cash

inflows without loans = SAR (38,693,326) and that the total addition to fixed assets during the year was SAR (37,903,658), accordingly, it is clear that the addition to the assets may have been financed from any of the above-mentioned activities and did not prove to be financed from loans, as loans appeared as cash during the year in the statement of flows in the amount of SAR (1,150,736) and the company cannot rely on this amount to finance the discounted assets, and by referring to the financial statements, it is not clear that loans financed the discounted assets according to the statement of cash flows, which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

with regard to the Taxpayer's appeal on the clause (not deducting the full value of the assets for 2016 AD), where the Taxpayer's appeal lies in the deduction of the net value of the assets according to the financial statements, and based on paragraph (2) of Article (7) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution (2082) dated 01/06/1438 AH, which stipulates that: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: ...". with reference to the Authority's response, it is not clear to the Circuit how it is calculated, and with reference to the Zakat Regulation, paragraph (2) of Article (7) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH, where the regulation refers to the user's right to use the straight-line method for depreciation. according to the response note issued by the Authority, the Taxpayer is using the straight-line method according to his lists. accordingly, the Circuit considers the Taxpayer's request to approve the amount of the assets deducted from the base as shown in the approved financial statements to be correct, as the Taxpayer attached the approved lists to confirm the correctness of the amount he claimed and as requested by the adjudication committee, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit in this clause.

with regard to the Taxpayer's appeal on the clause (spare parts for the years 2016 AD to 2018 AD), and where the Taxpayer's appeal lies in the Authority's error in calculating the above clause, and based on paragraph (1) of Article (22) of the Zakat Collection Regulation issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH: "The Taxpayer has the right to object to the linking of the Authority within sixty days from the date of receiving the linking letter, and his objection must be in a written and reasoned memorandum submitted to the entity that notified him of the linking. when the objection period expires during the official vacation, the objection shall be accepted if it is delivered on the first working day immediately following the vacation." Based on the above, and since the disputed clause was not included in the list of the Taxpayer's objection to the link issued by the Authority on December 10, 2020. as the Taxpayer did not provide evidence of his objection to this clause before the Authority, as the entity responsible for issuing the link and communicating it to the Taxpayers, the Circuit concludes that this clause should be disregarded.

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



### Decision:

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

Second: On the merits:

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



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

Decision No. IR-2023-161337

Case No. Z -2022-161337

### Principle No. 34

- Long-term employee housing ownership benefits may be deducted from the Zakat base, provided that the company does not generate any profit.

### Facts

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

canceling the Defendant's decision regarding the clause of adding Authority's and follow-up fees related to loans, and rejecting the other requests.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies with regard to the clause (social insurance difference added to the net profit for 2019 AD), the appellant (the Taxpayer) requests to cancel the Circuit's decision on this clause on the grounds that the Authority did not specify the nature of the documents supporting its request, and the company does not agree with the Authority's linkage due to the difference in the bases for declaring salaries and wages in the financial statements and information from the social insurance certificate, and therefore, if the Authority provides reasons for its action, the company will exercise its right to provide the appropriate response, and requests the cancellation of the Authority's linkage on the clause, whereas the response of the Defendant (the Authority) stated that it refunded the overcharged social insurance difference by comparing the social insurance charged to the Taxpayer's accounts according to the trial balance with the social insurance according to the data of the General Organization for Social Insurance, and in response to the statement in

the Taxpayer's list that the Authority did not provide the basis for the linkage, the Authority answers that the clause was mentioned in the linkage sent to the Taxpayer on 22/09/2021 AD, and the Authority's procedure was explained in detail to the Taxpayer during the hearing held on 01/02/2022 AD and he was notified of the linkage and the grounds for rejecting the objection to the clause, so the statement is incorrect in the appeal list, accordingly, the Authority relied on the data of the General Organization for Social Insurance, which represents a third-party document showing the salaries of Saudis and foreigners subject to social insurance, especially since it is the party responsible for collecting the value of social insurance, and by comparing the load on the declaration with the insurance data at 12% of the wages of Saudi participants and 2% of the wages of non-Saudi participants, the Authority rejected the Taxpayer's objection, whereas the Authority bases its procedure on the provisions of paragraphs (2-4) of Article (9) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, and where the adjudication decision concluded in favor of the Authority's procedure, as the Authority presented the method of calculating the difference in the social insurance expense, as for the Taxpayer's objection regarding the failure to inform him of the method of calculating the difference in the expense in the link issued to him and the authority's mere reference to the existence of a difference in the expense, we believe that this does not affect the Taxpayer's right to object and he had to provide proof of the expense from his point of view, as the burden of proof of the validity of the declaration according to the text of the article of the regulation is on the Taxpayer, and it also appears that there was a meeting between the authority and the Taxpayer to discuss the terms of the link, so the Circuit believes that his request does not affect the validity of the authority's action.

With respect to the clause concerning the addition of liabilities related to asset additions, accrued expenses, and other creditor balances for the year 2019 AD, the appellant (the taxpayer) requests cancellation of the Circuit's decision regarding this clause, on the basis that he disagrees with the assessment issued by the Authority and demands that the Authority present the basis of its calculation. He asserts that the Authority assumed certain payable balances were used to finance deductible assets, whereas the company had sufficient cash that could have been used to finance such assets. He also affirms that the company included all creditor balances due for more than one year in its zakat base. Therefore, in the absence of a specific calculation method provided by the Authority, it appears that the additions were mere assumptions. In response, the Defendant Authority stated that, regarding liabilities for asset additions, it had requested from the taxpayer a statement of suppliers of fixed asset additions and spare parts prior to assessment. Upon receiving this from the taxpayer, the Authority included supplier balances for assets and spare parts by taking the lower of the opening or closing balance, treating them as funding sources for assets deducted from the zakat base. The taxpayer, in his response dated 30/09/2021 AD, acknowledged that only SAR 4,820,936 should be added, whereas the Authority added SAR 5,013,756 based on the submitted data. The Authority also explained that, upon reviewing the submitted supplier schedules, it was clear the balances were used to finance the deducted assets and spare parts. Regarding accrued expenses, the Authority added

the advance payments clause at the lower of opening or closing balance, and also included dividends payable, since no evidence was provided that these dividends were deposited in a separate bank account. During the Authority's review of the objection and at the hearing held on 01/02/2022, the Authority explained this clause in detail and inquired about the dividend payments. The taxpayer claimed they were deposited in accounts separate from the company's, and the Authority then requested bank certifications confirming the amounts, balances at year-end, and the account numbers, to prove they were independent accounts not under company control. The Authority also requested a detailed breakdown of the advance payments showing customer name, opening and closing balances, and debit/credit movements, in order to apply the proper calculation for each customer separately. The Authority maintains that it clarified its computation methodology multiple times before issuing the assessment, as well as during the objection phase and in official correspondence sent to the taxpayer on 10/02/2022 AD. Since the taxpayer did not provide any of the requested data, the Authority rejected the objection. As to the taxpayer's claim that the Authority failed to explain its calculation basis, the Authority responds that this is unfounded, as the clause was added based on the taxpayer's own submitted data, and the clause was included in the initial assessment issued on 22/09/2021 AD, with a final detailed assessment shared on 08/11/2021 AD, and reiterated during the objection review and outcome notice. The Adjudication Circuit's decision upheld the Authority's treatment, finding that the assessment relied on the taxpayer's own supplier schedule for asset and spare part additions, and on financial statement balances for other clauses due to the taxpayer's failure to submit detailed account movements and supporting documents for dividend payments.

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





the bank and after a short period of time, this loan is repaid and on a date close to the date on which the repayment is made, a loan of the same value is obtained, which shows that this loan is in essence a long-term loan.

the appellant (the Taxpayer) is requesting that the Circuit's decision on this clause be overturned. He states that the company incurred specific expenditures on the home ownership program related to its employees, which is a residential scheme dedicated to the company's Saudi employees, where homes were granted to eligible employees according to certain criteria, according to Note 8 to the financial statements, he points out that the Authority did not allow the deduction of the value used for unallocated units and deferred cost and states that the value used for unallocated units, which are fixed assets of the company, are re-reported in the company's balance sheet and have been classified within operating fixed assets, however, the reclassification in the lists should not affect the deduction for Zakat purposes, the Company confirms that it operates a home ownership program whereby the Company builds homes for its eligible employees and recovers the housing allowance plus 17% of the employees' base salary and the unrecovered portion of the cost from the employees is deferred and amortized over the life of the program, homes under construction are capitalized as part of the "under construction" line clause and once completed, the housing units are allocated to eligible Saudi employees or to fixed assets as part of other assets owned by the company and the cost of these homes transferred to employees is reported within the home ownership receivables account and the down payment and installments paid by the employees are deducted against the said receivables, he states that the company funds the home ownership program for employees from equity or other sources that are already subject to Zakat, and therefore the corresponding funds in the assets should be deductible under the Zakat regulations and emphasizes that the company has no intention of selling these units, while in the response of the Defendant (the Authority) it stated that it did not accept the deduction of long-term employee benefits as there is no provision in the executive regulations for the collection of Zakat issued in 1440 AH authorizing their deduction, the Authority clarifies that the nature of the clause is not in any way similar to the fixed assets used in the activity in terms of deduction from the Zakat base, and the Zakat Collection Executive Regulation issued by Ministerial Decision No. 2216 dated 07/07/1440 AH stipulates that the fixed assets must be used in the activity, and the regulation allows the deduction of assets financed to the lessee only in construction, operation and conversion projects, in accordance with the provisions of paragraphs (a - d/1) of Article (5) of Zakatd/1) of Article (5) of the same regulation, therefore, receivables arising from housing ownership programs cannot be considered as fixed assets, therefore, since the clause is not considered among the elements or clauses that are deducted from the base and is not considered one of the assets consumed in the activity according to Article (5) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, and there is no clause within the deductions of this name or of the same nature, the Authority maintains the validity and soundness of its procedure, and notes that the Authority's procedure was supported by decision No. IR-2021-37 issued by the First Appeals Circuit for Income Tax Violations and

Disputes, whereas, the adjudication decision concluded to uphold the Authority's action, as it turns out that the clause that the Taxpayer claims to deduct is not considered an asset intended for the company's use, but are considered loans granted to employees and are not deducted from the Zakat base. "The Authority indicates to your esteemed Circuit that the Taxpayer is not subject to the provisions of the Ministerial Decision on adding and amending some paragraphs of the articles of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, concerning the determination of clauses that may be deducted from the Zakat base, which stipulates that: "a. Add subparagraphs (e) and (f) to article (V), paragraph 1, to read as follows: (e) Employee housing owned by the Taxpayer. (f) Housing loans paid to employees through the Employee Housing Support Program, if their contracts include a statement that the financing was through Hassan loan or forward sale without the company accruing any financial profits or fees in excess of the principal amount of the financing:

1- The Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, stipulates in the third clause as follows: "The regulation attached to this decision shall apply to fiscal years beginning on and after 01/01/ 2019 AD for all Taxpayers."

2- Ministerial Decision No. 58705 dated 21/09/1444 AH clarified the scope of its application in clause (II), as it reads as follows: "This decision shall be communicated to those necessary to enforce it, and it shall be enforced from the date of its issuance." Since the decision clarified that it is enforced from the date of its issuance, and the Ministerial Decision did not indicate that it applies to cases in which an administrative decision was issued with retroactive effect, it is proven that the date of the link issued by the Authority on the Taxpayer is dated 04/11/2021 AD corresponding to 29/03/1443 AH, i.e. before the date of issuance of the aforementioned Ministerial Decision.

3- We find that the amendment contained in paragraph (a) of Ministerial Decision No. 58705 dated 21/09/1444 AH on adding and amending some paragraphs of the articles of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, which stipulates: "A- Subparagraphs (e) and (f) shall be added to paragraph (1) of Article (V), with the following text: (e) Employee housing owned by the Taxpayer."

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

with regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (adding Authority's and follow-up fees related to loans to the Zakat base for 2019 AH), the appellant (the Authority) requests the annulment of the Circuit's decision on this clause and the Authority explains that the income statement was charged with interest costs of approximately 16 million "interest costs for loan discounting and borrowing" according to Note (20-4), accordingly, it appears that the amount of Authority's and fees in essence arises from the accounting measurement according to the effective interest

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

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

### Grounds:

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

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

shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 1 - Net fixed assets and their equivalents, including, but not limited to, the following: e. employee housing owned by the Taxpayer." based on the seventh paragraph of Article 6 of the Executive Regulations for Zakat Collection issued by Resolution No. (2216) of 07/07/1440 AH, as amended by Resolution No. (58705) of 21/09/1444 AH, which stipulates that "The Zakat base is calculated by adding the clauses listed in Article (IV) of the Regulation, minus the clauses listed in Article (V) of the Regulation, in accordance with the following controls: 7- With regard to employee housing support programs, the price of the housing unit borne by the employee must not exceed its actual cost to the Taxpayer, and the employee must not bear any additional amounts against the loan, including cases in which the contract is terminated before completing its term."

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

with regard to the Taxpayer's appeal on the remaining clauses, the Circuit is not to be faulted for adopting the grounds for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, since in upholding the decision with the contents of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since it is proven that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment since the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and since this Circuit did not notice anything that warrants censure or comment on it in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit. With respect to the result it reached, taking into account its reasons in the remaining clauses under appeal.

regarding the Authority's appeal on the rest of the clause (adding Authority's and follow-up fees related to loans to the Zakat base for 2019 AD), based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, which stipulates that "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: Government financing, commercial financing, creditors, promissory notes, overdraft accounts, and loans from owners or partners (including their current accounts), provided that the following is considered: A- If the debts owed by the Taxpayer or other sources of funding have a duration of three hundred and fifty-four (354) days or more overlapping during the zakat year and the following year, they are added to the zakat base according to the number of days for each zakat year. B- The zakat year for debts does not cease with their renewal or rescheduling with the same creditor, or by replacing these debts with other debts or sources of funding that finance what these debts were financing. (c) The addition of what is mentioned in this paragraph shall not exceed the total amount deducted from the base in accordance with Article (5) of the Regulations." article 4, paragraph (10) also stipulates the following: "Any clause of liabilities and equity that financed an clause deducted from the zakat base."

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

term loans amounted to SAR (729,297,000), which is the same amount added by the Authority, including Authorities, so the Taxpayer declared them within one clause, also, with reference to the explanations of the loans (16), it appears that the long-term loans financed a deductible asset "harvesting factories", and since the disputed Authorities take the judgment of the related loan, and where paragraph (10) of Article (4) mentioned above stipulates that the Zakat base for the Taxpayer who maintains commercial books consists of all his funds subject to Zakat collection, including any clause of liabilities and equity that financed an clause deducted from the Zakat base, this does not affect the Taxpayer's point that there is no relevance to the Authority's reference to the accounting policy as in Note (3-12) and financing costs as in Note (20-4), whereas, a review of the interest costs of discounting loans and borrowing declared within the income statement in the amount of (16) million shows that they include Authorities in the amount of SAR (1,407,160), according to the detailed movement of loan Authorities, as the total interest costs of discounting loans and borrowing in the income statement are the additions according to the indicated movement, which the Taxpayer requested to be deducted within the income statement, which means that the appeal regarding the addition of Authorities and follow-up fees related to loans to the Zakat base should be accepted and the decision of the Circuit should be canceled.

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

#### Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... Commercial registration (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit for adjudicating violations and disputes of income tax in Riyadh with number (IZD-2022-2160) issued in case number (Z-2022-112956) related to the zakat assessment for the years 2017 and 2018 AD.

Second: On the Merits:

1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (adding Authorities and follow-up fees related to loans to the Zakat base for the year 2019 AD).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (social insurance difference added to the net profit for 2019 AD).

rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Adding funding obligations for asset additions, adding accrued expenses and adding other credits for 2019 AD).

3- rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (adding short-term loans to the Zakat base for 2019 AD).



4- accepting the Taxpayer's appeal and canceling the decision of the Determination Circuit regarding the clause (not deducting long-term employee benefits from the Zakat base for 2019 AD).



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

Decision No. IR -2024-136107

Case No. Z-2022-136107

**Principle No. 35**

- The company is entitled to deduct foreign investments from its Zakat base, provided that it submits audited financial statements issued by a certified public accountant in the country of investment. This is to enable the Authority to calculate the due Zakat on these investments and ensure its remittance. Accordingly, the invested amounts may be deducted from the investing company's Zakat base in order to avoid double Zakat payment.

**Facts**

the appeal filed on 04/07/2022 AD, from ..., ID No. (...) as an agent under Agency No. (...) On behalf of the appellant company, and the appeal filed on 05/07/2022 AD by the Zakat, Tax and Customs Authority, on the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-922) issued in Case No. (Z -2021-41784) related to Zakat assessments for the years from 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 Circuit stipulated the following:

1. annulment of the Defendant's decision regarding the clause of profits received for the years 2015 AD to 2017 AD.
2. modification of the Defendant's decision With respect to the additional matching contribution deduction for investments in domestic subsidiaries for the years 2015 AD to 2018 AD
3. rejected the claimant's objection regarding the non-deductibility of investments in foreign companies authorized as available-for-sale investments for the years 2015 AD to 2018 AD.
4. rejecting the Plaintiff's objection regarding the deduction of investments in local companies at fair value recognized in the income statement for 2017 AD and 2018 AD.
5. dismissed Plaintiff's objection regarding the non-deductibility of the long-term homeownership program offered to employees for 2017 AD and 2018 AD.
6. dismissed the Plaintiff's objection regarding the use of loans to finance impaired assets for 2016 AD and 2017 AD.





7. rescind the Defendant's decision regarding the incorrect addition of the opening balance of the 2017 AD End of Service Allowance.

8. annulment of the Defendant's decision regarding the clause of not deducting the Zakat paid for 2016 AD.

this decision was not accepted by the Taxpayer (Company ...). the Taxpayer's appeal lies on the clause "Non-deduction of investments in foreign companies declared as available-for-sale investments for the years 2015 AD to 2018 AD." The Taxpayer explains that he submitted, upon the request of the Honorable Committee, a copy of the financial statements of the invested foreign companies approved by an auditor in the invested country, which was translated into Arabic, in addition to that the company paid the zakat due on the foreign investments in accordance with the report of the independent chartered accountant through which zakat was calculated for the investments in foreign companies. regarding the clause (deduction of investments in local companies at fair value recognized in the income statement for 2017 AD and 2018 AD), the Taxpayer explains that the securities were recorded at fair value within other comprehensive income in 2017 AD and 2018 AD and were classified as available-for-sale investments in accordance with the requirements of IFRS 9 "Financial Instruments" and therefore the related gains and losses classified in other comprehensive income became part of retained earnings on a regular basis and will be subject to Zakat according to the Zakat collection regulations, and these investments are long-term and not for commercial purposes. he requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed.

this decision was not accepted by the appellant (the Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (dividends received from the current year's profits of local invested companies that are not excluded from the company's profit subject to zakat for the years 2015 AD, 2016 AD and 2017 AD), where the Authority explains that it added these profits to the adjusted net profit due to the Taxpayer's failure to provide proof that the profits that were excluded are for the year (current year) by referring to the financial statements of the invested companies, it was found that the balance of retained earnings is higher than the profits announced to be distributed, and therefore the profits announced to be distributed are definitely from the retained earnings and not from the profits of the year, as for the distributions from the company.... the Taxpayer's objection to the distributions of this company was accepted, in addition to the fact that the announcement of dividends after the financial results is not an indication that the distributions were actually made from the net profit, as the date of the announcement of the distributions after the company's financial results cannot be linked to the fact that the distributions were made from the net profit instead of the retained earnings, and that the customary basis for dividend distributions is the first balance of the period from the retained earnings. it asks that its appeal be accepted and that the decision of the Adjudication Circuit be reversed.

on Thursday, March 07, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via videoconferencing in

accordance with the procedures for remote videoconferencing; based on the provisions of Clause 1 of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. (25711) and dated: 08/04/1445 AH.; and by calling on the opponents, he/she attended/... national ID No. (...), as agent for the Plaintiff by virtue of power of attorney No. (...) i attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., the Circuit reviewed the supplementary memorandum submitted by the Taxpayer. accordingly, the Circuit decided to accept her request and informed the representative of the Authority that she must respond to the Taxpayer's memorandum no later than Thursday, March 14, 2024, after which the pleadings will be closed and the case will be submitted for deliberation and decision, and the Circuit will not accept any new documents or memorandums submitted after the aforementioned date. the next session will be on 23/04/2024 AD to pronounce the decision.

on Tuesday, April 23, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; Calling on the opponents, Mr. ... national ID No. (...), as agent for the Plaintiff by virtue of power of attorney No. (...) he attended ... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., the Circuit decided to close the pleadings and deliberations.

### Grounds:



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

On the merits, with regard to the Authority's appeal on the clause "Dividends received from the current year's profits of local investee companies that are not excluded from the company's profit subject to Zakat for the years 2015 AD, 2016 AD and 2017 AD", and where the Authority's appeal lies in the fact that it added these profits to the adjusted net profit because the Taxpayer did not provide proof that the profits that were excluded are for the profits of the year (current year), and Based on the above, the profits received are deducted from the Zakat base if they are tzedakkah by the company distributing the profits to avoid bending in Zakat, and whereas the dispute lies in the fact that the distribution was made through the balance of the

first period of the retained profits and not from the profits of the year, and the Circuit's review of the case file and reference to the Authority's appeal regulations and the Taxpayer's response shows that the retained profits in the invested companies at the beginning of the period are greater than the declared distributions, so it appears that the distributions were made from the retained profits for the distributions of (Company .. (...) for the years 2015 AD to 2017 AD, and (Company...) for the year 2016 AD, and (Company ... for the year 2016 AD). from the above, it is clear that the balance of the retained earnings is greater than the dividends distributed, and there is no clear and explicit confirmation that the dividends distributed were made from the profits of the year, and since it is the nature of business to distribute from the retained earnings and then distribute through the profits of the year, in addition to the above, it is clear by referring to the attached documents represented in the dividend distribution decision that the announcements were all before the fourth quarter (i.e. before the end of the lunar calendar) of the year, which results in the distributions being deducted from the Zakat base for the invested companies. from the above, it is clear that dividends have been distributed from the retained earnings, which leads the Circuit to accept the Authority's appeal and overturn the decision of the Adjudication Circuit in this clause.

regarding the Taxpayer's appeal on the clause (not deducting investments in foreign companies declared as available-for-sale investments for the years 2015 AD to 2018 AD) and where the Taxpayer's appeal lies in attaching the financial statements of the company invested in outside the Kingdom from a certified public accountant, and based on paragraph (4.b) of clause (II) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH which stipulates that "The following shall be deducted from the zakat base:" Investments in establishments outside the Kingdom - in partnership with others - provided that the Taxpayer includes in their zakat declaration the zakat due on these investments according to the rules stipulated in these regulations and submits them to the authority, along with audit accounts from a certified accountant in the country of investment, approved by the official authorities; if they do not comply with calculating and submitting the zakat accordingly, it will not be deducted from the zakat base. based on Ministerial Decision No. (1005) dated 04/28/1428 AH, which stipulates "Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof that zakat has been paid in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies. If the Taxpayer does not provide the above, these investments shall not be deducted from his tax base." Based on the above, the company is entitled to deduct the foreign investment from its Zakat base, provided that it complies with the provision, which is to provide the Authority with audited accounts from a certified public accountant in the country of investment, in order to calculate the Zakat due on these investments and provide it to the Authority, and then deduct these investments from the company's Zakat base whereas, the dispute over this clause is a based dispute, and

the Circuit's reference to the attached case documents shows that the Taxpayer attached the financial statements of the company invested in outside the Kingdom from a certified public accountant, in addition to that the certified public accountant is the office of (...) at the end of his report, he stated, "The data and information in the financial statements provided to us by your company "Company ..." about those companies and the financial statements that we verified and obtained from the financial statements disclosed by the Swiss Capital Market Authority and the Australian Capital Market Authority, so it is necessary to reissue our reports on the calculation of Sharia zakat for investments in international securities of the companies "Company ... - Swiss nationality and Company ... - Australian nationality for the years 2014 AD/2016 AD/2016 AD/2017 AD.", which concludes the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit on this clause.

with regard to the Taxpayer's appeal on the clause (deduction of investments in local companies at the fair value recognized in the income statement for the years 2017 AD and 2018 AD) and where the Taxpayer's appeal lies in his claim to deduct the investments with the balance of the last period, and based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base ." based on Article 20, paragraph (3), which stipulates that "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and the Circuit's review of the case file and the defenses and documents it contains, it is clear that the Taxpayer claims to deduct the investments with the balance of the last period (i.e. after revaluation), as he argues that the revaluation gains/losses have affected the statement of comprehensive income and have become part of the retained earnings, which will be subjected by adding them to the Zakat base for the same period, while the impact on the balance of investments has not been calculated and deducted from the base. on 07/11/2022 AD, the attachments to the 2017 AD and 2018 AD declarations (attached tables) were requested, as well as proof that other reserves including (revaluation gains/losses) are subject to Zakat. accordingly, the Taxpayer has attached the full declarations with the annexes and with reference to Table No. (12) (for other additions to the Zakat side), it is clear that the other reserves with the balance at the end of the period are subject to Zakat, i.e. after the impact of revaluation gains/losses on them. since the Taxpayer proved that the revaluation gains/losses were included in equity for the same year, as they were added to other additions in the return and found to be subject to Zakat, which shows that the Authority's procedure is incorrect, as the investments should be deducted with the

balance of the last period (i.e. after revaluation), which concludes the Circuit accepts the Taxpayer's appeal and annuls the decision of the Adjudication Circuit on this clause.

with regard to the Taxpayer's appeal on the remaining clauses, the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them, if it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clause was consistent with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses, in accordance with its reasons. On the basis of the above and for the grounds stated, the Circuit unanimously decided as follows:

#### Decision:

First: Acceptance of the appeal procedurally, submitted by / ... Company Commercial Registration No. (...), Distinctive Number (...), and the Zakat, Tax and Customs Authority, against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-922) issued in Case No. (Z- 2021-41784) related to Zakat assessments for the years from 2015 AD to 2018 AD.

Second: On the merits:

1- Accepting the Authority's appeal and canceling the decision of the Determination Circuit regarding the clause (dividends received from the current year's profits of local invested companies that are not excluded from the company's profit subject to Zakat for the years 2015 AD, 2016 AD, and 2017 AD).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Deducting additional contributions similar to investments in local subsidiaries at less than their value for the years 2015 AD to 2018 AD).

3- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting investments in foreign companies declared as available -for-sale investments for the years 2015 AD to 2018 AD).

4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (deducting investments in local companies at the fair value recognized in the income statement for the years 2017 AD and 2018 AD).

5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting the long-term home ownership program provided to employees).



6- Rejecting the Taxpayer's appeal and upholding the decision of the Determination Circuit regarding the incorrect addition of loans to the Zakat base without taking into account the use of the loan to finance the Zakat deductible assets for the years 2016 AD and 2017 AD.



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

Decision No. IR-2024-171013

Case No. Z-2023-171013

Principal No. 36

- Zakat is not due on receivables until they are collected by the taxpayer and a full lunar year has passed following their receipt, provided that the delay in payment is due to reasons beyond the taxpayer's control and not a result of their negligence or non-compliance.

**Facts**

The submitted appeal was heard on: 22/01/2023 AD, of/ (....), National ID No. (.....), in his capacity as the legal representative of the appellant company under the Commercial Register, on the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2562) issued in Case No. (Z-2021-78138) related to Zakat assessment for the year 2015 AD, in the lawsuit filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled the following:

1. Dismissed the Plaintiff's objection With respect to the 2015 AD Zakat issue without reasoning.
2. Rejection of the Plaintiff's objection regarding the clause disallowing the deduction of offshore investments.
3. Dismissal the Plaintiff's objection With respect to the non-deduction of amounts due from affiliates.
4. Rejection of the Plaintiff's objection With respect to the non-discounting clause for long-term reserves.

This decision was not acceptable to the Taxpayer (.....) the Taxpayer's appeal lies in the clause (not allowing the deduction of the foreign investment clause for 2015 AD). The Taxpayer explained that there is a clear contradiction in the Circuit's decision regarding this clause, as the Circuit stated that the required condition for the deduction of foreign investment is to submit the financial statements of the invested companies audited by a certified public accountant in the country of investment to the Authority in order to calculate the zakat due on these investments. It also stated that the company has submitted these audited financial statements from a certified public accountant in the country of investment is (...) After being translated into Arabic, the Circuit issued its decision rejecting the company's objection and deciding not to deduct investments outside the Kingdom, despite the company's commitment to the condition required to deduct these investments from the Zakat base, which is to submit the financial statements of the invested company

for review by a certified public accountant in the country of investment. The Circuit has supported many decisions in similar cases. The view of Taxpayers in deducting foreign investments in which the financial statements of the invested companies are submitted for review by a certified public accountant in the country of investment from the Zakat base. For example, The reasoning of the decision of your esteemed Circuit No. (IAR-2020-114) stated the clause of non-deduction of long-term foreign investments from the Zakat base in the amount of SAR (21,902,406)), and where the Circuit, after contemplating the appeal submitted by the company in charge of that clause, and the position of the Authority through the preliminary decision that ruled the Authority's treatment of these foreign investments, which was represented in the non-deduction of these investments from its Zakat base, and where the Taxpayer submitted to the Authority the financial statements of the companies invested abroad, and where the instructions for linking investments came The Authority has the documents with which it can calculate Zakat on those foreign investments. Accordingly, the Circuit concluded the decision to deduct the investments of the company abroad from the shares and shares in the companies to which it submitted audited financial statements in the country of investment. Accordingly, the Authority shall calculate the Zakat from these lists and include the share of the Taxpayer in the Zakat of these companies only, whether it is an investment in indebtedness instruments, shares or shares in companies for which audited financial statements have not been submitted, and this does not affect the payment by the Authority to respond to the appeal of the company in charge by saying that the appellant company did not submit the documents proving what it claims at the time, and that this is excessive, and that excessive loss is first, This is because the purpose of the legislator of the law to determine the rules for the collection of zakat and its regulation will be confirmed by linking to the Taxpayer when submitting to the Authority the financial documents and statements of its investments abroad, which must be subject to zakat by the Authority when submitted by the Taxpayer, and that this matter will be directly achieved by the Authority for its right to collect zakat as required by the regulations, decisions and instructions regulating how to collect zakat for foreign investments, as stated in the grounds of the decision of the Circuit No. (IAR-2020-117) the clause not to deduct foreign investments from the zakat base for the year 2012 in the amount of SAR (19,974,343) Whereas after the Circuit hopes to appeal submitted by the company in charge Regarding that clause, and what was stated in the Authority's position through the preliminary decision that ruled on the Authority's treatment of these foreign investments, which was not to deduct these investments from its Zakat base, and where the Taxpayer submitted to the Authority the financial statements of the companies invested abroad, and where the instructions for linking foreign investments came by subjecting them to Zakat when not recommended in the country of investment, and where the Authority has the documents that can calculate Zakat on the Taxpayer regarding these foreign investments. Accordingly, the Circuit concluded to decide to deduct the investments of the company assigned abroad from the shares and shares in the companies for which audited financial statements were submitted in the country of investment. accordingly, the Authority will calculate Zakat from these lists and include in the linkage the Taxpayer's share of the Zakat of these





companies without any other investment, whether in debt instruments, shares or shares in companies for which no audited financial statements have been submitted.

regarding the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015 AD", the Taxpayer explained that the grounds of the decision are related to adding the credit balances that have passed the zakat threshold, while the company's objection is related to deducting amounts due from affiliates owned by the company (100%) from the zakat threshold, and therefore these grounds are not related to the subject of the company's objection. the grounds for the Circuit's decision were based on Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH, which is the article related to additions to the Zakat base, while the company's objection is to amounts deducted from the Zakat base, and the article related to deductions is Article (5) of the regulation. accordingly, it is clear that the Circuit's decision was based on an incorrect basis, and therefore, it must be canceled and considered as if it were not, and the company emphasizes that in its additional memorandum it provided a statement of the amounts due from Saudi companies wholly owned by the Plaintiff company, and since the said amounts are due from Saudi companies wholly owned by the Plaintiff company and submit their Zakat declarations to the Authority, they must be deducted from the company's Zakat base in order to avoid flexing in Zakat. in many decisions, the objection and appeal committees have supported the Taxpayers' view that loans and financing granted to subsidiaries that are subject to zakat should be deducted in order to avoid zakat deductions. For example, the grounds for the decision of your esteemed Circuit No. (IR -2021-20), which guided the company in its additional memorandum, stated the following. As for the appeal of the Taxpayer on the clause of loans to affiliated entities, it was found that the subject of the appeal lies in that the Taxpayer does not agree with the decision of the First Instance Committees supporting the procedure of the Authority not to approve the deduction of loans granted to affiliated entities because they are subject to Zakat in affiliated companies and therefore must be deducted to avoid dissuasion in Zakat, while the Authority believes that adding them to these loans is an application of the fatwas that emphasized the addition of loans to the base Zakat, the benefit of the company from it, whether it is squandered or used to finance non-current assets in application of the Sharia Fatwa (22665), and where the Circuit found that the amounts in dispute represent loans to affiliates and not in addition to the amounts invested in them, and where the Circuit found that those entities are subject to Zakat and submit their declarations to the Authority, and based on the investment relationship between the Taxpayer and those affiliates, it was decided by the Circuit that the loans provided to those entities require special Zakat treatment to avoid dissuading Zakat, as part of the loans according to the investment ratio) does not represent a loan to a party Hence, the appellant (lender) has the right to deduct part of the loans provided to the affiliates from his Zakat base in an amount equal to the percentage of his investment in those entities to which the loan was provided, and this is not affected by what the Authority paid in its response memorandum, as it was the subject of payment on the loans received from affiliates, which was not the subject of an appeal from the Taxpayer, which is why the Circuit decided to amend the decision by

determining the eligibility of the Taxpayer to deduct loans, to the affiliates with the equivalent of his percentage of ownership in his Zakat base, and where what is stated in the above decision applies fully to the case of the amounts in dispute that the company demands to be deducted from the Zakat base. in addition, the Appeals Circuit did not require proof that the amounts provided to the subsidiaries are subject to Zakat in the subsidiaries in light of the fact that these companies are registered with the Authority and submit their declarations to the Authority, and the company asserts that the Authority did not require the company to provide it with a detailed movement of the clause of amounts due from affiliates, but refused to deduct the clause in principle on the pretext that the Executive Regulations on Zakat collection did not provide for its deduction, and the Appeals Circuit did not require the company to provide it with this detailed movement to accept the company's objection.

regarding the Taxpayer's appeal regarding the clause (disallowing the deduction of long-term reserves for the year 2015 AD), the Taxpayer explained that the grounds of the decision are related to the addition of credit balances that have passed the zakat threshold, while the company's objection is related to the deduction of long-term receivables from the zakat threshold, and therefore these grounds are not related to the subject of the company's objection. the grounds for the Circuit's decision were based on Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH, which is the article related to additions to the Zakat base, while the company's objection is to amounts deducted from the Zakat base, and the article that relates to deductions is Article (5) of the regulation. the company asserts that the long-term holdings at issue represent amounts withheld by the ... until the completion of the contracted works. the entire revenue of the said contract was subjected to Sharia Zakat while the company did not receive the entire revenue as the company deducted a percentage of the contract as a guarantee for the proper execution of the project. the above contracted company did not pay these reserves, which led the Plaintiff company to file a lawsuit before the Commercial Court in Jeddah in 2017 AD to collect the remaining balance due from these reserves amounting to SAR (21,994,888). the Commercial Court in Jeddah ruled in favor of the Plaintiff company and ordered the company to ... by paying the above-mentioned amount. As it turns out, the long-term debit holdings in dispute are not in the possession of the company or in its control and its hand is tied, which prevents it from benefiting from them. Therefore, the King's Completion Clause is excluded from what comes out of the funds in which zakat is due. The Circuit issuing the decision in question itself has upheld decisions in support of the objection of those charged with deducting the debit holdings from the zakat base. For example, the grounds for the decision of the Adjudication Circuit No. (IZD -2020-10) stated, "With regard to the balances of debit contracts and reservations payable upon the collection of the balances of debit contracts and reservations due from the company (...), and the Plaintiff's claim to deduct the amounts retained by the company (....) due to the fact that the amounts claimed by the Plaintiff are in the hands of a full and non-delinquent person, namely the company (.....), but the Plaintiff is unable to receive them, meaning that the reason for not receiving these amounts was not the Plaintiff but the company (.....), which means that these amounts were

not in the Plaintiff's hands and were not under her control, and the Plaintiff's hands are tied regarding these amounts, which prevents him from benefiting from them, the Circuit decided to accept the Plaintiff's objection by discounting the outstanding contract balances and reserves that ..... company owes. Saudi Arabia from his Zakat bowl for the years 2005 AD through 2012 AD." The Circuit also supported many of the decisions of the Taxpayers' appeal regarding the deduction of receivables that were not in the possession of the Taxpayer and were not under his control. For example, the grounds for the Circuit's decision No. (IR-2020-9) stated that "After hearing the statements of the parties to the case, and reviewing the letters exchanged between the appellant (the creditor) and the General Authority of Civil Aviation (the debtor), it becomes clear that the debt that the company owes to others is a debt on full, which cannot be received, and therefore the reason for not receiving these amounts is not due to the will of the Taxpayer, but rather because it is attributed to the debtor, the Civil Aviation Authority, and since the amount of the debt was not in the possession of the Taxpayer, and was not under his control, which results in the improper inclusion of it within the Zakawi bowl of the taxpaying company. This does not affect the claim of the General Authority for Zakat and Income (GAZI) that this debt is owed to a government entity that is full of money, as the consideration is the ability of the creditor to receive the amount of the debt after the debtor's claim, which was impossible to obtain for a reason not related to the Taxpayer's company. Therefore, the Circuit concluded to determine the impact of the appellant's defenses on the result reached by the contested decision, which entails ruling to exclude the debtors of trade receivables from the Taxpayer's zakat base for the year 2011, and not supporting the authority in its dealing with this clause by including it in the tax base of the Taxpayer's Taxpayer company." as for what was stated in the rulings of the Adjudication Circuit that the company did not provide the movement made on the end-of-term balance, we state that the Authority did not ask the company to provide it with a detailed movement of the long-term receivables clause, but rather refused to deduct the clause in principle on the grounds that the Zakat Collection Executive Regulations did not provide for its deduction. Therefore, the Taxpayer requests that his appeal be accepted and that the decision of the Dispute Adjudication Circuit regarding the clauses under appeal be overturned.

On Sunday, March 17, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

## Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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, as for the Taxpayer's appeal regarding the clause (disallowing the deduction of the foreign investment clause for 2015 AD), the Taxpayer's appeal lies in the appeal against the dismissal of his objection regarding the disputed clause, as he claims that there is a contradiction in the Circuit's decision, as the Circuit stated that the required condition for deducting the foreign investment is to submit the financial statements of the investee companies audited by a certified public accountant, and the company provided this. based on Ministerial Decision No. (1005) dated 04/28/1428 AH: "Second: investments in establishments outside the Kingdom - in partnership with others - shall be deducted from the Taxpayer's zakat base, provided that the Taxpayer submits audited accounts from a certified public accountant in the country of investment, in order to calculate the zakat due on these investments and deliver them to the authority, or provide proof of payment of zakat in the country of investment, and then deduct these investments from the tax base of the Saudi investor company to avoid discouraging zakat in these companies, if they do not provide the above mentioned, these investments shall not be deducted from his zakat base." Based on the above, and based on the provisions of Ministerial Decision No. (1005) referred to above, the Taxpayer is entitled to deduct the foreign investment from his Zakat base, provided that he complies with the provisions of the decision, namely that he submits to the Authority audited accounts from a certified public accountant in the country of investment in order to calculate the Zakat due on these investments and deliver them to the Authority, or provide proof of payment of Zakat thereon in the country of investment if he does not provide what was referred to, these investments will not be deducted from his Zakat base, and by reviewing the case file, it became clear that the Taxpayer submitted the financial statements of the invested company, audited by a certified public accountant in the country of investment, and provided a copy of these lists in Arabic, the Taxpayer emphasized that he has no objection to paying the zakat that the authority will calculate on the investment, which led the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

with regard to the Taxpayer's appeal regarding the clause "No deduction of amounts due from affiliates for the year 2015 AD", the Taxpayer's appeal is to appeal the rejection by the Adjudication Circuit of his objection regarding the disputed clause, as he claims that the amounts he claims to deduct are amounts due from affiliates that are 100% owned by the company from the Zakat base. Based on paragraph (First/5) of article (4) of the executive regulation for the collection of Zakat issued by the Ministerial Decision No. (2082) dated 01/06/1438 AH, which stated that: "The zakat base consists of all the Taxpayer's assets subject



previously withheld by (.....) until the completion of the contracted works, all revenues from the contract are subject to zakat. Based on the above, Zakat is not obligatory on the creditor in his due funds that he is unable to collect due to delays from customers and not as a result of his failure to comply with the standards and requirements specified by the authority, and with reference to the case file and what it contained, it was found through the financial statements that there are reserves in the amount of SAR (29.779,160), it turned out that the Taxpayer stated that he filed a lawsuit against the contracted company due to its failure to pay the amounts due, which amounted to SAR (21,994,888), and by reviewing the documents, it became clear that the Taxpayer submitted a decision issued by the Commercial Court in Jeddah on 03/07/1439 AH obligating the contracted company "....." therefore, we believe that the amounts owed to the Taxpayer in dispute and for which a court judgment has been issued are not subject to Zakat until the Taxpayer receives them, as the reason for the delay in the payment of the receivables is due to reasons beyond the Taxpayer's control and not as a result of his failure or non-compliance, which leads the Circuit to partially accept the Taxpayer's appeal and modify the decision of the Adjudication Circuit regarding this clause.

with regard to the Taxpayer's appeal regarding the clause "Issuing the Zakat assessment for the year 2015 AD without reasoning", wherein the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and wherein it is established that the decision under appeal regarding the disputed clauses as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit With respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ ..., commercial registration (...), distinctive number (...) Against the decision of the first circuit for adjudicating income tax violations and disputes in Dammam with number (IZD-2022-2562) issued in case number (Z-2021-78138) related to the zakat assessment for the year 2007 AD.

Second: On the Merits:

1- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (issuing the Zakat assessment for the year 2015 AD without reasoning).



- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not allowing the deduction of the foreign investments clause for the year 2015 AD).
- 3- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not deducting amounts due from affiliates for the year 2015 AD).
- 4- Accepting the Taxpayer's appeal in part and amending the decision of the Adjudication Circuit regarding the clause (not allowing the deduction of the long-term reserves clause for 2015 AD).



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

Decision No. IR-2024-179439

Case No. Z -2023-179439

**Principal No. 37**

- The proper treatment of loans granted to a subsidiary company, in accordance with the Zakat Regulations of 1440H, is that such loans shall not be deductible, as each company is considered a separate legal entity.

**Facts**

The appeal submitted on 21/02/2023 AD by/ (....), Civil Registry No. (....), in his capacity as an attorney under the power of attorney No. (....), and under the lawyer's license No. (...), and the appeal submitted on 26/02/2023 AD by/Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-93030) issued in Case No. (Z -2022-93030) related to Zakat ties for the years 2019 AD and 2020 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

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

Second: On the Merits:

1- Dismissing the lawsuit with regard to the VAT expense clause charged to the accounts for the years 2019 AD and 2020 AD.

2- Dismissing the case with regard to the clause of consulting fees for the years 2019 AD and 2020 AD.

3. Annulment of the Defendant's action With respect to the donation expense clause (...) for 2020 AD, according to the grounds.

4- Amending the Defendant's action with regard to the subsidized loan granted to a subsidiary for the year 2019 AD, by deducting the long-term loan provided to the subsidiary equal to the percentage of the Plaintiff's ownership in it from the Zakat base, as stated in the grounds.

5- Revoke the Defendant's action With respect to the prepaid expenses clause for the years 2019 AD and 2020 AD, as stated in the grounds.



6- Dismissing the lawsuit regarding the clause of loans for employees for the years 2019 AD and 2020 AD.

7- Dismissal of the claim regarding the cash versus bank guarantee for the years 2019 AD and 2020 AD.

Whereas this decision was not accepted by the Taxpayer (....), he submitted an appeal statement, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD). The Taxpayer explains that the representative of the Authority during the hearing before the Adjudication Circuit indicated that the Authority has obtained a certificate proving the registration of the company in VAT, but that The certificate submitted by the Authority is not applicable to the company and has no value at all, as the certificate of registration of the company in the value added tax submitted by the Authority was issued automatically from the automatic system of the revenue system, without the company submitting an application to register the company for the purposes of value added tax, in addition to the lack of application of the conditions and requirements of registration for the purposes of value added tax, as its revenues, mainly its share of investment in subsidiaries, are exempt from value added tax. The company clarified this matter to the Authority immediately after the Authority registered it for the purposes of value added tax and requested the cancellation of registration in value added tax, which was completely ignored by the representative of the Authority and did not address it. Accordingly, the company submitted a copy of the The e-mail sent by the Authority to the company on October 29, 2019 AD, which confirms and proves that the company is not registered for VAT purposes, which is a conclusive document that includes a confirmation to the Authority that the company is not registered for VAT purposes, contrary to what the representative of the Authority claimed before the Adjudication Circuit, which was ignored by the Adjudication Circuit by its decision under this appeal. The Adjudication Circuit also indirectly recognized that VAT is a deduction award for unregistered Taxpayers for VAT purposes, which applies to the case of the company, as the company bears the value of VAT on its inputs, which is considered a non-refundable cost, and therefore these amounts are considered expenses imposed by the reality of the situation and the nature of the company's activity, and the deduction award is considered within the profit adjustments in accordance with the provisions of the Zakat Regulation.

the Taxpayer explains that the nature of these receivables are loans granted to the company's Saudi employees, which are non-interest-bearing loans to help them purchase housing units within the home ownership program and are secured by a mortgage on the purchased property. These loans are repayable in installments over a maximum period of (15) years, and the installments due within one year are classified under "Prepayments and other receivables" within current assets, such loans are amounts that the company was forced to lend to its employees in accordance with the reality of the requirements of the activity and the obligation of the company towards its employees, and therefore the funds are retained and unutilized and are not used in trade offers and have not yet reached the end of the year in the company's liabilities. he requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed. this decision



was not accepted by the appellant (Zakat, Tax and Customs Authority) the Authority's appeal is based on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019 AD). The Authority explains that it did not deduct the backing loan in the amount of SAR (339,291,000) for the year 2019, and the clause was not accepted in previous years, as it is one of the non-deductible clauses in accordance with the provisions of paragraph (4) of Article 5 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2216 dated 07/07/1440 AH, the Circuit issuing the decision concluded to amend the Authority's procedure by deducting a portion of the loans and advances provided to the subsidiary company from the zakat base equal to the percentage of its investment (65%) in the subsidiary company to which it provided the loan, and with reference to the financial statements of the investee company. "....." it turns out that the clause is classified as non-current liabilities, and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment, accordingly, the loan granted cannot be considered as an investment to be deducted, as it is financing for a commercial purpose and an interest rate is charged on it; therefore, the loan granted to the investor company must be recommended, and it is not considered additional or supportive financing, and even if the Circuit issuing the decision considers it as additional financing and as an investment, the clause is not deductible according to the provisions of paragraph (4) of Article (5) of the executive regulations of the Zakat Collection Law issued by Ministerial Resolution No. 2216 dated 07/07/1440 AH, referred to above. with regard to the clause (Refusal to deduct prepaid expenses for the years 2019 AD and 2020 AD), the Authority explains that it did not accept the deduction of prepaid expenses from Zakat in the amount of SAR (508,000) and SAR (726,000) for the years 2019 AD and 2020 AD as a non-deductible clause, as the Taxpayer stated in his objection that these expenses relate to expenses for more than one fiscal year, they are considered deferred expenses and take the judgment of capital expenditures, and the Authority referred to the financial statements, which showed that the prepaid expenses appear in addition, these expenses represent operating expenses (medical insurance, office rent, subscriptions) and are not capitalized and do not fall under the provisions of paragraph (6) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, in this regard, the Authority responds that the Circuit's decision was incorrect; the Authority asserts that its procedure was correct as these expenses represent operating expenses (office rent, insurance expenses) and are not capital expenses that are deductible, noting that they are extracted from the trial balance provided by the Taxpayer, since these prepaid expenses are considered operating expenses, and since the accrual basis of accounting requires that prepaid expenses be recognized as a clause of current assets and then periodically amortized and charged to income with the amortization expense annually in accordance with the principle of offsetting expenses with income this means that this expense has been taken into account when calculating the Zakat base since net income is one of the components of the Zakat base; in light of this, the entire balance of deferred expenses cannot be fully deducted from the Zakat base, but rather the realized expense is deducted

periodically; this confirms the incorrectness of the Circuit's decision to accept a deduction for these expenses. it asks that its appeal be accepted and that the decision of the Adjudication Circuit be reversed.

on Thursday, 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH; after reviewing the appeal request, the pleadings submitted, and the papers and documents contained in the case file, and at this session, the circuit reviewed the request for postponement attached to the case file by the Authority. accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024 AD, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024 AD, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

on Tuesday, 04/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; and by calling the opponents, he attended .... national ID No. (....), as agent for the Plaintiff by virtue of power of attorney No. (....), and attended..... (National ID No. ....), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs (.....) on March 19, 1445 AH., the Defendant's representative was asked about what it would like to add, and it stated that it adheres to what was previously submitted in this case. when the Plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. when the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

### Grounds:

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

On the merits, regarding the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019 AD), and where the Authority's appeal lies in the fact that it did not deduct the backing loan, as the clause is one of the non-deductible clauses, and based on paragraph (3) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: government financing, commercial financing, creditors, payment notes, overdraft accounts, loans to owners or partners (including their current accounts)...", and based on paragraph (4) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that: "Investments in an establishment inside the Kingdom for non-trading purposes, if that establishment is registered with the Authority and is subject to the collection of Zakat in accordance with the Regulations, and assets that are financially leased in the commercial books of the lessor are not considered an investment that is deducted from the Zakat base, regardless of their classification in the financial statements, and neither are debit loans, supportive or additional financing and the like granted to the invested establishment considered an investment that is deducted from the Zakat base." Based on the above, and the Circuit's review of the documents attached to the case file, it is clear that the amount represents a support loan provided to the subsidiary company, and the dispute lies in the deduction of the support loan, as the Taxpayer demands its full deduction according to the financial statements of the company, as the subsidiary company has fully zakat these support loans provided by the parent company, but the Authority argues that the support loan should not be deducted as it is considered one of the non-deductible clauses and the clause is classified within non-current liabilities and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment and therefore not considered additional financing or a contribution.

with regard to the Authority's appeal on the clause (Refusal to deduct prepaid expenses for the years 2019 AD and 2020 AD), the Authority's appeal is that it did not accept the deduction of prepaid expenses from the Zakat base as a non-deductible clause, and based on Article (18) of the Executive Regulations for Zakat Collection issued by Decision No. (2216) dated 07/07/1440 AH, which stipulates that: "The burden of proving the validity of the clauses and any other data contained in the declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause that the Taxpayer does not prove to be valid or make a discretionary link according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, the dispute between the parties lies in the Authority's objection to the deduction of prepaid expenses shown in the financial statements within current assets as non-deductible expenses, and that the expenses represent operating expenses consisting of medical insurance, office rent and subscriptions and not capital expenses, but the Taxpayer argues that they relate



to more than one year and are therefore considered deferred expenses and take the rule of long-term capital expenses that may be deducted from the Zakat base, the Circuit's review of the Authority's appeal memorandum shows that the prepaid expenses are classified as current assets and are operational expenses (office rent, insurance, subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base, and since the Taxpayer did not provide evidence to the contrary, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

with regard to the Taxpayer's appeal on the clause (rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies that the company is not registered for VAT purposes, and based on paragraph (1) of Article (8) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "The following expenses may be deducted to determine the net result of the activity: 1- Ordinary and necessary expenses necessary for the activity, provided that the following controls are met: a. the alimony must be actual and supported by documents and evidence accepted by the Authority and verifiable, even if it relates to previous years. b. it must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer. c. not be capitalist in nature. if an expense of a capital nature is included in the expenses, the result of the activity is adjusted, added to the fixed assets and amortized within the depreciation of the asset." The Taxpayer argues that the certificate provided by the Authority is not applicable to the company and has no value, as it was issued automatically from the automated system of the IRAD system, and that the Authority registered the company for VAT and after communicating with the Authority to cancel the registration because the conditions and requirements for registration did not apply, the Authority canceled its registration, which was confirmed by the Authority in its email sent to the company on 29/10/2019 AD, which proves conclusively that the company is not registered for the purposes of VAT.

with regard to the Taxpayer's appeal on the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies in the fact that the funds are withheld and unutilized and are not used in trade offers and have not reached the due date in the company's possession, and based on paragraphs (e) and (f) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "Net fixed assets and their equivalents, including, but not limited to, the following: e. Employee housing owned by the Taxpayer. (f) Housing loans paid to employees through employee housing support programs, if their contracts include a statement that the financing was through Hassan loan or forward sale with out the company accruing any financial profits or fees in excess of the principal amount of the financing." Based on the above, it is permissible to deduct housing loans paid to employees through employee housing support programs classified as fixed assets from the Zakat base, provided that these loans do not include fees in excess of the financing amount, with reference to the financial statements for the year 2019 (Note 9), it is

clear that the loans represent non-interest-bearing housing loans and are secured by a mortgage on the properties purchased under the employee housing ownership program. Therefore, since the Zakat Regulation stipulates that housing loans paid to employees through employee housing support programs may be deducted, the Circuit concludes to accept the Taxpayer's appeal and cancel the decision of the Circuit of Determination regarding this clause.

With regard to the Taxpayer's and the Authority's appeal the Circuit has no fault in adopting the grounds for the contested decision without adding to them when it determines that these reasons do not contain anything new, because in upholding them, it is clear that the Circuit did not find any objections to the decision worthy of consideration

Whereas it is evident that the decision that is the subject of the appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute and reached the result it concluded in its operative part in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's and the Authority's appeal and uphold the decision of the Appeals Circuit With respect to the outcome of the remaining clauses, in accordance with its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Commercial Registration No. (...), Distinctive Number (...), and the Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-93030) issued in Case No. (Z-2022-93030) related to Zakat assessments for the years 2019 AD and 2020 AD.

Second: On the merits:

- 1- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal with regard to the clause (rejecting the deduction of the subsidized loan granted to a subsidiary for 2019 AD).
- 2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause "Expenses for donations (...) for 2020 AD).
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (refusal to deduct the expenses paid in advance for the years 2019 AD and 2020 AD).
- 4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (rejection of the VAT expense charged to the accounts for 2019 AD and 2020 AD).



5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Consultancy fees for 2019 AD and 2020 AD).

6- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD).

7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting a cash insurance versus a bank guarantee for the years 2019 AD and 2020 AD).



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

Decision No. IR-2024-179439

Case No. Z-2023- 179439

**Principal No. 38**

- Operating expenses that are not capital expenditure are considered non-deductible items from the Zakat base.

**Facts**



The appeal submitted on 21/02/2023 AD by/ (....), Civil Registry No. (....), in his capacity as an attorney under the power of attorney No. (....), and under the lawyer's license No. (...), and the appeal submitted on 26/02/2023 AD by/Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-93030) issued in Case No. (Z -2022-93030) related to Zakat ties for the years 2019 AD and 2020 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

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

Second: On the Merits:

1- Dismissing the lawsuit with regard to the VAT expense clause charged to the accounts for the years 2019 AD and 2020 AD.

2- Dismissing the case with regard to the clause of consulting fees for the years 2019 AD and 2020 AD.

3. Annulment of the Defendant's action With respect to the donation expense clause (...) for 2020 AD, according to the grounds.

4- Amending the Defendant's action with regard to the subsidized loan granted to a subsidiary for the year 2019 AD, by deducting the long-term loan provided to the subsidiary equal to the percentage of the Plaintiff's ownership in it from the Zakat base, as stated in the grounds.

5- Revoke the Defendant's action With respect to the prepaid expenses clause for the years 2019 AD and 2020 AD, as stated in the grounds.

6- Dismissing the lawsuit regarding the clause of loans for employees for the years 2019 AD and 2020 AD.



#### 7- Dismissal of the claim regarding the cash versus bank guarantee for the years 2019 AD and 2020 AD.

Whereas this decision was not accepted by the Taxpayer (...), he submitted an appeal statement, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD). The Taxpayer explains that the representative of the Authority during the hearing before the Adjudication Circuit indicated that the Authority had obtained a certificate proving the registration of the company in VAT, but that The certificate submitted by the Authority is not applicable to the company and has no value at all, as the certificate of registration of the company in the value added tax submitted by the Authority was issued automatically from the automated system of the IRAD system, without the company submitting an application to register the company for the purposes of value added tax, in addition to the lack of application of the conditions and requirements for registration for the purposes of value added tax, as its revenues, mainly its share of investment in subsidiaries, are exempt from value added tax. The company clarified this matter to the Authority immediately after the Authority registered it for the purposes of value added tax and requested the cancellation of registration in value added tax, which was completely ignored by the representative of the Authority and did not address it. Accordingly, the company submitted a copy of the The e-mail sent by the Authority to the company on October 29, 2019 AD, which confirms and proves that the company is not registered for VAT purposes, which is a conclusive document that includes a confirmation to the Authority that the company is not registered for VAT purposes, contrary to what the representative of the Authority claimed before the Adjudication Circuit, which was ignored by the Adjudication Circuit by its decision under this appeal. The Adjudication Circuit also indirectly recognized that VAT is a deduction award for unregistered Taxpayers for VAT purposes, which applies to the case of the company, as the company bears the value of VAT on its inputs, which is considered a non-refundable cost, and therefore these amounts are considered expenses imposed by the reality of the situation and the nature of the company's activity, and the deduction award is considered within the profit adjustments in accordance with the provisions of the Zakat Regulation.

the Taxpayer explains that the nature of these receivables are loans granted to the company's Saudi employees, which are non-interest-bearing loans to help them purchase housing units within the home ownership program and are secured by a mortgage on the purchased property. These loans are repayable in installments over a maximum period of (15) years, and the installments due within one year are classified under "Prepayments and other receivables" within current assets, such loans are amounts that the company was forced to lend to its employees in accordance with the reality of the requirements of the activity and the obligation of the company towards its employees, and therefore the funds are retained and unutilized and are not used in trade offers and have not yet reached the end of the year in the company's liabilities. he requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed. this decision was not accepted by the appellant (Zakat, Tax and Customs Authority) the Authority's appeal is based on

the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019). The Authority explains that it did not deduct the backing loan in the amount of SAR (339,291,000) for the year 2019 AD, and the clause was not accepted in previous years, as it is one of the non-deductible clauses in accordance with the provisions of paragraph (4) of Article 5 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2216 dated 07/07/1440 AH, the Circuit issuing the decision concluded to amend the Authority's procedure by deducting a portion of the loans and advances provided to the subsidiary company from the zakat base equal to the percentage of its investment (65%) in the subsidiary company to which it provided the loan, and with reference to the financial statements of the investee company. "....." it turns out that the clause is classified as non-current liabilities, and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment, accordingly, the loan granted cannot be considered as an investment to be deducted, as it is financing for a commercial purpose and an interest rate is charged on it; therefore, the loan granted to the investor company must be recommended, and it is not considered additional or supportive financing, and even if the Circuit issuing the decision considers it as additional financing and as an investment, the clause is not deductible according to the provisions of paragraph (4) of Article (5) of the executive regulations of the Zakat Collection Law issued by Ministerial Resolution No. 2216 dated 07/07/1440 AH, referred to above. with regard to the clause (Refusal to deduct prepaid expenses for the years 2019 AD and 2020), the Authority explains that it did not accept the deduction of prepaid expenses from Zakat in the amount of SAR (508,000) and SAR(726,000) for the years 2019 AD and 2020 AD as a non-deductible clause, as the Taxpayer stated in his objection that these expenses relate to expenses for more than one fiscal year, they are considered deferred expenses and take the judgment of capital expenditures, and the Authority referred to the financial statements, which showed that the prepaid expenses appear in addition, these expenses represent operating expenses (medical insurance, office rent, subscriptions) and are not capitalized and do not fall under the provisions of paragraph (6) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, in this regard, the Authority responds that the Circuit's decision was incorrect; the Authority asserts that its procedure was correct as these expenses represent operating expenses (office rent, insurance expenses) and are not capital expenses that are deductible, noting that they are extracted from the trial balance provided by the Taxpayer, since these prepaid expenses are considered operating expenses, and since the accrual basis of accounting requires that prepaid expenses be recognized as an clause of current assets and then periodically amortized and charged to income with the amortization expense annually in accordance with the principle of offsetting expenses with income this means that this expense has been taken into account when calculating the Zakat base since net income is one of the components of the Zakat base; in light of this, the entire balance of deferred expenses cannot be fully deducted from the Zakat base, but rather the realized expense is deducted periodically; this confirms the incorrectness of the Circuit's decision to accept a deduction for these expenses. it asks that its appeal be accepted and that the decision of the Adjudication Circuit be reversed.

on Thursday, 16/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445AH; after reviewing the appeal request, the pleadings submitted, and the papers and documents contained in the case file, and at this session, the circuit reviewed the request for postponement attached to the case file by the Authority. accordingly, the Circuit decided to accept the request and grant the Authority a period of five working days ending on Thursday, 23/05/2024 AD, and to grant the Taxpayer a subsequent period of five working days ending on Thursday, 30/05/2024 AD, after which the written pleadings will be closed and the case will be submitted for deliberation and decision based on the documents contained in the case file, and the Circuit will not accept any new documents or memoranda submitted after the aforementioned date.

on Tuesday, 04/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08/04/1445 AH.; and by calling the opponents, he attended .... national ID No. (....), as agent for the Plaintiff by virtue of power of attorney No. (....), and attended ..... (National ID No. ....), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs (.....) on March 19, 1445 AH., the Defendant's representative was asked about what it would like to add, and it stated that it adheres to what was previously submitted in this case. when the Plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. when the parties were asked what they wished to add, they replied in the negative, and since the case is ripe for adjudication in its current state, the Circuit decides to close the arguments and reserve the case for adjudication.

### Grounds:

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

On the merits, regarding the Authority's appeal on the clause (Refusal to deduct the backing loan granted to a subsidiary company for the year 2019 AD), and where the Authority's appeal lies in the fact that it did not deduct the backing loan, as the clause is one of the non-deductible clauses, and based on paragraph (3)

of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440AH, which stipulates that: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: "The debts owed by the Taxpayer classified as long-term and similar components of the zakat base, such as: government financing, commercial financing, creditors, payment notes, overdraft accounts, loans to owners or partners (including their current accounts)...", and based on paragraph (4) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates that: "Investments in an establishment inside the Kingdom for non-trading purposes, if that establishment is registered with the Authority and is subject to the collection of Zakat in accordance with the Regulations, and assets that are financially leased in the commercial books of the lessor are not considered an investment that is deducted from the Zakat base, regardless of their classification in the financial statements, and neither are debit loans, supportive or additional financing and the like granted to the invested establishment considered an investment that is deducted from the Zakat base." Based on the above, and the Circuit's review of the documents attached to the case file, it is clear that the amount represents a support loan provided to the subsidiary company, and the dispute lies in the deduction of the support loan, as the Taxpayer demands its full deduction according to the financial statements of the company, as the subsidiary company has fully zakat these support loans provided by the parent company, but the Authority argues that the support loan should not be deducted as it is considered one of the non-deductible clauses and the clause is classified within non-current liabilities and the loan is commercial and carries financing interest against the loan granted and is not provided as an investment and therefore not considered additional financing or a contribution.

with regard to the Authority's appeal on the clause (Refusal to deduct prepaid expenses for the years 2019 and 2020), the Authority's appeal is that it did not accept the deduction of prepaid expenses from the Zakat base as a non-deductible clause, and based on Article (18) of the Executive Regulations for Zakat Collection issued by Decision No. (2216) dated 07/07/1440 AH, which stipulates that: "The burden of proving the validity of the clauses and any other data contained in the declaration is on the Taxpayer, and in case the Taxpayer is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause that the Taxpayer does not prove to be valid or make a discretionary link according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, the dispute between the parties lies in the Authority's objection to the deduction of prepaid expenses shown in the financial statements within current assets as non-deductible expenses, and that the expenses represent operating expenses consisting of medical insurance, office rent and subscriptions and not capital expenses, but the Taxpayer argues that they relate to more than one year and are therefore considered deferred expenses and take the rule of long-term capital expenses that may be deducted from the Zakat base, the Circuit's review of the Authority's appeal memorandum shows that the prepaid expenses are classified as current assets and are operational expenses (office rent, insurance,



subscriptions) and not capital expenses, and therefore may not be deducted from the Zakat base, and since the Taxpayer did not provide evidence to the contrary, the Circuit concludes to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

with regard to the Taxpayer's appeal on the clause (rejection of the VAT expense charged to the accounts for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies that the company is not registered for VAT purposes, and based on paragraph (1) of Article (8) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "The following expenses may be deducted to determine the net result of the activity: 1 - Ordinary and necessary expenses necessary for the activity, provided that the following controls are met: a. the alimony must be actual and supported by documents and evidence accepted by the Authority and verifiable, even if it relates to previous years. b. it must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer. c. not be capitalist in nature. if an expense of a capital nature is included in the expenses, the result of the activity is adjusted, added to the fixed assets and amortized within the depreciation of the asset." The Taxpayer argues that the certificate provided by the Authority is not applicable to the company and has no value, as it was issued automatically from the automated system of the IRAD system, and that the Authority registered the company for VAT and after communicating with the Authority to cancel the registration because the conditions and requirements for registration did not apply, the Authority canceled its registration, which was confirmed by the Authority in its email sent to the company on 29/10/2019 AD, which proves conclusively that the company is not registered for the purposes of VAT.

with regard to the Taxpayer's appeal on the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD), and where the Taxpayer's appeal lies in the fact that the funds are withheld and unutilized and are not used in trade offers and have not reached the due date in the company's possession, and based on paragraphs (e) and (f) of Article (5) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates that: "Net fixed assets and their equivalents, including, but not limited to, the following: e. Employee housing owned by the Taxpayer. (f) Housing loans paid to employees through employee housing support programs, if their contracts include a statement that the financing was through Hassan loan or forward sale without the company accruing any financial profits or fees in excess of the principal amount of the financing." Based on the above, it is permissible to deduct housing loans paid to employees through employee housing support programs classified as fixed assets from the Zakat base, provided that these loans do not include fees in excess of the financing amount, with reference to the financial statements for the year 2019 (Note 9), it is clear that the loans represent non-interest-bearing housing loans and are secured by a mortgage on the properties purchased under the employee housing ownership program. Therefore, since the Zakat Regulation stipulates that housing loans paid to employees through employee housing support programs

may be deducted, the Circuit concludes to accept the Taxpayer's appeal and cancel the decision of the Circuit of Determination regarding this clause.

with regard to the Taxpayer's and the Authority's appeal the Circuit has no fault in adopting the grounds for the contested decision without adding to them when it determines that these reasons do not contain anything new, because in upholding them, it is clear that the Circuit did not find any objections to the decision worthy of consideration

whereas it is evident that the decision that is the subject of the appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute and reached the result it concluded in its operative part in light of the arguments raised before it, this Circuit concludes to reject the Taxpayer's and the Authority's appeal and uphold the decision of the Appeals Circuit With respect to the outcome of the remaining clauses, in accordance with its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Commercial Registration No. (...), Distinctive Number (...), and the Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2022-93030) issued in Case No. (Z-2022-93030) related to Zakat assessments for the years 2019 AD and 2020 AD.

Second: On the merits:

- 1- Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit and rejecting the Taxpayer's appeal with regard to the clause (rejecting the deduction of the subsidized loan granted to a subsidiary for 2019 AD).
- 2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the clause "Expenses for donations (...) for 2020 AD).
- 3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (refusal to deduct the expenses paid in advance for the years 2019 AD and 2020 AD).
- 4- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (rejection of the VAT expense charged to the accounts for 2019 AD and 2020 AD).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Consultancy fees for 2019 AD and 2020 AD).
- 6- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the balance of loans to employees for the years 2019 AD and 2020 AD).



7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (not deducting a cash insurance versus a bank guarantee for the years 2019 AD and 2020 AD).



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

Decision No. IR-2024-181079

Case No. Z - 2023- 181079

Principle No. 39

- The amount of impairment must be deducted and considered when calculating the Zakat base, and the investment must be presented in the financial statements at its market value, which is the cost adjusted for any losses or increased by any gains resulting from market value revaluation.

Facts

the appeal was heard on 28/02/2023 AD from / (.....) National ID number (....) In his capacity as an agent for the appellant company under the power of attorney No. (.....), the lawyer's license No. (.....), and the appeal filed on 05/03/2023 AD by the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for the adjudication of income tax violations and disputes in the city of Riyadh No. (IFR-2022-6912) issued in Case No. (Z- 2021-89700) related to Zakat assessments for the years from 2016 AD to 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the Adjudication Circuit's decision ruled the following:

First: accepting the objection as a matter of form.

Second: On the merits:

1- Amending the Defendant's decision regarding the clause (non-discounting of available-for-sale investments).

2- Reject all other objections.

whereas this decision was not acceptable to the Taxpayer (.....) the Taxpayer's appeal is based on the clause (not deducting the impairment provision and selling the investment for the years 2016 AD and 2018 AD). The Taxpayer explains that the company does not agree with the Authority's treatment after allowing the impairment deduction and that the company claimed in its 2016 AD return the final balance of the aforementioned investment (after deducting the impairment losses) as a deduction from the Zakat base for the aforementioned year. in other words, these losses reduced the value of the investments for the Zakat deduction. a copy of the 2016 AD Zakat Declaration is attached in Appendix 5. also, if the company had not recorded any impairment loss, it would have deducted a higher amount for the investments equal to the



amount of the investments according to the declaration plus the impairment loss. furthermore, in the event that the Authority continues not to allow such losses on long-term investments as a deduction from the Zakatable Profit for 2016 AD on the basis that this loss is not an actual expense, the Authority should apply the same treatment in calculating the deduction of investments from the Zakatable Base, i.e. adding these losses to the closing balance of the investment (deduction of SAR 196,388,502). the Authority will note that disallowing the deduction of loss on investments in a company (.....) it would lead to bending Zakat on the same funds once as part of the net profit and secondly as part of the amount of investments in the deductions from the company's Zakat base which of course is neither the intention of the regulator nor according to the provisions of Shari'ah. in addition, with regard to the Committee's decision that the Chartered Accountant relied on the management's decision to calculate an impairment of SAR (20,011,016) for 2016 and a provision was made for it without proving the existence of an opinion from a certified valuer, the company would like to state that if the Chartered Accountant was not satisfied with the value of the impairment in investments, he would have expressed a different opinion in his report, as an absolute opinion was given. he requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed. this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), which filed a list of appeals demanding that the decision of the Adjudication Circuit be reversed and annulled.

on Wednesday, 22/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 22 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, the Taxpayer's appeal on the clause (not deducting the provision for impairment and sale of investment for the years 2016 AD and 2018 AD), where the Taxpayer's appeal is that the company does not agree with the Authority's treatment of not allowing the deduction of impairment of the investment, and based on paragraph (A/4) of Article (4) of the Zakat Collection Regulation, which stipulates that: "Zakat is calculated for Taxpayers who keep regular books and records as follows: Second: The following shall be

deducted from the Zakat base: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." based on paragraph (h) thereof, which stipulates that: "For zakat purposes, the results of the revaluation of securities from profit or loss according to the market value shall be taken into account." Based on the above, and since the first clause of the Authority's appeal relates to this clause, and the Circuit's decision in the first clause ended in accepting the deduction of investments, i.e. rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit, and since the investments that were deducted from the Zakat base did not take into account the decrease in investment value by (SAR 20,011), therefore, based on the above statutory grounds, the amount of the decrease must be deducted and taken into account when calculating the Zakat base, and the investment must appear in the financial statements at its market value, which is the cost reduced by any loss, or raised by any gain as a result of the valuation at market value, which concludes that the Circuit accepts the Taxpayer's appeal and overturns the decision of the Dispute Adjudication Circuit with regard to this clause.

with regard to the Taxpayer's and the Authority's appeal on the remaining clauses, the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what was contained in those reasons it is evident that the decision under appeal regarding the dispute regarding the contested clauses was consistent with the valid reasons on which it was based and sufficient to support its decision, as the issuing Circuit scrutinized the dispute and reached the result it concluded

in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's and the Authority's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the remaining clauses on the basis of its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ (.....) Commercial Registration No. (.....), Distinctive Number (.....), and the Zakat, Tax and Customs Authority, against the decision of the Third Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-6912) issued in Case No. (Z-2021-89700) related to Zakat ties for the years from 2016 AD to 2018 AD.

Second: On the Merits:



1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (non-discounting of available-for-sale investments for the year 2016 AD).

2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (non-discounting of investments for the year 2017 AD).

3- Regarding the Taxpayer's appeal on the clause (not deducting the provision for impairment and sale of investment for the years 2016 AD and 2018 AD):

a. Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (not deducting the provision for impairment and sale of investment for the years 2016 AD and 2018 AD).

b- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Loss on sale of investment amounting to SAR 3,122,000 in 2018 AD).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Accrued expenses and other liabilities).

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



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

Decision No. IR-2024-194322

Case No. Z-2023-194322

### Principle No. 40

- It is permissible to deduct carried forward losses that were previously reduced from the Zakat base in the year in which they were incurred.

### Facts

The appeal submitted on 03/05/2023 AD, by/ (...), National ID No. (...), in his capacity as the legal representative of the appellant company under the decision of the Board of Directors, and by/ the Zakat, Tax and Customs Authority, against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2023-152831) issued in Case No. (Z-2022-152831) related to Zakat assessment for the years 2016 AD and 2017 AD, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit stipulated the following:

First: Defendant/Zakat, Tax and Customs Authority's action against the Plaintiff/ (...) (.....) the claim relates to the clause of realized losses for the years 2016 AD and 2017 AD, as explained in the grounds.

Second: Defendant/Zakat, Tax and Customs Authority (Zakat, Tax and Customs Authority) vs. Plaintiff/ (...) (.....) related to the provision for losses in the investee company (equity) for the year 2016 AD, as explained in the grounds.

Third: Plaintiff's objection rejected. .... (.....) on the decision of the Defendant/Zakat, Tax and Customs Authority regarding the clause of investments in Saudi joint stock companies for the years 2016 AD and 2017 AD that are the subject of the lawsuit.

Fourth: Plaintiff's objection rejected. .... (.....) on the decision of the Defendant/Zakat, Tax and Customs Authority regarding the deduction of prepaid expenses for the years 2016 AD and 2017 AD that are the subject of the lawsuit.

Fifth: Plaintiff's objection rejected. .... (.....) on the decision of the Defendant/Zakat, Tax and Customs Authority (ZTA) regarding the provision for losses in the investee company (equity) for the year 2017 AD, which is the subject of the lawsuit.

sixth: canceling the other decisions of the Defendant/Zakat, Tax and Customs Authority against the Plaintiff. .... (....) related to the assessment in question.

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

as this decision was not acceptable to the Taxpayer (...), he filed an appeal list, which was reviewed by the Circuit and included the following: the Taxpayer appeals against the decision of the Adjudication Circuit regarding the clause (Investments in Saudi joint stock companies), the appellant demands the annulment of the Circuit's decision regarding this clause, and the Taxpayer asserts his right to deduct the value of the investments from the Zakat base amounting respectively to SAR(15,249,588) and SAR (8,716),727), that the legal basis for accepting the deduction of these investments from the Zakat base is in accordance with the Sharia fatwa and judicial rulings issued that support the right to accept the deduction of the company's investments in shares available for sale from the Zakat base, including Sharia Fatwa No. (22665) of 1424 AH on the necessity of deducting investments in shares of companies with the intention of acquisition even if there is a movement on them, and the Taxpayer indicates by submitting a table and annexes he indicated that there is no movement on many of the investments, and that the shares have been held without any disposal by the company, and that the movement shown in the tables provided also confirms that the investments are long-term and have been held from the time they were purchased, as the majority of the invested shares have not undergone any sale or purchase except for some shares that the company was forced to sell due to a critical decline in value or the company's need to monetize them, and this is in accordance with Sharia Fatwa No. (22665), and with regard to investments in shares available for sale for 2017 AD, the Taxpayer reports that most of the shares were held from the time of purchase and extended for more than 3 years, and that the process of decrease or increase in the number of shares is taken into account as for what the Adjudication Circuit indicated in its decision that the minutes of the Executive Committee meeting dated 06/03/2017 AD indicate that there was approval to sell some shares, this has no effect on the company's intention to acquire, and it is not valid to rely on it to infer the company's intention, because its effect was taken into account when the value of the investments was deducted from the Zakat base.

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

with regard to the Authority's appeal against the decision of the Adjudication Circuit, the Authority requests the annulment of the Circuit's decision on this clause on the basis that the Authority deducted the carried forward losses from the Zakat base, as the loss was deducted in 2016 AD according to the 2015 AD linkage as acknowledged by the Taxpayer, while in 2017 AD, the loss was deducted according to the 2016 AD linkage after refunding the allocations as for the Taxpayer's reference to the existence of a case filed with the committees for the year 2015 AD that has not been decided and relates to the deduction of the net



rounded loss, the Authority responds that the clause of the rounded loss according to the 2015 AD linkage turned out to be a material error in the treatment of the rollover of the rounded loss to 2016 AD, and this error was based on this error was based on the carry forward of the rounded loss for 2017 AD, and by amending the material error of the rounded loss clause according to the approved links for the years 2016 and 2017 AD, and since the result of processing the correctness of the rounded loss will result in a larger base, which indicates the incorrectness of the Taxpayer's claim, and therefore the losses received by the Authority for the two mentioned years were approved based on Article XXI of the Zakat Regulations, and the treatment of the discount of the rounded loss came based on Article 4 of the same Regulations, and the result of the 2015 AD escalation is still pending before the committees and the Authority maintains its viewpoint according to the note attached to the year referred to which did not reach the decision of the committees, and the result of the escalation of the year 2015 AD is still pending in front of the committees and the Authority maintains its viewpoint according to the note attached to the year referred to for which no decision has been issued to date. The circuit issuing the appealed decision amended that clause, reasoning that the previous lawsuit for the year 2015 AD was accepted some clauses affecting the net profit and ended up amending the Authority's procedure based on the final decision. The Authority answers that the 2015 AD lawsuit, which ended in the acceptance of some clauses, has been appealed by the Authority and to date no appeal decision has been issued on it. Moreover, the Authority reports that even if the decision was issued in favor of the Taxpayer, there is still a net profit for the year 2015 AD. When recalculating the losses carried forward during the objection stage, it became clear that the losses carried forward for 2016 AD will be deducted in the amount of SAR (3,712,586) instead of the amount of SAR (11,375,303). In 2017 AD, an amount of SAR (492,548) was deducted instead of the amount of SAR (7,170,169) from the elements of the Zakat base. The loss was deducted in 2016 AD according to the 2015 assessment as well as the Taxpayer's declaration. While in 2017 AD, the circular loss was deducted according to the 2016 AD assessment after processing the refund of allocations, and the amendment was not made during the objection, as the impact of the amendment will result in a higher Zakat than Zakat, and the treatment of the deduction of the rounded loss was based on paragraph (II/9) of Article 4 of the regulation issued in 1438 AH, so the Authority confirms the validity and regularity of its procedure. with regard to the clause (Partner's salary expense), in case the Circuit overrides the procedural, the Authority would like to inform the Honorable Circuit of the abandonment of its appeal with regard to the above-mentioned clause in particular and the consequences of the Authority's appeal for this clause, in accordance with the reasoning of the Decision of the Adjudication Circuit. with regard to the clause (Dividends), the Authority requests the annulment of the Circuit's decision on this clause on the basis that the Authority does not accept the deduction of dividend income in the amount of SAR (551,176) from the net result of the year, as it is represented by shares listed in the Saudi market (available-for-sale investments), and therefore, because it does not apply to the text of Article 4 (II.4.c) of the Zakat Regulations it should also be noted that it was previously met with the Taxpayer and the Authority requested to provide proof of the dividends

resulting from the investment and that they were made from the profits of the year and not from the profits of previous years, and the Taxpayer's response came on 21/08/2022 AD about the inability to obtain copies of dividend decisions for the required years from the Tadawul website because more than five years have passed since these decisions were issued, so that the Tadawul system does not show any decisions related to dividends, so the Authority referred to the data provided during the examination phase since the Authority did not originally approve the deduction of available-for-sale investments from the elements of the Zakat base due to the presence of buying and selling during the year, as they are traded investments for the purpose of trading and are not subject to deduction, the effect of dividends resulting from these investments was not accepted from the income of the result and must be subject to Zakat, based on paragraph (1) of Article 1 of the Zakat Regulation, and based on paragraph (3) of Article (Twenty) of the same Executive Regulations, the Authority did not accept the effect of dividends resulting from these investments from the income of the result. in response to what is stated in the Taxpayer's list regarding Zakat bending, the Authority clarifies the incorrectness of what the Taxpayer referred to in his list, as the Authority's action does not result in Zakat bending, so that it is clear to the Circuit that there is no validity to the Taxpayer's request to deduct the clause because it violates the legal requirement explained by the Authority in the above paragraph, nor is there a valid basis for what he addressed in his list, as it is not based on any legal evidence that can be relied upon as for what the Taxpayer relied on with regard to fatwas, the Authority responds that this clause is governed by a clear statutory provision, and anything else is a procedure contrary to the correct statutory requirement, whether from decisions or otherwise, because the statutory text is clear and explicit and prevents any diligence to the contrary. The Circuit issued the appealed decision canceling the Authority's decision due to the fact that the investments are long-term and for the purposes of property acquisition and that those companies invested in them are large Saudi companies and distribute profits to shareholders periodically. The Authority responds to this by referring to the third clause of the decision (the clause of investments in Saudi joint stock companies for the years 2016 AD and 2017 AD), which rejected the Plaintiff's objection, as it was stated in its reasoning that the Circuit found that there were purchases and sales during the years in dispute, which indicates that they are not for the purposes of property acquisition, and where the Circuit's decision in the clause of investments came in support of the Authority's action and that the Authority did not originally approve the deduction of investments from the elements of the Zakat base for the existence of a sale and purchase movement during the year as they are traded investments for the purpose of trading and is not permissible for deduction, and therefore the impact of the dividends resulting from those investments was not accepted from the result income and must be subject to Zakat, based on paragraph (1) of Article 1 of the Zakat Regulations, and where the dividends are considered a source of the investment activity subject to Zakat confirmed by the Authority.

on Sunday, 21/07/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article

15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No.: (25711) and dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, as it relates to the Authority's appeal regarding the clause "Carried Forward Losses for 2016 AD and 2017 AD" and where the Authority is requesting the annulment of the Adjudication Circuit's decision regarding this clause on the basis that the Authority deducted the carried forward losses from the Zakat base elements. Based on paragraph (Second/9) of Article (4) of the executive regulation for zakat collection issued by Ministerial Decision number (2082) dated 01/06/1438 AH, which stated that: "The following shall be deducted from the zakat base:" 9. The net loss carryforward adjusted according to the Authority's profitability after adding only provisions or reserves to it, with which the loss was previously reduced in the year of its formation." Based on the above, and the Circuit's review of the case file, it appears that the Authority partially leaves its appeal by amending the loss carryforward based on the appeal decision issued (IR-2024-171656) in Case No.( Z-171656-2023) of 2015 AD to SAR (6,047,477) and SAR (1,842,343) riyals for the years 2016 and 2017 AD, and with regard to the Taxpayer's claim to deduct the losses carried forward according to the Zakat declarations submitted and confirmed by the audited financial statements, the losses carried forward from the elements that may be deducted from the Zakat base are the losses adjusted according to the links issued by the Authority after adding provisions to them and the loss was previously reduced therefore, what is considered in the losses carried forward for Zakat purposes is what has been adjusted as required by the Zakat law and not the losses carried forward included in the financial statements, which leads the Circuit to partially accept the abandonment of the dispute regarding the Authority's appeal on the clause (adjusting losses in the amount of SAR (6,047,477) and SAR (1,842,343) for the years 2016 AD and 2017 AD, accepting the Authority's appeal and canceling the decision of the Adjudication Circuit with regard to the clause (carried forward losses for the years 2016 AD and 2017 AD).

with regard to the Authority's appeal regarding the clause "Partner Salary Expense for 2016 AD", and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in



acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the claim and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the subject matter of the case or some of it is among those agreed upon." Based on the foregoing, and as it has been established to this Circuit that the Authority has requested to abandon the dispute pursuant to its formal communication stating: "In the event the Circuit proceeds beyond the procedural grounds, the Authority wishes to inform the respected Circuit of its intention to abandon its appeal specifically regarding the aforementioned clause and all related procedural consequences, in accordance with the reasoning concluded by the Decision of the Adjudication Circuit," therefore the Circuit decides to accept the abandonment of the dispute with respect to the Authority's appeal concerning the clause (Partner's Salary Expense for the year 2016 AD)

With respect to the Authority's Appeal concerning the clause "Dividend Distributions – Fiscal Year 2016 AD," the Authority petitions for the revocation of the Adjudicating Circuit's decision, which had ruled in favor of allowing the deduction of dividend income from the net result for the year, in the amount of SAR (551,176). The Authority asserts that the dividends at issue originated from publicly listed shares in the Saudi capital market, and hence were not eligible for deduction under the applicable regulations. In support of its position, the Authority cites Article 4(4)(a) of the Executive Regulations for Zakat Collection (Ministerial Resolution No. 2082 dated 01/06/1438 AH), which provides: "Investments in local establishments — in partnership with others — shall be deductible only if such investments are subject to zakat under these regulations; otherwise, they shall not be deductible from the zakat base." The Authority challenges the Circuit's finding that such dividends were derived "predominantly from current-year profits," asserting instead that the distributions were made from retained earnings of prior years. The Authority submitted supplementary documentation, including equity movement statements of the relevant investee companies, which confirm that the dividends were not drawn from current profits but rather from accumulated retained earnings. The taxpayer failed to produce evidence to the contrary and did not establish that the distributed dividends were previously subject to zakat by the distributing companies. As such, the Authority maintains that its position is supported by Paragraph (10) of Article 4 of the Executive Regulations issued in 1438 AH. It therefore seeks a ruling to uphold its proceedings and to annul the Circuit's prior ruling on this clause.

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the Circuit'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 Circuit that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This Circuit did not find anything that would warrant correction or comment in light of the arguments presented before it. This Circuit therefore rejects the appeal and upholds the decision of the Circuit 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 grounds stated, the Circuit unanimously decided as follows:

### Decision:

First: procedurally:

accepting the appeal procedurally submitted by ..... , commercial registration (...), unique number (...) the Zakat, Tax and Customs Authority (ZTCA) appealed the decision of the First Circuit of Income Tax Violations and Disputes in Riyadh (IFR-2023-152831) issued in Case No. (Z-2022 -152831) regarding the Zakat assessment for 2016 AD and 2017 AD.

Second: On the Merits:

1- Regarding the Authority's appeal on the clause (2016 AD and 2017 AD realized losses):

- a. Accepting the partial abandonment of litigation with regard to the Authority's appeal on the clause (adjusting losses by SAR (6,047,477) and SAR (1,842,343) for the years 2016 AD and 2017 AD).
- b- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (2016 AD and 2017 AD realized losses).

2- Accepting the abandonment of litigation in relation to the Authority's appeal on the clause (2016 AD Partner Salary Expense).

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Dividends for the year 2016 AD).

4- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (investments in Saudi joint stock companies).

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



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

Decision No. IR -2024- 156597

Case No. Z-2022-156597

Principal No. 41

- If the taxpayer does not add the amounts financed for costs to the Zakat base, then the full balance of deferred costs may not be deducted from the Zakat base. Instead, only the periodic realized expense shall be deductible, as this item is not considered among the element's deductible from the base.

**Facts**

The appeal filed on 30/10/2022 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-1962) issued in Case No. (Z-2022-112708) related to Zakat assessment for the years 2019 AD-2020 AD was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit stipulated the following:

1.rescinding the Defendant's decision regarding the non -discounting of the costs of underwriting deferred insurance policies for the years 2019 AD and 2020 AD.

2.dismissed Plaintiff's objection With respect to the Saudi partner's adjusted loss carryforward for 2020 AD.

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

as the Authority objects to the decision of the Appeals Circuit, it claims that with regard to the clause "Underwriting costs of insurance policies for the years 2019 AD and 2020 AD," the Authority appeals the decision of the Appeals Circuit and requests the annulment of the Circuit's decision, explaining that it did not accept the deduction of the clause from the Zakat base due to the fact that the nature of the clause is similar to prepaid expenses

the Zakat Regulation does not provide for the deduction of the clause from the Zakat base, and the Authority explained that the nature of this clause in insurance companies in general is a variety of costs incurred by the company in order to complete the sale of insurance policies and the recognition of these costs is deferred in accordance with the principle of matching income with expenses, and then amortized in proportion to the acquisition of insurance premiums related to these costs, and the Authority confirms that

it approved the amortization expenses as stated in the Taxpayer's declaration in the amount of SAR (17,622,031) and SAR (20,812,671) for the years 2019 AD and 2020 AD, respectively, and that what the Taxpayer claims to deduct are deferred costs, and since the accounting treatment according to the accrual basis and the income-expense basis requires that expenses that are paid in advance and for which income is not realized be recognized as an asset and then periodically amortized and charged to income with the amortization expense that relates to the year, which means therefore, the entire balance of deferred costs cannot be fully deducted from the Zakat base, but the realized expense is deducted periodically, and the asset is not considered one of the elements or assets that are deducted from the base according to Article (5) of the Executive Regulations governing the collection of Zakat.

whereas it is clear that the Defendant's (the Taxpayer) view is that the underwriting of insurance policies covers more than one year, i.e. they are long-term assets and these deferred costs are amortized in the statement of insurance operations and the accumulated surplus over the period of the related insurance coverage, i.e. these costs are long-term assets because the insurance activity requires such costs to generate profit and therefore are considered long-term assets, which are from the property acquisition offerings and should be treated as fixed assets and deducted from the Zakat base and this is the practice applied by the Authority also explained that deferred costs represent the total costs incurred directly and indirectly related to the purchase or renewal of insurance contracts that are allowed to be deferred over the period of the insurance contract as defined by the accounting standards and are therefore capitalized, and deferred policy underwriting costs include both Authority's and other costs directly related to the underwriting of insurance policies, so the nature of deferred policy underwriting costs also takes the rule of deferred expenses because they relate to expenses for more than one fiscal year.

on Tuesday, 09/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No: (26040) and dated: 21 / 04 / 1441 AH; and by calling on the opponents, I attended / ... (National ID No. ...), in her capacity as the representative of the appellant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) and the date 19/03/1445 AH, Mr. (...), National ID No. (...), appeared as an agent for the appellant under power of attorney No. (...). when the representative of the appellant was asked about the case, she replied that she does not deviate from what was mentioned in the objection memorandum filed with the General Secretariat of Zakat, Tax and Customs Committees, and that she is satisfied with it, and upholds the grounds, defenses and requests contained therein, and when this was presented to the agent of the appellant against her, he replied that he does not deviate from what was mentioned in the reply memorandum, and is satisfied with the memorandums filed on the General Secretariat of Zakat, Tax and Customs Committees, and

upholds the grounds, defenses and requests contained therein. when the parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the arguments and reserve the case for adjudication.

### Grounds:

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

On the merits of the appeal, and based on paragraph (6) of Article (5) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2216) dated 07/07/1440 AH, which stipulates that "The following clauses shall be deducted from the zakat base for the Taxpayer who maintains commercial books:" 6- Net start-up, pre-operating and similar capital expenditures", and based on the General Authority of Zakat and Income Circular No. (1433/16/2714) dated 15/1/1425 AH regarding the deduction of deferred voluntary expenses, which states that "Deferred voluntary expenses are a real cost that must be allowed to be deducted for zakat purposes, but because these expenses contribute to the realization of revenue for a number of years, they take the ruling of establishment expenses and fixed assets in terms of allowing their annual amortization premium to be deducted among the deductible costs, and the net balance at the end of the year is deducted from the zakatable funds, just like other legally deductible offers of property acquisition."

Based on the above, the Authority's appeal lies in its disagreement with the outcome of the contested decision regarding the deduction of deferred underwriting costs. A review of the financial statements and Note (8) of the movement in the calculation of the disputed clause shows that the initial balance of the period is fully amortized during the year, and the balance that appears at the end of the year is what was created during the year, which shows that the disputed clause does not represent long-term assets and does not take the rule of capital costs that can be deducted from the Zakat base, and the Defendant's claim that these costs relate to new insurance contracts, which represent unearned insurance premiums that appear within the liabilities in the statement of financial position which represent unearned insurance premiums shown as liabilities in the company's statement of financial position, this would entail adding a portion of those premiums to the Zakat base to the extent of the acquisition costs of deferred insurance policies deducted from the Zakat base, as they are among the clauses that financed what was deducted from the Zakat base in accordance with paragraph (10) of Article (4) of the Executive Regulations for the Collection of Zakat, and with reference to the Zakat return for the two years in dispute, it appears that the Taxpayer did not add the amounts financed for these costs to the Zakat base, which means that the balance of the



deferred costs was not fully deducted from the Zakat base, rather, the realized expense will be deducted periodically as the clause is not considered among the elements or clauses that are deducted from the Zakat base according to Article (5) of the Executive Regulations for Zakat Collection, which means that the Circuit accepts the Authority's appeal and cancel the decision of the Determination Circuit regarding the clause (Insurance Policy Underwriting Costs for the years 2019 AD and 2020 AD).

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

#### Decision:

1-Accepting the appeal in form of the applicant/Zakat, Tax and Customs Authority, against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-1962) issued in Case No. (Z-2022-112708) related to Zakat assessment for the years 2019 AD-2020 AD.

2. On the merits:

accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (underwriting costs of insurance policies for the years 2019 AD and 2020 AD).



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

Decision No. IR-2024- 156136

Case No. Z-2023-156136

### Principle No. 42

- If the amounts are subject to Zakat in the subsidiary company's base, then the loans and advances granted to the subsidiary may be deducted from the Zakat base.

### Facts

The appeal submitted on 20/10/2022 AD by Zakat, Tax and Customs Authority, and the appeal submitted on 23/10/2022 AD by Zakat, Tax and Customs Authority, against the decision of the Third Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (IFR-2022-5685) issued in Case No. (Z-2021-50579) related to Zakat assessment for the years from 2015 AD to 2018 AD, were considered in the case filed by the Taxpayer against Zakat, Tax and Customs Authority, in which the decision of the adjudication circuit ruled the following:

First: Procedurally:

Acceptance of the Plaintiff's objection/ Company ... , Commercial Register No. (...) On the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

- 1- Annulment of the Defendant's decision With respect to the clause (Dues to Partner).
- 2- Annulment of the Defendant's decision regarding the clause (salaries and wages).
3. Annulment of the Defendant's decision With respect to the "Donations" clause
- 4- Reject all other objections.

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

with regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal lies in the clause (receivables from related parties) that the shareholders of the holding company are the same shareholders of the subsidiary company, and in order to prevent Zakat dissuasion, this financing provided to the subsidiary company has been recorded in its accounts in equity. during 2014 AD and 2015 AD in the amount of SAR (14,896,500), it was received from the company's shareholder in order to absorb the losses

reported by ... The Taxpayer also objects to the clause (due to ... - (Payment of Dividends), (Foreign Investments), (Advance Project Payment that was written off), and (Payments not taken into account by the Authority). Therefore, the Taxpayer requests that the decision of the Adjudication Circuit on the clauses under appeal be overturned for the above reasons.

with regard to the Authority's appeal against the decision of the Adjudication Circuit, it submitted a list of appeals, which was reviewed by the Circuit and included the following: The Authority requests that its appeal be accepted and that the decision of the Adjudication Circuit regarding the clause "Donations" be reversed.

on Monday, on: 03/10/2022 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no: (2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds:

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

On the merits, the Taxpayer's appeal regarding the clause (Receivables from Related Parties), and where his appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; as he claims that the shareholders of the holding company are the same shareholders of the subsidiary company, and in order to prevent Zakat dissuasion, this financing provided to the subsidiary company has been recorded in its accounts in equity. during 2014 AD and 2015 AD, the amount of SAR (14,896,500) was received from the company's shareholder for the purpose of absorbing the losses reported by (...). Whereas paragraph (5) of clause (Second) of article (fourth) of the executive regulation for the collection of zakat issued by Ministerial Decision number (2082) dated 01/06/1438 AH states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. (c) What is used in trade offers and has passed the hawl." Article 20(3) of the Tax Law



also stipulates that: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and where the dispute lies in the Authority's procedure of deducting the funding provided by the holding companies to the subsidiaries according to the percentage of ownership, and by reviewing the case file; and whereas, regarding the deduction of the funding provided by the holding company, it turns out that the Taxpayer claims to deduct the total amounts due from the related parties from the Zakat base for the years 2015 to 2018, and by reviewing the Zakat declarations and financial statements of the years in question; it turns out that the shareholders of the holding company are the same as those of the subsidiaries, as the Taxpayer submitted the Articles of Association of the subsidiaries (the company ... Ltd. Ltd, Company ..., and Company ...) therefore, since the Taxpayer has proven the validity of his objection, and since these amounts are subject to Zakat in the subsidiary's base, the loans and advances to the subsidiary are deducted from the Zakat base, which leads the Circuit to accept the Taxpayer's objection and overturn the decision of the Adjudication Circuit in this clause.

whereas, with regard to the Taxpayer's appeal regarding the clause (payment of dividends) and the clause (advance project payment that was written off), and where Article 70 of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, it is necessary to monitor the content of the case and the answer before recording the agreement, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the subject matter of the case or some of it is among those agreed upon." Based on the above, and where it is proven that the dispute ended with the Authority's acceptance of the Taxpayer's objection as stated in the letter issued by it in the supplementary appeal note submitted on 06/12/2023 AD, containing the following statements: "The Authority accepts the Taxpayer's objection as stipulated in the supplementary appeal note: "3- Regarding the Taxpayer's appeal on the dividend clause for the years 2015 AD to 2018 AD: the Authority informs you that the Taxpayer's objection to this particular clause is accepted. 4- Regarding the Taxpayer's appeal on the project advance payment clause that was written off for 2018 AD: the Authority informs you that the Taxpayer's objection to this particular clause is accepted."

regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. whereas, there is no fault on the part of the Circuit in adopting the grounds for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit. With respect to the rest of the clauses at issue in the case, based on the grounds for the decision.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer / Company ..., Commercial Registration (...), Unique Number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-5685) issued in case number (Z-2021-50579) related to the tax assessment for the years from 2015 AD to 2018 AD.

Second: On the Merits:

- 1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the (Donations) clause.
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Receivables from related parties).
- 3- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (due to ... - owed to a partner).
- 4- Proof of the end of the dispute regarding the Taxpayer's appeal on the clause (payment of dividends).
- 5- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (foreign investments).
- 6- Proof of the end of the dispute regarding the Taxpayer's appeal on the clause (project advance payment that was written off).
- 7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (payments not taken into account by the Authority).



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

Decision No. Z -2023- 169213

Case No. Z-2023-169213

**Principle No. 43**

- The accounting treatment based on the accrual and matching principles requires recognizing prepaid expenses, from which no revenue has yet been realized, as an asset item. These expenses shall then be amortized periodically, and the income shall be charged with the amortization expense attributable to the relevant year.

**Principle No. 44**

- The full balance of deferred costs may not be deducted from the Zakat base; rather, only the periodically realized expense included in the income statement shall be deductible.

**Facts**



the appeal filed on 12/01/2023 AD from/... National ID number (...) as an agent for the appellant company under power of attorney No. (...), and the appeal filed on 15/01/2023 AD from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (ITR-2022-6012) issued in Case No. (Z-2021-47441) related to the Zakat assessment for the years 2015 AD to 2018 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: Procedurally:

Acceptance of the Plaintiff's objection/ Company ... – ... (Commercial Register No. ...), on the decision of the Defendant/Zakat, Tax and Customs Authority.

Second: On the merits:

- 1- Annul the Defendant's decision regarding the (distributable surplus to policyholders) clause.
2. Demonstrate that the controversy regarding the clause (Investments in a company ... 2017 AD and 2018 AD).
- 3- Annul the Defendant's decision With respect to the prepaid expenses clause.
- 4- Reject all other objections.

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

With respect to the taxpayer's appeal against the decision of the Adjudication Circuit, his appeal concerns the clause (Investments – (A) Fund Investments for the year 2018). The taxpayer asserts that he has submitted evidence demonstrating the investment intention, and that there was no movement in the fund units during the year. He further clarifies that the purpose of the fund was to acquire 19 real estate properties for leasing purposes, an activity that does not involve trading or resale. The taxpayer also states that he does not object to paying zakat on his share in the fund, which aligns with Appellate Committee Decision No. (IR-2021-153) and with the guidelines issued by the Authority concerning fund investments. Accordingly, the taxpayer requests approval to deduct these fund investments from the zakat base while confirming his readiness to pay zakat on his share within the fund. The taxpayer also objects to the clause (Investments – (B) Equity Investments) and the assessment of zakat based on the zakat base instead of adjusted profit. Therefore, the taxpayer requests the reversal of the Adjudication Circuit's decision concerning the contested clauses for the grounds stated above.

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies in relation to the clause (Prepaid Expenses for 2016 AD) that it did not accept the deduction of the prepaid expenses clause from the Zakat base because they are not considered capital expenses, and the Taxpayer demands that these expenses provided by customers be considered as deferred expenses, as they represent receivables that are periodically amortized as income is charged with amortization expenses annually, which means taking this expense into account when calculating the Zakat base as net income is a component of the Zakat base, so the balance may not be deducted from the Zakat base, but the amortization expense is deducted periodically whereas, the Zakat Executive Regulations issued by Royal Decree No. (M/40) dated 02/07/1405 AH issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH did not authorize the deduction of any clause from the Zakat base except by a statutory provision therefore, the objection was rejected, as the year's profits must be subject to Zakat in full according to Article IV/I (Paragraph 10) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH. accordingly, the Authority maintains the validity and integrity of its procedure and requests that the decision of the Adjudication Circuit on the clause under appeal be reversed for the above reasons.

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

decision on its subject matter, so the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds:



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

On the merits, regarding the Authority's appeal regarding the clause (Prepaid Expenses for 2016), and where its appeal lies in the fact that it did not accept the deduction of the prepaid expenses clause from the Zakat base because they are not considered capital expenses, and the Taxpayer demands that these expenses provided by customers be considered as deferred expenses as they represent receivables that are periodically amortized, as the income is charged with the amortization expense annually, which means that this expense is taken into account when calculating the Zakat base because net income is one of the components of the Zakat base, so the balance of the prepaid expenses cannot be deducted from the Zakat base, but the periodically realized expense is deducted. whereas paragraph (7) of clause (II) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH stipulates that "The following shall be deducted from the zakat base:" 7. Net start-up and pre-operational expenses and similar capital expenditures, such as advertising campaigns." The General Authority of Zakat and Income Circular No. ( 1433 /16/2714) dated 15/01/1425 AH regarding the deduction of deferred revenue expenses stipulates that: "Deferred revenue expenses are a real cost that must be allowed to be deducted for zakat purposes, but because these expenses contribute to the realization of revenue for a number of years, they take the ruling of establishment expenses and fixed assets in terms of allowing their annual amortization premium to be deducted as a deductible cost, and the net balance at the end of the year to be deducted from the zakatable funds like other legally deductible property acquisition offerings." Based on the above, since what the Taxpayer claims to deduct are deferred costs, and since the accounting treatment according to the accrual basis and the matching basis requires that expenses that are paid in advance and for which income is not realized are recognized as an clause of assets and then periodically amortized and income is charged with the amortization expense for the year, this means that this expense was taken into account when calculating the Zakat base, since net income is one of the components of the Zakat base. therefore, the entire balance of deferred costs cannot be fully deducted from the Zakat base, but only the periodically realized expenses included in the income statement, and the clause is not considered one of the elements or clauses to be deducted from the base, and there is no clause within the deductions of this name or of the same nature, in addition to the Taxpayer's failure to present the

movement of the account in the financial statements, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit on this clause.

With regard to the taxpayer's appeal concerning clause (Investments – (A) Investment in the ... Fund for the year 2018 AD), the basis of the appeal lies in the taxpayer's submission of evidence establishing the investment intent, in addition to the absence of any transactions on the fund units, and the stated purpose of the fund being the purchase and leasing of 19 properties—an activity not involving trading or resale. The taxpayer further expressed no objection to paying zakat on his share in the fund. Article 4(a) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082), dated 01/06/1438 AH, provides: "Investments in entities within the Kingdom—in partnership with others—if such investments are subject to zakat in accordance with these Regulations, they may be deducted from the zakat base. However, if the investment is not subject to zakat, it shall not be deductible." Based on the foregoing, and since the dispute concerns the non-acceptance of deducting investments in the ... Fund for the year 2018 AD, a review of the supporting documents in the case file reveals that the taxpayer submitted the fund's terms and conditions, financial statements for 2018 AD, the zakat calculation for the fund, a Board resolution affirming the investment, and the unit movement record. These documents indicate that the fund's activity centers on leasing real estate and is non-tradable, removing it from the scope of trading assets. Accordingly, and having submitted documentation supporting his position, the Circuit concludes that the taxpayer's appeal shall be accepted and the Adjudication Circuit's decision on this clause shall be annulled

regarding the Taxpayer's and the Authority's appeal on the remaining clauses in the case. whereas, there is no fault on the part of the Circuit in adopting the grounds for the decision under appeal without adding to them, if it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with the content of those reasons, it is certain that the Circuit did not find any objections to the decision that merit a response beyond what is contained in those reasons, and since it is proven that the decision under appeal regarding the dispute regarding the clauses under appeal was consistent with the valid reasons on which it was based and sufficient to carry its judgment, since the issuing Circuit scrutinized the content of the dispute in it and reached the result in its operative part since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in its operative part, and since this Circuit did not observe anything that warrants censure or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal, reject the Authority's appeal, and uphold the decision of the Adjudication Circuit. With respect to the rest of the clauses at issue in the case, based on the grounds for the decision.



### Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... , commercial registration (...), unique number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (ITR-2022-6012) issued in case number (Z-2021-47441) related to the tax assessment for the years from 2015 AD to 2018 AD.

Second: On the Merits:

1 - Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (distributable surplus to policyholders).

2 - Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Prepaid Expenses for 2016 AD).

3 - Regarding the Taxpayer's appeal on the clause (Investments)

a. Accepting the Taxpayer's appeal and canceling the adjudication decision regarding the clause (Investments in ... for 2018 AD).

b. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Investments in shares).

5 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit with regard to the clause (calculating zakat on the base and not on the adjusted profit).

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



## Adjustments to Net Profit





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

Decision No. IR-2024-171218

Case No. Z-2023-171218

### Principle No. 45

- The principle in Zakat is to calculate the accounting profit and amend it by adding expenses that are not legally deductible, and then calculating the Zakat base.

### Facts

the appeal filed on March 16, 2023 AD, by (...), National ID No. (...), as an agent of the appellant company under power of attorney No. (...), and the appeal filed on 05/04/2023 AD, from the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh (IFR-2022-6702) issued in Case No. (Z-2021-47421) related to the 2015 AD Zakat assessment, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: Zakat, Tax and Customs Authority:

First: acceptance of the Plaintiff's objection/ (.....) , Commercial Register No. (...) on the decision of the Defendant/Zakat, Tax and Customs Authority in terms of proceduralty.

Second: On the merits:

- 1- Amending the Defendant's decision With respect to the clause (not deducting the government subsidies due at the end of the year from the net profit for the years 2015 AD and 2016 AD).
- 2- reject all other objections.

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

With regard to the Taxpayer's appeal against the decision of the Adjudication Circuit, his appeal can be with regard to the clause (adding loan balances to the Zakat base for the year 2015 AD). The Taxpayer demands the cancellation of the Adjudication Circuit's decision on this clause. He pointed out that the disputed loans, according to the authority's statement, are long-term loans of a renewable and rotating nature, and are repaid during the year by creating a new loan of the same value for the same period, which shows that these loans are in essence renewable and continuous loans, and according to the clarification of the loans in the financial statements of the loans of the Agricultural Development Fund, it is for the purpose of completing



the poultry farm project and for the purpose of completing the poultry processing plant, which means that the purpose of the loans is to finance the assets. For the years 2017 AD and 2018, the Taxpayer does not agree with the Authority's procedure in applying the provisions of paragraph (3/b) of Article (4) of Ministerial Decision No. (2216) dated 07/07/1440 AH, as it included Ministerial Decision No. (2216) issued in the year 1440 AH issued in paragraph (3/b) of Article (4), on the grounds that the replacement of loans with another does not lead to the interruption of strabismus, while the Authority uses that paragraph retroactively. The disputed years without taking into account that the controls of Ministerial Resolution No. (2082) of 1438 AH, which stipulated that the loan is subject to financing long-term assets or around the year only, which the Taxpayer objects to its application in linking, and if that treatment is correct, rather the application of other articles of the same resolution may be in the interest of the Taxpayer, and since the addition of loans to the said regulation as renewable loans is in the interest of the Taxpayer, while the executive regulations issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, included the procedures of the Authority in dealing with loans, which did not include the addition of loans to Zakat as renewable loans, and that the application of the executive regulations issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH is only for the fiscal years starting on and after 01/01/2019 AD. as for the years 2015 AD and 2016 AD, the Taxpayer relied on Fatwa No. (22665) dated 15/04/1424 AH regarding the subjection of credit balances and loans, which specified the conditions that must be met to subject loans to Zakat, and indicated that the basis for adding loans to the Zakat base according to the aforementioned executive regulation is that these loans have become due or have been used to finance long-term assets deducted from the Zakat base, and therefore the amounts that the Authority added to the base do not meet the aforementioned criteria for Zakat as the loans obtained by the company were for the purpose of contributing to the financing of the company's main activity, and the part that has come due, the company voluntarily added it to the Zakat base within its Zakat declarations, and the company has short-term loans that were repaid no later than six months and the said financing was used for the company's main activity from financing operational operations (according to the note to the financial statements above) and that these loans were not originally financed discounted, and therefore the Taxpayer believes that the Authority's procedure is incorrect in its assumption that short-term loans are of a revolving nature and the Zakat year is not interrupted, as short-term loans are obtained under contracts signed with the lending bank, each contract has a separate reference number as well as the contract clarifies the amount and duration of the loan as well as the purpose of obtaining the loan and at the end of the loan term, the loan is actually repaid and not a book payment, the Taxpayer added that it is understood that the term revolving/revolving loans applies only to those loans obtained by the Taxpayer and the repayment of those loans is a book payment and not an actual repayment, which means that the loans are still held by the company, which means that the company is still in possession of the loans this means that the loans are still in the possession of the company and therefore should be subject to Zakat as the Zakat year is not interrupted, but on the contrary, the Authority was provided with the analysis of the bank loans, which in turn confirms the actual

repayment of these loans, which means that the challenged loans represent short-term loans, and those loans (or other sources of financing) that were used to finance the company's assets in the year under examination and the company added them to the base in its Zakat declarations, and we note that the company actually added SAR(415, 206,845) in the Zakat return for the year 2015 AD at the time of filing the objection in the electronic portal of the Authority (IRAD), and it does not mind adding the amounts SAR (192,609,351) and SAR (29,746,155) for the years 2016 AD and 2017 AD respectively to the Zakat return, which were proven to be financing fixed assets, if the Authority's action to add the loans to the Zakat return is canceled from its point of view.

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

with regard to Authority's appeal against the decision of the Adjudication Circuit, Authority explains that it deducted the outstanding balance of government subsidies for the years 2015 AD and 2016 AD only from the Zakat base, and rejected the Taxpayer's objection to deduct the outstanding subsidies from the net profit and not from the Zakat base, as subsidies are among the clauses in the Zakat base, and the Circuit issuing the decision under appeal amended the Authority's decision the Authority answers that after reviewing the Committee's decision and the Taxpayer's objection memorandum, and where the decision concluded that the year of the dispute is 2015 AD and 2016 AD was before the issuance of the Zakat regulation issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, and therefore Taxpayers were not required to calculate Zakat based on the Zakat base or adjusted net profit, whichever is greater, the Authority answers that Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulated in clause II : "The rules and procedures contained in the attached regulation shall replace all previous decisions, instructions and circulars related to the collection of zakat." This confirms the Authority's right to apply the regulation to all years prior to its issuance, with its zakat treatments that ensure the realization of the legal aspect in the calculation of zakat. as for the government subsidy, according to the accounting standard on government subsidies and grants, it is a monetary asset or a reduction of liabilities from a government entity in exchange for the company's commitment to implement limited government policies and programs, and the subsidy, according to the standard, is considered short-term operations or transfers to finance activities related to the company's ongoing operations or to finance the entity's needs in unusual and exceptional circumstances, and because granting the subsidy affects income, so any information about it will be reflected in the financial statements, and the Authority explains that if the accrued subsidy is included in the income statement with revenues, in this case it must be deducted and excluded.

on Sunday, 04/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree

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

### Grounds:

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

On the merits, the Authority's appeal regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for 2015 AD), the Authority clarifies that it only deducted the outstanding balance of government subsidies for 2015 AD from the Zakat base, and the Taxpayer's objection to deducting the outstanding subsidies from the net profit and not from the Zakat base was rejected, as subsidies are among the clauses in the Zakat base. Based on Fatwa No. (23408) dated 18/11/1426 AH issued by the Permanent Committee for Scientific Research and Ifta regarding debts due from government entities, which stated the following: "Amounts owed to a person by any government entity, if their payment is delayed for any reason from that required entity, even if the right holder is aware of it, zakat is not obligatory on him until he receives it and a year passes after its receipt, as stated in the Holy Quran:" (So fear Allah as much as you are able), and because Zakat is a form of support, it is not due on a person who cannot collect it and has nothing of it in his hand," as stated in paragraph (6) of clause (first) of Article (four) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, stating: First: The Zakat base consists of all the Taxpayer's assets subject to Zakat, including: 6- government and non-government grants upon receipt," and Based on the above, and upon the circuit's consideration of the dispute, the Taxpayer fundamentally objects to not deducting unreceived government grants from the adjusted net profit according to the burden on the income statement as they are not due, and not as stated in the decision under appeal, while the authority demands the annulment of the decision of the circuit, as the correct treatment of the clause is to deduct the due grants from the Zakat base account in the linkage and not from net profit, and upon reviewing the case file and the documents it contains, it is clear that the basis of the dispute lies in the Taxpayer's demand to deduct the due grants charged to the income statement from the adjusted net profit, and since the principle in Zakat is to calculate the accounting profit and adjust it by adding non-deductible expenses legally, and then calculating the Zakat base which includes what is on the Taxpayer and what is owed to him, and the unreceived government grants should be adjusted in the Zakat base, as they are considered elements of the balance sheet, as the Taxpayer argued that the appellate decision issued against the company for the years 2003 AD

and 2004 AD included the approval of deducting these revenues from the adjusted net profit, and upon returning to the mentioned decision, it became clear to this circuit that the clause was losses carried forward and thus affected by these due revenues, and as for the clause of due government grants, the decision indicated that the correct treatment is to deduct the due grant from the Zakat base account in the linkage and not from net profit, as the adjusted net profit heavily relies on the accounting net profit and the related revenues and expenses to reach it, and then it is adjusted from a Zakat perspective to include non-deductible expenses Zakat-wise such as those not documented and not related to the activity, in addition to the fact that the decision of the circuit was flawed, as the Taxpayer demands to deduct amounts different from what should actually be deducted, and the claim was not about the deduction in adjusted profit or the Zakat base, but rather on the due revenues charged to the income statement or their balance shown in the financial position, which leads the circuit to accept the authority's appeal and annul the decision of the circuit regarding the clause (not deducting due government grants at the end of the year from net profit for the year 2015 AD).

whereas, regarding the Taxpayer's appeal regarding the clause (adding loan balances to the Zakat base for 2015 AD), the Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be annulled, and the Taxpayer relied on Fatwa No. (22665) dated 15/04/1424 AH regarding the subjection of credit balances and loans, which specified the conditions that must be fulfilled in order to subject loans to Zakat, and pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulation is that these loans must have reached the end of the year or were used to finance long-term assets discounted from the Zakat base he pointed out that the basis for adding loans to the Zakat base according to the aforementioned executive regulations is that these loans have already passed the hawl or have been used to finance long-term assets that are deducted from the Zakat base, and therefore the amounts that the Authority added to the base do not apply to the mentioned criteria for subjecting the company to Sharia Zakat, as the loans obtained by the company were for the purpose of contributing to the financing of the main activity of the company. Where paragraph (5) of clause (First) of Article (Fourth) of the executive regulation for collecting Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, stated that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- What has been used in trade offers and has completed the year", as clarified by the fatwa issued by the Permanent Committee for Scientific Research and Ifta No. (22665) dated 15/04/1424 AH that: "What the company takes from money as a loan from investment funds or others does not escape one of the following cases: A/ That the year passes on all or part of it before spending it, so what has passed on it the year is due Zakat. 2/ That all or part of it is used to finance fixed assets, so there is no Zakat on what has been used for that. 3/ To be used in financing the company's current activity, which is considered one of the offers of trade, in which Zakat

must be paid in consideration of what has become of it and to be evaluated at the end of the year. "Based on the foregoing, loans are one of the components of the Zakat base of any kind, source or classification, provided that they are transferred or used to finance the assets deducted from the Zakat base without the requirement of transferring them. By informing the Circuit of the case file, it is clear that the Taxpayer pays, considering that the revolving and renewable loans were issued after the years of the above objection and that their application is inappropriate. Referring to the Zakat and Fatwas list above before the issuance of the new regulation, it was found that the 1440 AH list was complementary to it and did not challenge the previous procedures and articles, but rather complementary. By reviewing the documents attached to the case file, it was found that the movement matched the financial statements and it was not clear that the short-term loans were revolving or renewable loans, as it was not clear that by comparing the dates of repayment of loans with the dates of receipt of the amounts, and by referring to the detailed movement, it is clear that what happened to the divergence was in the amount of SAR (93,825,000), and as for the loans of the Agricultural Development Fund according to the clarification Loans in the financial statements turned out to be for the purpose of completing the poultry farm project and for the purpose of completing the poultry processing plant, which means that their main purpose is to finance the assets and that the current situation in them was in the amount of SAR (196,500,000), and there is no addition, although the additions during the year funded assets and must be added to the base if they exist, which ends with the Circuit partially accepting the Taxpayer's appeal and amending the decision of the Adjudication Circuit regarding the clause (adding loan balances to the Zakat base for 2015 AD).

whereas, regarding the Taxpayer's appeal regarding all matters related to the years 2016 AD, 2017 AD and 2018 AD, and upon reviewing the three decisions referred to in its appeal list, it was found that the Taxpayer registered a case for each of the years, and the Circuit issued four decisions in four cases for all years, resulting in four duplicate decisions, which is contrary to the nature of the judicial process and violates the principle of res judicata, in addition to the fact that the decisions in this form make it impossible to study each case properly, as the Plaintiff has submitted defenses and documents for each year in a separate case it is impossible to study each case properly, as the Plaintiff submitted defenses and documents for each year in a separate case, and merging the cases in this manner results in the loss of defenses and documents in separate case files, in addition to the repetition of four identical decisions, and where the Plaintiff is objecting in this case to the year 2015AD, which requires the Circuit to cancel the decision of the Adjudication Circuit in all matters related to the years 2016 AD, 2017 AD and 2018 AD.

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



### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), Unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the third circuit regarding violations and disputes of income tax in Riyadh number (IFR-2022-6702) issued in case number (Z-2021-47421) related to the Zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1 - Acceptance of the authority's appeal and cancellation of the decision of the circuit regarding the clause (not deducting the government subsidies due at the end of the year from the net profit for the year 2015 AD).
- 2 - Acceptance of the Taxpayer's appeal partially and amending the decision of the circuit regarding the clause (adding loan balances to the Zakat base for the year 2015 AD).
- 3- Cancellation of the decision of the circuit in all matters related to the years 2016 AD, 2017 AD, and 2018 AD.



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

Decision No. IR-2024-178632

Case No. Z- 2023-178632

**Principle No. 46**

- If the distributed profits are derived from the retained earnings of previous years of the investee company, they must be subject to Zakat within the investing company's Zakat base.

**Facts**



The appeal filed on 16/02/2023 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2761) issued in Case No. (Z-2021-81572) related to Zakat assessment for the years from 2013 AD to 2015 AD was considered in the lawsuit filed by the Appellee against the Zakat, Tax and Customs Authority, in which the decision of the adjudication circuit stipulated the following:

annulment of the Defendant's decision with respect to investment income for the years 2013 AD to 2015 AD.

as this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (investment income for the years 2013 AD to 2015 AD). The Authority explains that it did not accept the income from investments in affiliated companies for the disputed years, as the reason for not accepting them was that the profits were distributed from the retained earnings account of the invested company and not from the profit of the year, and accordingly, the amounts for the disputed years were refunded as indicated for each year, in 2013 AD: SAR (9,627,500), in 2014 SAR (10,600,025), and in 2015 AD SAR (18,114,536). upon examining the objection, the Taxpayer explained the grounds for his objection in the Taxpayer's viewpoint above, and after reviewing, studying and referring to the Authority's link, it was found that the reason was that these profits were not distributed from the profit of the year in order to be deducted from the net profit to avoid being commended, but rather the distribution was made from the balance of the retained profits for the first period of the invested companies, the financial statements of the invested companies were reviewed and ascertained the balance of retained profits and the amount of distributions the financial statements of the investee companies were reviewed to verify the balance of retained earnings and the amount of distributions and it was found that the distributions that were distributed were not from the



year's profit because there is a higher balance of first profits for all years than the amounts distributed and this clearly shows that the distribution was made from retained earnings and not from the year's profit, as is clear in the list of changes in partners' equity for 2013 AD and 2014 AD for the distribution and for the first period balances of retained earnings, and this applies to the rest of the years. In light of the above, the Taxpayer's objection was rejected due to the lack of zakat discouragement to accept the deduction of the distributed profit, as it is from the balance of retained profits carried forward from previous years, and since these amounts are no longer available in the investee company, they should be recognized as investment income, and the Authority confirms the correctness and soundness of its procedure, and requests the acceptance of its appeal and reversal of the decision of the Adjudication Circuit.

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

### Grounds:

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

On the merits, and with regard to the Authority's appeal on the clause (investment income for the years 2013 AD to 2015 AD), and where the Authority's appeal lies in the fact that the profits were distributed from the retained profits account of the investee company and not from the profit of the year, and accordingly, the amounts for the years in dispute were refunded, and Based on the above, and upon reference to the file of the case, the Circuit found that the view of the Authority is that the profits distributed to the company were from the retained profits of the investee company and therefore they were not subject to Zakat in its hands, and accordingly and by reviewing the change in partners' rights of the investee company provided by the Authority in its appeal list, it turns out that the profits were distributed from the retained profits of the investee company and therefore they were not subject to Zakat it turns out that the dividends were distributed from the retained earnings, and therefore they were not subject to Zakat in the investee company, as it is known that if the dividends distributed are from the previous years' profits of the investee company, they are deducted from the rounded profits that are added to the Zakat base in the investee



company in addition, the appellant (the Authority) attached a declaration form (the investee company), which clearly shows that it has excluded these profits from its zakat base, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit on this clause.

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

#### Decision:

1- Accepting the appeal in form of the appellant/Zakat, Tax and Customs Authority, against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2022-2761) issued in Case No. (Z-2021-81572) related to Zakat assessment for the years from 2013 AD to 2015 AD.

2- On the merits:

Acceptance of the authority's appeal and cancellation of the decision of the Adjudication Circuit regarding the clause (investment revenues for the years 2013 AD to 2015 AD).



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

Decision No. IR -2023-143268

Case No. ZW-2022-143268

### PrincipleNo.47

- Distributable dividends are considered part of the Zakat base, provided that a full lunar year has passed since their entitlement or they have been used to finance assets deductible from the Zakat base.

### PrincipleNo. 48

- The fundamental basis for calculating the Zakat base and determining the amount due requires the presence of the zakatable wealth in the possession of the taxpayer at the end of the lunar year.

### PrincipleNo. 49

- The provisions of the Regulation apply only to matters occurring after its effective date and shall not have retroactive effect, in accordance with the principle of non-retroactivity of laws.

### Facts



The appeal submitted on 01/09/2022 AD by Mr. (...), holder of National ID No. (...), in his capacity as the authorized representative of the appellant company under Power of Attorney No. (...), and the appeal submitted on 06/11/2022 AD by the Zakat, Tax and Customs Authority, have been reviewed. Both appeals relate to the decision issued by the Second Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh, bearing reference number (ISR-2022-1134), issued in Case No. (ZW-2021-37852), concerning zakat assessments for the years 2016 to 2018, in a claim filed by the taxpayer against the Zakat, Tax and Customs Authority. The ruling of the Adjudication Circuit in the case was as follows:

First: accepting the lawsuit filed by the Plaintiff/company ..., commercial registration number (...), against the Defendant/Zakat, Tax and Customs Authority.

Second: On the Merits:

1- Recognize the end of the dispute regarding the capital losses for 2016, from the clause (Depreciation difference for 2016 AD/2018 AD).

2- Recognizing the end of the dispute regarding the withholding tax and late penalty, from the clause (Statutory Expenses for the years 2016 AD to 2018 AD).

3. Reject them for the remaining clauses.

Since this decision was not accepted by the appellant (... Company), it submitted an appellate memorandum which was reviewed by the Circuit and included, in relation to the clause (Depreciation Difference for the Years 2016 AD and 2018 AD), the taxpayer's appeal to overturn the Circuit's ruling on the basis that the company had applied the depreciation method stipulated under Article (17) of the Income Tax Law, in line with the Authority's Circular No. (2574) dated 14/05/1426 AH, which clarified the procedural provisions and accounting rules of the Income Tax Law as applicable to zakat payers.

The taxpayer asserts that it complied with the law as outlined above, and that the aforementioned circular was relied upon by zakat payers in submitting their returns for the disputed years. Accordingly, the taxpayer should not now be penalized for applying a depreciation method that was valid and available at the time of filing the return and should not be held responsible for subsequent changes. Conversely, the Authority accepted capital losses for the year 2016 AD amounting to SAR (92,772), which created confusion for the company regarding the depreciation method used by the Authority—particularly given that such capital gains/losses are inherently linked to the depreciation method under Article (17). Therefore, the taxpayer requests an adjustment of net profit by depreciation differences in accordance with the company's calculation, to be reflected in the amended zakat assessment for the years 2016 AD and 2018 AD.

with regard to the clause (Guarantee fees due for 2016 AD as a provision and the clause used from the provision for doubtful debts for the years 2016 AD, 2017 AD and 2018 AD), the Taxpayer requests the annulment of the decision of the Adjudication Circuit regarding this clause on the grounds that the accrued guarantee fees are an accrued expense, and what is confirmed by the tabulation in the financial statements approved by a certified auditor within the Kingdom, in addition to the fact that the accrued expenses are confirmed liabilities and not probable, so the guarantee fees cannot be considered as a provision the Plaintiff relied on the provisions of the Zakat Collection Law issued in 1370 AH and Sharia Fatwa No. (2305). He added that the company executed these debts based on a study and follow-up procedures to try to collect them, and when it was determined that it was impossible to collect these debts, the Audit Committee conducted a study to confirm this and the decision was taken, and the doubtful debts were certified by a certified public accountant in the Kingdom who issued the company's financial statements.

With respect to the clause (Non-Deduction of Provisions for the Years 2017 AD and 2018 AD from the Partners' Book Profit), the taxpayer requests the reversal of the Adjudication Circuit's decision on the basis that the Authority, in its assessment, did not record the deduction of used provisions amounting to SAR (35,939,737) for 2017 AD, and SAR (25,101,468) for 2017 AD and 2018 AD. The taxpayer demands that the utilized provisions be deducted from the company's book profit in accordance with applicable legal

guidelines, which stipulate that the zakat base should not fall below the year's profit. Therefore, in applying this rule, it is more appropriate to deduct the used provisions from annual profit rather than from the zakat base using beginning balances. Regarding the clause (Statutory Expenses for the Years 2016 AD to 2018 AD), the taxpayer argues that such expenses were actual and incurred by the company during the mentioned years, and that they were necessary and essential for business continuity. Accordingly, the taxpayer requests the deduction of the disputed expenses for the years 2016 AD to 2018 AD.

the Taxpayer argued that the company's objection in this clause includes its objection to not reducing the net profit adjusted by the distributed profit from the year's profit for the years 2016 to 2018 AD, as well as its objection to not considering these distributions when calculating the Zakat base in excess of the profit retained at the beginning of the year, in accordance with the conditions for the obligation of Zakat the Taxpayer also objected to the failure to consider these distributions when calculating the Zakat base in excess of the retained earnings at the beginning of the year, as one of the conditions for the obligation of Zakat is that the money must be the property of the company, and by full ownership is meant that the company has full possession that enables it to dispose of the money, which is not the case, as the dividends are amounts that came out of the profit of the year for the years 2016 AD through 2018 AD dividends are amounts that came out of the company's liability and were deposited to shareholders according to the dividend distribution resolutions issued by the board of directors, and among the legal conditions for the obligation of zakat is that the money must have passed (12) months to be subject to zakat, which is also not the case, since the company distributed the dividends before the turn of the year this is also not the case, as the company distributed the dividends before the turn of the year and it is not permissible to zakat them, as the instructions of the true Sharia emphasized that it is not permissible to zakat the money that has left the Taxpayer's liability, and from the legal point of view, zakat has its rules that must be applied when calculating the zakat base, and anything that violates these rules is not considered, and whereas the Authority's acceptance of the deduction of dividends only within the limits of the balance of retained earnings at the beginning of the year, and its failure to accept the deduction of distributions in excess of the balance of retained earnings at the beginning of the year represents a contradiction in the Zakat treatment of the same transaction, as the acceptance of the deduction of dividends within the limits of the balance of retained earnings has a clear reason, namely the payment of dividend funds to shareholders and the decrease in invested funds with these distributions that went from the company's liability to its shareholders during the year, this applies fully to actual distributions in excess of the balance of retained earnings that result in a decrease in funds invested in the company, therefore it is not possible therefore, the source of the distributions can only be the profits realized during the year, and therefore the distributions must be fully deducted, in addition to the fact that the executive regulations for the collection of zakat did not include an explicit provision to accept the deduction of profits in excess of the balance of retained profits at the beginning of the year, whether from the adjusted net profit or consequently from the zakat base, does not mean that the basis for such a procedure is not valid, as interim distributions are a new method in dividends

and contrary to the custom of companies to distribute profits after the financial statements are issued, but it is not contrary and not different in nature from retained profits balance at the beginning of the period.

regarding the clause "Refusal to deduct fixed asset additions that were financed from the profit of the year for the years 2016 AD to 2018 AD", where the Taxpayer paid the profits of the year were used to finance the additions to the property acquisition offerings, as the additions to these long-term assets during the year would not have been financed from the profits realized during the year that did not fall due, and the company relies in its treatment on Fatwa No. (23408) issued on 18/11/1426 AH, which stipulated in the answer to the fourth question as follows: "as for what the Authority stated in its reply note that the company and its chartered accountant have acknowledged in the company's financial statements that the entire adjusted profit is subject to Zakat, relying on the company's financial statements for 2018 AD, the Taxpayer points out that the Authority failed to mention that the company and its chartered accountant have stated in paragraph (2-14) of the same note that the adjusted net profit has been deducted from it in excess of the balance of the retained earnings at the beginning of the year of the same clarification that the adjusted net profit was deducted from it the dividends distributed in excess of the balance of retained earnings at the beginning of the year, and therefore, the Authority's claim is incorrect as the company did not in any way acknowledge that the adjusted profits are fully subject to Zakat. With respect to the clause " non-deduction of amortization of deferred revenue for 2016 AD", the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that there is no statutory basis for refusing to deduct the amortization of deferred revenue for 2016 AD from the adjusted net profit. with regard to the clause "Adding credit balances to the Zakat base for the years 2016 AD and 2017 AD", the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that these amounts are not considered loans and should not be subject to Zakat, and if they are not financed with property acquisition offers, the company based its opinion on a number of fatwas stating that Zakat is obligatory on the lender and not the borrower.

Regarding the clause (Non-Acceptance of Deduction of Prepaid Expenses for the years 2016 AD and 2017 AD), the taxpayer argued that these temporary expenses are considered long-term capital expenditures, which are deductible as per the Executive Regulations for Zakat Collection, and that these expenses were fully paid and no longer belong to the company. Therefore, they must be deducted. Regarding the clause (Non-Acceptance of Deducting Adjustments to Retained Earnings for 2017 AD), the taxpayer appealed the decision of the Adjudication Circuit and indicated that the adjustment to retained earnings for 2017 AD, amounting to SAR (608,581), represents adjustments in other comprehensive income resulting from the reversal of end-of-service benefits due to the application of International Financial Reporting Standard No. (9), amounting to SAR (3,610,220). Regarding the clause (Loans and their equivalents), the taxpayer appealed the Adjudication Circuit's decision on the grounds that the loans were used to finance purchase orders for merchandise under a tripartite agreement between the company, the bank, and the supplier. The

term of these loans was only (105) days, and they were fully repaid on their due dates during the year 2018. This was clarified in the audited financial statements for the mentioned year, and thus, the loans are entirely related to the company's operating activities, as they were used to purchase inventory rather than long-term assets. The loan was fully repaid within the same year and did not complete a full zakat year. This is evidenced by the financial statements for the year ending on 31/12/2018 AD, which show that the loan (financing) was the only outstanding loan at the beginning of 2018 AD, with a balance of SAR (84,153,000) (disclosed in Note No. 9 under the title "Murabaha Facility for Purchase Orders" with a balance of SAR (84,153,000) as of 31/12/2017 AD — beginning of 2018 AD), and had a zero balance as of 31/12/2018 AD, as it was fully repaid during 2018. In its rebuttal memorandum, the Authority alleges that the documentation submitted by the company merely consists of an analytical schedule showing repayment of the opening balance of SAR (84,153,000) from the facility granted by the bank... However, the Authority fails to acknowledge that the company also submitted (15) bank account statements from the same bank supporting every transaction listed in the analytical schedule. Each entry in the schedule corresponds to financing for a specific purchase order with a unique reference number, and the bank statements clearly show repayment of those financing amounts, with the corresponding reference numbers stated, leaving no doubt that the loan balance appearing at the beginning of 2018 AD was fully settled. The final repayment of this facility was made on 10/04/2018 AD, which precludes the possibility of any portion of this financing being subject to a full zakat year. Furthermore, the taxpayer submitted the tripartite agreement between the company, the bank, and the supplier, as requested. Accordingly, if the balance of this financing was "zero" at the end of 2018 AD — as clearly established above (which in itself is conclusive evidence that the financing did not complete a zakat year) — and if the company provided definitive documents evidencing full repayment of the opening balance of SAR (84,153,000) in 2018 AD, in order to repay this balance specifically and by reference numbers for each purchase order financed.

The Taxpayer appeals the decision of the Dissolution Circuit and demands that Zakat be calculated on the net Zakat base and not on the adjusted profit, as the basis for calculating the Zakat base and determining the amount due requires the existence of the Zaka table amount in the company's possession at the end of Hulu, and since the calculation of the net base requires excluding the amounts that have left the company's possession to reach the Zakat estimate without considering the amount of the adjusted profit, which does not necessarily reflect the existence of the Zaka table amount in the company's possession, and since the calculation of the net base requires excluding the amounts that have left the company's possession to reach the Zakat estimate the main objective of the company is to deduct the dividends and additions of fixed assets that were financed from the profit of the year and used from the provisions for those deductions that went out of its liability in accordance with the legal rules for the obligation of Zakat, in case you decide not to accept the company's request to calculate Zakat on the adjusted net profits, which does not necessarily reflect the presence of the money that is due for Zakat.

The Zakat, Tax and Customs Authority submitted a list of appeals, which was reviewed by the Circuit, which included the Authority's appeal regarding the clause "Proving the end of the dispute regarding the withholding tax and delay penalty from the regular expenses clause for the years 2016 AD to 2018 AD." The Authority appeals the decision of the Adjudication Circuit, and emphasizes the incorrectness of the conclusion reached by the Circuit issuing the decision, as the Authority did not accept the Plaintiff's point of view regarding the clause under appeal in anyway, nor did it request the Circuit issuing the decision to rule that the dispute had ended the Authority did not accept the Plaintiff's point of view regarding the clause under appeal in any way, nor did it ask the decision-making Circuit to rule that the dispute has ended. In fact, the Authority explicitly emphasized the incorrectness and illegality of the Plaintiff's request to deduct (withholding tax) from the base, and explicitly clarified that withholding tax expenses are not considered a permissible expense the Authority also points out that what the Circuit relied on in ruling to end the dispute is in fact related to the Authority's acceptance of the Plaintiff's viewpoint on the (withholding tax and delay penalty) clause, and has nothing to do with the (statutory expenses) clause, which are two separate clauses, each with its own subject matter, grounds, and requests, and cannot be combined therefore, it is clear that the Circuit's reliance on the acceptance of the Authority's Reply Memorandum is misplaced and that the issuing Circuit did not address this clause and did not adjudicate it in accordance with the statutory requirements, which makes its decision to end the dispute in the clause (Statutory Expenses "Withholding Tax") legally invalid and should be annulled without any doubt.

On Thursday, December 21, 2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures for remote video litigation; based on the provisions of Article 15, Clause No. 2 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. 26040 and dated: 21/04/1441 AH; after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

#### Grounds:

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

On the merits, with regard to the Taxpayer's appeal on the clause (not deducting the allocations for 2017 and 2018 AD from the net book profit of the partners), with regard to the appeal on SAR (35,633,835) and SAR (25,101,468), and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1)



dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is recorded, it is necessary to document the content of the case and the response before recording the agreement, provided that the original case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the subject of the case or part of it is among what has been agreed upon," and Based on the above, and since this circuit has confirmed the end of the dispute between the two parties according to what was stated in the letter issued by the authority in the supplementary memorandum stating that "the authority informs your esteemed circuit after studying the submitted documents that it partially accepts the Taxpayer's objection..." therefore, the Circuit shall prove the end of the dispute With respect to the appeal of SAR (35,633,835) and SAR (25,101,468) as for the amount of SAR (305,902), the Taxpayer demands that the decision of the Adjudication Circuit regarding this clause be canceled on the grounds that the Authority did not deduct the user from the provisions amounting to SAR (35,939,737) for the year 2017 AD and SAR (25,101,468) for the year 2017 AD and 2018 AD, and the Taxpayer demands that the balances of the user of provisions be deducted from the net book profit of the company, given the statutory instructions that require that the Zakat base should not be less than the profits of the year, it is more appropriate when applying this rule to deduct the user of provisions from the profit of the year instead of deducting from the Zakat base from the balance of the first period. Based on paragraph (9) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user thereof during the year." Based on the above, and since the Circuit found that the Taxpayer did not submit the documents supporting the write-off, the Circuit rejects the appeal and upholds the decision of the Adjudication Circuit with regard to the amount of SAR (305,902).

Regarding the Taxpayer's appeal on the clause (life insurance expenses), the Taxpayer argued that the expenses are actual expenses incurred by the company during the mentioned years, and they are actual and necessary expenses for the continuation of the activity, so the Taxpayer demands the deduction of the disputed expenses for the years 2016 AD to 2018 AD. Based on paragraph (3) of Article (20) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates that "The burden of proving the authenticity of the clauses and any other data contained in the Taxpayer's Zakat declaration is on the Taxpayer, and in case he is unable to prove the authenticity of the clauses contained in his declaration, the Authority may not authorize the clause that is not proven by the Taxpayer or make an estimated link according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on paragraph (a) of

Article 5 (1) of the same regulation, which stipulates that: "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" it must be an actual expense supported by supporting documents or other evidence that enables the Authority to ascertain its authenticity, even if it relates to previous years." Based on the above, and since Zakat is not obligatory on money that has left the Taxpayer's possession, it follows that the Taxpayer is entitled to deduct the life insurance expense for the years in dispute. Whereas the Authority did not dispute the validity of the expense, and whereas it is established by law that all ordinary and necessary expenses may be deducted for the realization of taxable income, provided that they are supported by supporting documents and are related to the realization of taxable income, and whereas the determination of expenses related to the realization of taxable income - unless it is stipulated that it is not deductible or by specifying special controls for it - requires consideration of the current custom to consider these expenses as related to the realization of income or not, and whereas it is customary for companies to compete to provide insurance benefits of all kinds as for the Zakat aspect related to this clause, where it has been proven that the Taxpayer spent the disputed money, and since the principle is that Zakat is not obligatory on money that has left the Taxpayer's possession, which results in the Taxpayer's right to deduct the life insurance expenses for the years in dispute, and where the Authority's opinion is not based on a legal or statutory basis that can be relied upon in connection with this clause it also does not affect the basis of the decision of the adjudication in Article (5) of the Executive Regulation of the Zakat Collection Law issued in 1438 AH, as it was issued later than the years in dispute, so the provisions of the regulation are only applicable to what falls on the date of its enactment in accordance with the principle of non-retroactivity of laws, the provisions of the regulation apply only to what falls on the date of its entry into force, and its effects do not apply to what occurred before it, in accordance with the principle of non-retroactivity of laws, and the Circuit accepts the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding the clause (life insurance expense).

regarding the Taxpayer's appeal on the clause (Not to reduce the adjusted dividend by the profit distributed from the year's profit for the years 2016 AD to 2018 AD), With respect to the appeal on the following amounts SAR (258,112,000), SAR (366,228,058) and SAR (388,069,000), and whereas Article (70) of the Sharia Procedure Law issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement occurs before the case is recorded, it is necessary to document the content of the case and the response before recording the agreement, provided that the original case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the subject of the case or part of it is among what has been agreed upon," and Based on the above, and since this circuit has confirmed the end of the dispute

between the two parties according to what was stated in the letter issued by the authority in the supplementary memorandum stating that "the authority informs your esteemed circuit after studying the submitted documents that it partially accepts the Taxpayer's objection..." "Therefore, it is necessary for the circuit to document the end of the dispute regarding the appeal on the following amounts:" SAR 258,112,000, SAR 366,228,058, and SAR 388,069,000. as for the following amounts: SAR 380,888,000 and SAR 380,771,942 and SAR 501,431,000, based on paragraph (8) of clause (First) of Article (Fourth) of the executive regulations for collecting zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of retained earnings from previous years at the end of the year," and Based on the above, and upon reviewing the case file where the authority argued that the adjusted profit cannot be reduced as it is considered a return on capital, which is an element of the zakat base, the circuit sees that these distributions occurred during the year in phased periods (quarterly), resulting in a deficit in the retained earnings balance, which is a result of the company's method of distributing profits, and since there is legal evidence to determine the necessity of imposing zakat on wealth that the Taxpayer no longer owns after transferring it to others before the year has passed on it, it is necessary for the circuit to accept the appeal and cancel the decision of the circuit regarding the following amounts:" SAR 380,888,000 and SAR 380,771,942 and SAR 501,431,000, and the full deduction of the profit distributions that occurred during the year from the zakat base without limiting it to the opening balance of the zakat base.

with regard to the Taxpayer's appeal on the clause (Loans and the like for the year 2018 AD), the Taxpayer appeals the decision of the Adjudication Circuit regarding this clause on the basis that the loans consist of financing orders for the purchase of goods according to a tripartite agreement between the company, the bank and the supplier and the term of these loans is only (105) days and was fully repaid on the due dates during the year 2018 AD, and this was clarified in the audited financial statements for the mentioned year, which is thus fully related to the operational activities of the company. Based on paragraph (First/5) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, it states that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 5- Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer as follows: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. C- Based on the above, loans are considered one of the components of the Zakat base, regardless of the type, source or classification, if they are used to finance assets that are deducted from the Zakat base without requiring them to turn over, and the Circuit reviewed the documents in the case file, the bank account statement... And the agreement between the company, the bank and the supplier and the bank statements show that the loans were repaid during the year, which makes it necessary for the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit regarding the clause (loans and the like for the year 2018 AD).

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

Based on the above and for the grounds stated, the Circuit unanimously decided as follows:

### Decision:

First: Acceptance of the appeal procedurally from its submitter/ Company..., Commercial Registration (...), Unique Number (...), and the Zakat, Tax and Customs Authority, against the decision of the second circuit regarding the violations and disputes of income tax in Riyadh with the number (ISR-2022-1134) issued in case number (ZW-2021-37852) related to the zakat assessment for the years from 2016 AD to 2018 AD.

Second: On the Merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (depreciation difference for the years 2016 AD and 2018 AD).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (guarantee fees due for 2016 AD as a provision and the clause of the user from the doubtful debts provision for the years 2016 AD, 2017 AD, and 2018 AD).
- 3- Regarding the Taxpayer's appeal on the clause (not deducting the provisions for the years 2017 AD and 2018 AD from the partners' book net profit):
  - A- Confirming the end of the dispute regarding the appeal on the amount of SAR 35,633,835 and the amount of SAR 25,101,468
  - B- Rejecting the appeal and upholding the decision of the circuit regarding the amount of SAR 305,902.
- 4- Regarding the Taxpayer's appeal on the clause (Ordinary expenses for the years 2016 AD to 2018 AD):
  - A- The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (Income tax expense) is upheld.
  - B- The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (Penalty expense paid to the Capital Market Authority) is upheld.



C-The Taxpayer's appeal is accepted, and the decision of the Appeals Committee regarding the clause (Life insurance expense) is canceled.

D-The matter regarding the Taxpayer's appeal on the clause (Withholding tax) is dismissed.

E-The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (Fines expense) is upheld.

5-Regarding the Taxpayer's appeal on the clause (non-reduction of adjusted profits by the distributed profit from the annual profit for the years 2016 AD to 2018 AD):

A-Establishing the end of the dispute regarding the appeal on the following amounts : SAR 258,112,000, SAR 366,228,058, and SAR 388,069,000.

B-The appeal is accepted, and the decision of the Appeals Committee regarding the following amounts is canceled: SAR 380,888,000, SAR 380,771,942, and SAR 501,431,000.

6-The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (Rejection of deductions for fixed asset additions financed from the annual profit for the years 2016 AD to 2018 AD) is upheld.

7-The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (non-deduction of deferred revenue write-offs for the year 2016 AD) is upheld.

8-The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (Addition of credit balances to the zakat base for the years 2016 AD and 2017 AD) is upheld.

9-The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (non-approval of deductions for advance payments for the years 2016 AD and 2017 AD) is upheld.

10-The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (non-acceptance of deductions for adjustments on retained earnings for the year 2017 AD) is upheld.

11-The Taxpayer's appeal is accepted, and the decision of the Appeals Committee regarding the clause (Loans and similar for the year 2018 AD) is canceled.

12-The Taxpayer's appeal is rejected, and the decision of the Adjudication Circuit regarding the clause (The company's claim to calculate zakat on the zakat base and not the adjusted profit) is upheld.



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

Decision No. IR-2024-171810

Case No. Z-2023-171810

Principal No. 50

- The goodwill amount and its amortization expense, as recorded in the audited financial statements approved by a certified public accountant, shall be deductible from the Zakat base.

### Facts

The appeal filed on 26/01/2023 AD from ..., ID No. (...) Was considered as an agent under Agency No. (...) On behalf of the appellant company, the Zakat, Tax and Customs Authority (ZTA), on the decision of the First Circuit of Income Tax Violations and Disputes in Jeddah Governorate (IZJ -2022-2561) issued in Case No. (Z-2021-63938) related to the 2015 Zakat assessment, in the case filed by ... Ltd. Vs. The Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Accepting the Plaintiff's objection to the amortization difference clause.
- 2- Accepting the claimant's objection to the investment profits clause.
- 3- Accepting the Plaintiff's objection to an clause of profit from the sale of property and equipment (cars).
- 4- Accepting the Plaintiff's objection to the fixed assets clause.
- 5- Rejecting the Plaintiff's objection to the short-term obligations clause.
- 6- Accepting the Plaintiff's objection to the allowance for doubtful debts.
- 7) Reject the Plaintiff's objection to the goodwill amortization clause.

this decision was not accepted by the Taxpayer (... company). the Taxpayer explains that he has attached the supporting documents and emphasizes that the Zakat, Tax and Customs Authority added goodwill depreciation expenses in the amount of SAR 500,000 to the net book profit, while deducting the same amount from the net investment, at the same time, it deducted the same amount from the net investment from the zakat base (Note 6 of the financial statements), and this procedure will lead to the addition of goodwill twice, once in the net book profit and the other by reducing it from the investment, and for the equation to be straight from the legal and accounting point of view, goodwill amortization expenses must be added to the amount of the investment deducted from the zakat base.

This decision was also not accepted by the appellant (Zakat, Tax and Customs Authority). It submitted an appeal regulation reviewed by the Circuit, where its appeal lies with regard to the clause (profits of investments). The Authority clarifies that it did not accept the removal of the impact of profits on investments because the Taxpayer invests according to the fair value, so the profits were recognized within the income statement and not accepted to be deducted from the net profit adjustments. It also became clear to the Authority that the Taxpayer invests at a rate of (5%) in the modern company for the sale of cars and equipment on credit limited (forward), a distinctive number (3001889638) in the cost method and not equity method. It adds that the profits of investments amounting to SAR (3,537,799) are only the Taxpayer's share of the distributions, as shown by the daily entry of these profits. It adds that the investment is one of the vessel's deductions. The profits resulting from these investments are one of the vessel's components by adding them from the revenues to reach the net profit. The Authority affirms that no addition or deduction is made except by text and the fourth article is specified in its clauses (first) and (second) with the elements to be added to the vessel and the elements that are added from the vessel.

regarding the clause (allowance for doubtful debts), the Authority explains that after reviewing and reviewing the movement of the allowance according to the trial balance provided by the Taxpayer, it requires a) adding the component allowance to the net profit in the amount of SAR (4,529,334), and b) deducting the user from the base by taking the first period balance minus the user (3,392,875 - 4,797,172) = SAR (1,404,297), so that the net addition to the base is SAR (3,125,037), therefore, the Authority believes that the treatment should be corrected by treating the component by adding it to the net profit and treating the user in the bowl additions based on the provisions of Article (6) Paragraph (6) of the Executive Regulations for Zakat Collection and Article (4) Clause (1/9) of the Regulations, and the Authority maintains the validity and soundness of its procedure and requests that its appeal be accepted and that the decision of the Adjudication Circuit on the clauses subject to its appeal be reversed.

on Thursday, 08/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

#### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally are met in



accordance with the conditions stipulated in the relevant laws, regulations and decisions, which means that the two appeals are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their submission.

On the merits, the Authority's appeal on the clause (Investment Profits), wherein the Authority's appeal lies in the fact that the Taxpayer invests 5% in the Modern Company for the Sale of Cars and Equipment on Postponed Terms Limited by the cost method and not equity and that the amount in dispute is only the Taxpayer's share of the distributions, and based on the provisions of paragraph (4/a) of Article (4) of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, on: "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." With reference to the attached case file (memorandum in response to the Authority's appeal), the memorandum of association of the modern company for the sale of cars and equipment on a postponed basis, and Article (4) shows that the percentage of the shareholding of {.....} company at a rate of (5%), along with the journal entry indicating that the disputed amount represents investment profits for the year 2015 AD. Upon reviewing Note No. (16) of the financial statements regarding investments, it becomes clear that these investments reflect the company's share of profits from the investee company. The taxpayer's claim that these profits were subject to zakat by the modern company does not negate this conclusion, as no supporting evidence was provided. Accordingly, the Circuit concludes by accepting the Authority's appeal and annulling the decision of the Adjudication Circuit.

Whereas, regarding the Authority's appeal on the clause (Allowance for Doubtful Debts), and where the Authority's appeal lies in its correcting the treatment by treating the component by adding it to the net profit and treating the user in the vessel additions, and based on paragraph (9) of clause (I) of Article (4) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, which stipulates that: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 9- Provisions at the beginning of the year (excluding doubtful provisions for banks) after deducting the user during the year." with reference to the case file and the defenses and documents it contains, it is clear that the Taxpayer submitted a statement of the movement of the allowance account for doubtful debts, indicating the value of the provisions at the beginning of the period in the amount of SAR (3,392,874) and the debit balance during the year (bad debts) SAR (4,797,171) and the balance at the end of the period in the amount of SAR (3,125,037), and by calculating the credit movement (formed during the year) in the amount of SAR (4,529,334), therefore, according to the above, it is clear to the Circuit that the first period balance of the allowance for doubtful debts in the amount of SAR (3,392,874), 392,874 riyals was paid in full during the year (as the user amounted to SAR (4,797,171) and a difference of SAR (1,404,297), thus not adding the provision to the Zakat base and adding the component of the provision to



the net profit after taking into account the deduction of the user from the provisions in excess of the first period balance ( $4,529,334 - 1,404,297 = \text{SAR} 3,125,037$ ), which leads the Circuit to accept the Authority's appeal and cancel the decision of the Circuit of Adjudication.

whereas, regarding the Taxpayer's appeal on the clause (depreciation of goodwill), and where the Taxpayer's appeal lies in the fact that the Authority added goodwill depreciation expenses in the amount of SAR 500,000 to the net book profit and at the same time deducted the same amount from the net investment from the Zakat base, and based on what is stated in paragraph (3) of Article 4, Section 2 of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. 2082 dated 01/06/1438 AH, which stipulates that: "Second: The following shall be deducted from the Zakat base: Intangible assets such as goodwill and patents." And in reference to the decision of the appellate committee number (IR-2023-47727) issued in case number (Z-2021-47727) and upon reviewing the case file and the defenses and documents included, it was found that the Taxpayer submitted the audited financial statements approved by a certified accountant for the year 2015 AD, and upon reviewing note number (6), it was found that the goodwill amount of SAR (5,000,000) was recorded, which represents the goodwill paid in excess of the actual cost of the company's share in the invested company's capital and an amount of SAR (500,000) as net goodwill, therefore, based on the appellate decision mentioned above for the same Taxpayer issued for a previous year (2010 AD) which included the Taxpayer's appeal regarding the goodwill clause and its amortization expenses, which ended in favor of the Taxpayer by accepting his appeal to deduct the goodwill amount and its amortization expense as it is established according to the audited financial statements approved by a certified accountant, therefore, since the Taxpayer's appeal is similar to the grounds of the previous decision and the Taxpayer submitted the approved statements for the year 2015 AD which established the disputed clause, the committee concludes to accept the Taxpayer's appeal and cancel the decision of the Appeals Committee.

Article (70) of the Sharia Procedure Law promulgated by Royal Decree No. (M/1) dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the circuit, even if the content of the agreement is within the jurisdiction of another court or circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where it was proven to this Circuit the Authority's request to leave the appeal for the clause (depreciation differences) (Depreciation), (Profits from the sale of property and equipment (cars)), and (Fixed Assets), as stated in the letter issued by the Authority in the appended memorandum, which contains the following: "The Authority informs your

esteemed Circuit to abandon its appeal with regard to the above clause specifically and the consequences of the Authority's appeal for this clause in accordance with the decision of the Adjudication Circuit in terms of reasons." Therefore, the Circuit accepts the abandonment of the dispute.

with regard to the Taxpayer's appeal regarding the clause (Short-term obligations), the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the content of these reasons, it is clear that the Circuit did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is evident that the decision under appeal regarding the disputed clauses was consistent with the valid reasons on which it was based and sufficient to support its decision since the issuing Circuit scrutinized the dispute and reached the conclusion it reached in the operative part of the decision, and since this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in its conclusion on the clause (Short Term Obligations), taking into account its reasons.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company... Commercial registration (...) number (...) and the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah with number (IZJ-2022-2561) issued in case number ( Z - 2021- 63938) related to the Zakat assessment for the year 2015AD.

Second: On the Merits:

- 1- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (depreciation differences).
- 2- Acceptance of the authority's appeal and cancellation of the decision of the Appeals Committee regarding the clause (investment profits).
- 3- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (profits from the sale of properties and equipment (cars)).
- 4- Acceptance of the withdrawal of the dispute regarding the authority's appeal on the clause (fixed assets).
- 5- Acceptance of the authority's appeal and cancellation of the decision of the Appeals Committee regarding the clause (provision for doubtful debts).
- 6 - The Taxpayer's appeal is rejected and the decision of the Adjudication Circuit regarding clause (short-term obligations) is upheld.
- 7 - The Taxpayer's appeal is accepted and the decision of the Circuit regarding clause (goodwill consumption) is canceled.



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

Decision No. IR -2024- 178773

Case No. Z-2023-178773

### Principal No. 51

- When the taxpayer deducts assets based on their book values as stated in the financial statements, in addition to deducting depreciation differences from the assets' book values at year-end and from the net profit, this results in double deduction.

### Facts

The submitted appeal was heard on: 16/02/2023 AD, from the Zakat, Tax and Customs Authority, on the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (IFR-2022-6721) issued in Case No. (Z-2021-87349) related to the Zakat assessment for 2016 AD, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Disregard the clause (short-term loans for 2016 AD).
- 2- Cancellation of the Defendant's decision regarding the clause (consumption differences for the years 2016 AD to 2018 AD).
- 3- Amending the Defendant's decision With respect to the clause "Parties due to related parties for the year 2016 AD".
- 4- Amending the Defendant's decision With respect to the clause (Reserves payable for construction work in progress for the year 2016 AD).
- 5- Cancellation of the Defendant's decision regarding the clause (Accounts payable for construction in progress for the year 2016 AD).
- 6- Amending the Defendant's decision With respect to the clause (allocations provided for 2018 AD).
7. Reject all other objections.

as this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), it submitted a list of appeals, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (depreciation differences for the year 2018 AD), the Authority explained that it did not accept the deduction of depreciation differences because the Taxpayer discounted the assets based on the net book value according

to the financial statements of the years in dispute, and when studying the objection and after reviewing the links, it turned out that the Taxpayer discounted the assets at the book values mentioned in the lists in addition to deducting the depreciation differences from the net profit therefore, the Taxpayer's procedure is incorrect, and what the Authority did was to exclude the differences because the Taxpayer discounted the assets according to the book values, and therefore the straight-line method was reversed and taken into account when discounting the assets from the deductions of the base, and therefore the differences should not be deducted from the net profit, and in light of the above, the Taxpayer's objection was rejected based on Article 4 paragraph (1) of Clause 2 of the Zakat Collection Regulation: "The net value of fixed assets (property assets) and any payments for the purchase of fixed assets, and the value of spare parts not intended for sale, provided that these assets are owned by the Taxpayer - unless there is an obstacle preventing the transfer of ownership - and that they are used in the activity." the Circuit issuing the decision under appeal also annulled the Authority's decision because the Defendant provided evidence that it had followed the straight-line method in the Zakat Collection Regulation. The Authority responds that the Circuit's conclusion is incorrect, as the Authority did not accept the deduction of depreciation differences because the Taxpayer discounted the assets based on the net book value according to the financial statements, and after reviewing the links, it was found that the Taxpayer discounted the assets at the book values in the lists in addition to deducting depreciation differences from net profit, and therefore the Taxpayer's procedure is incorrect and what the Authority did was to exclude the difference. for 2018 AD: Authority states that it deducted the linkage SAR (410,364,996), which is higher than the Taxpayer's declaration of SAR (404,881,325) and a difference of SAR (5,483,671), which is the same amount that was returned to the net profit above from the depreciation difference, which means that the impact on the Zakat base is zero, as the processing was done correctly and the Authority upholds the correctness and integrity of its procedure and requests that its appeal be accepted and the decision of the Dispute Adjudication Circuit regarding the clause under appeal be overturned.

On Sunday, April 14, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

#### Grounds:

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

because it was submitted by a competent party and within the statutory period prescribed for conducting it.

On the merits, the Authority's appeal regarding the (2018 consumption differences) clause, the Authority's appeal is to challenge the Adjudication Circuit's acceptance of the Taxpayer's objection regarding the disputed clause, claiming that there is a double deduction. Based on paragraph number (1) of clause (2) of article four of the executive regulation for collecting zakat issued by Ministerial Decision number (2082) dated 01/06/1438 AH which stated: "The following shall be deducted from the zakat base: 1- Fixed assets, including the following: The net value of fixed assets (acquisition assets) and any payments made for the purchase of fixed assets, as well as the value of spare parts not intended for sale, provided that such assets are owned by the taxpayer — unless there is a legal restriction preventing the transfer of ownership — and that they are used in the business activity. This is based on paragraph (2) of Article (7) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which states: "Fixed assets are depreciated according to the straight-line method and their depreciation rate is as follows: ...". Based on the above, and upon reviewing the case file, it became clear that the dispute lies in that the Taxpayer deducted the assets at the book values stated in the statements in addition to deducting depreciation differences from the assets at book values at the end of the year and also deducting depreciation differences from the net profit, indicating the existence of double deduction, and what the authority did was to add the clause to the net profit in the amount of SAR (5,483,671) for the year 2018 AD, and that the Zakat treatment is to deduct the depreciation expense from the net profit and also calculate the book value of fixed assets at the end of the year according to the financial statements and deduct it from the Zakat base, which leads the Circuit to partially accept the authority's appeal and amend the decision of the Circuit regarding this clause.

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

#### Decision:

1- Acceptance of the appeal procedurally from the Zakat, Tax, and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh numbered (IFR-2022-6721) issued in case number (Z-2021-87349) related to the zakat assessment for the year 2018 AD.

2- On the merits:

Partially accepting the authority's appeal and amending the decision of the Circuit regarding clause (depreciation differences for the year 2018 AD).



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

Decision No. IR-2024-192511

Case No. Z-2023-192511

Principal No. 52

- Necessary and essential expenses incurred to carry out the activity are considered deductible expenses.

Facts



The submitted appeal was heard on: 19/04/2023 AD, from/..., National ID No. (...) in his capacity as Vice Chairman of the Board of Directors of the Appellant Company under its Articles of Incorporation, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-97598) issued in Case No. (Z-2022-97598) regarding the estimated Zakat assessment for the year 2018 AD, in the case filed by the Appellant against the Zakat, Tax and Customs Authority:

- 1- Rejecting the claimant's objection regarding the 2018 AD investments clause.
- 2- Rejecting the Plaintiff's objection regarding the 2018 AD dividend clause.
- 3- Rejecting the Plaintiff's objection regarding the exclusion of overcharged social insurance expenses.
- 4- Rejecting the Plaintiff's objection with regard to the rental expense differences clause.
- 5- The Plaintiff's objection regarding the trade receivables clause is rejected.
- 6- Reject the Plaintiff's objection regarding the employee benefits clause.
- 7- Reject the Plaintiff's objection regarding the accrued expenses and vacation allowance.
- 8- The Plaintiff's objection With respect to the clause Other Credits is dismissed.
- 9- Rejecting the Plaintiff's objection regarding the liability clause for investment in subsidiaries.

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 Circuit under appeal, claiming that with respect to the clause "Investments," the company disagrees with the Authority's treatment and the Circuit's decision on the method used to calculate deductible investments in subsidiaries. Before delving into the technical

and accounting aspects of investment deductions, the taxpayer notes that the Authority and the Circuit's rejection of the company's approach — deducting investments based on their reported value in the company's audited financial statements — lacks legal basis. The referenced regulation does not require calculating the investment's value based on the financials of the investee companies, which led to these discrepancies. The company's activity includes establishing, managing, operating, and maintaining a clinic, as well as the import and export, wholesale and retail trade of medical products, cosmetics, and sunglasses, and the establishment and maintenance of health institutes, fitness and wellness centers, medical factories, and hospitals. The company deducts its investments based on its own audited financials and submits a detailed breakdown of investment movements each year within its zakat filings. These filings take into account any adjustments to the investment balance related to components that have already been subjected to zakat at the level of the investee company — for example, dividend distributions from the investee's net income — in accordance with the Executive Regulations on Zakat Collection and the principles of Islamic Sharia to prevent double zakat on the same asset within the same year at the group level. The company's investments are in subsidiaries, meaning entities controlled by the company, where control exists when the company has the ability to directly govern the financial and operational policies of another entity to benefit from its activities. Financial statements of subsidiaries are not consolidated where the intention is to retain the investment temporarily, or where the subsidiary is subject to significant restrictions limiting its ability to transfer funds to the parent company, or where the subsidiary's financials are immaterial. The company respectfully submits to the Honorable Committee that the Authority's method for calculating deductible investments is inconsistent with zakat regulations and bylaws. The zakat bylaws do not require deductible investments to be calculated as a product of the ownership percentage and the equity of the investee company. Rather, the starting point is the taxpayer's zakat declaration and its supporting audited financial statements, which reflect the allowable investment values after adjustments for the company's share of the investee's results. With regard to the Taxpayer's appeal regarding the clause (dividends of SAR3,000,000), the Taxpayer explained that the company does not agree with the Authority's treatment and the decision of the Adjudication committee, in addition, the company wishes to point out that the Authority rejected the supporting documents for the payment of SAR3,000,000, in this regard, the company would like to clarify that such classifications are automatically determined in accordance with the electronic banking system defined by the Saudi Central Bank, which was not formed to comply with the requirements of the Authority and the Executive Regulations for the collection of Zakat, and therefore the rejection of the Authority and the Adjudication Committee above is not justified. Regarding the Taxpayer's appeal regarding the clause (Rental Expense), the Taxpayer explained that the company does not agree with the Authority's treatment of excluding the above amount, as these amounts represent other rents, and these expenses are classified within the cost of revenue according to the audited financial statements, and the fact that the Authority introduced the above amendments violates the provisions of Article 5 of the Zakat Executive Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438AH, which allows the

deduction of all ordinary and necessary expenses, whether paid or accrued, up to the net result of the activity. Accordingly, these expenses are basic and necessary business expenses for the company.

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

### Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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, the Taxpayer's appeal relates to the clause (Investments), and the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that the investments were deducted according to the company's share in the investee companies, as the value of the investment was determined according to the financial statements of the investee companies. based on the provisions of paragraph (10) - Equity Method - IAS 28: "Under the equity method, on initial recognition, an investment in an associate or joint venture is recognized at cost, the carrying amount is increased or decreased to recognize the investee's share of the investee's profit or loss after the acquisition date, and the investee's share of the investee's profit or loss is recognized in the investee's profit or loss. dividends received from the investee reduce the carrying amount of the investment. adjustments to the carrying amount may also be necessary for changes in the investee's proportionate share of the investee arising from changes in the investee's other comprehensive income. such changes include those arising from the revaluation of property, plant and equipment and foreign currency translation differences. the invested entity's share of these changes shall be recognized within the other comprehensive income of the invested entity." Based on Article (4) Clause (II) Paragraph (4/a) of the Zakat Collection Regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates that "The following shall be deducted from the zakat base:" 4- (A): "Investments in establishments within the Kingdom – Participation with others - If those investments are subject to zakat collection under these regulations, if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on the above, as it is clear that the dispute is that the Taxpayer is required to discount the balance of investments in subsidiaries as recorded in their



financial statements, but the Authority has discounted the investment balance by the company's percentage of ownership in the equity of the subsidiaries at the book value of the investee's equity, and Based on the above, where the investment is accounted for using the equity method, that is, the purchase cost when acquiring the investment and not the book value of the subsidiary's equity, this may result in differences in the value of investments on the acquisition date in the books of the investor and the books of the investee due to the difference between the book value of the investment and the equity of the investee.

regarding the Taxpayer's appeal regarding the clause "Dividends of SAR 3,000,000", the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims to have submitted supporting documents. According to paragraph (8) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH, which stated the following: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." Based on the above, and since the dispute is limited to the Taxpayer's claim to deduct the amounts of SAR (3,000,000) and SAR (1,707,448), and upon reviewing the documents submitted, it appears that the Taxpayer submitted a bank statement distributing the amount SAR of (3,000,000) to the company ....., which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Dissolution Circuit regarding this clause because it is proven that the funds left his liability before the lunar calendar.

regarding the Taxpayer's appeal regarding the clause (Rental Expenses), where the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as he claims that it is an essential and necessary business expense for the company. Based on the text of paragraph (1/A) of article (5) of the executive regulation for Zakat collection issued by Minister of Finance decision number (2082) dated 01/06/1438 AH related to the expenses that can be deducted which stated that: "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, and since the dispute is over excluding rental expense differences from net profit, and since necessary and essential expenses to achieve the activity are deductible expenses, and since the decision to dismiss is based on the dispute being documentary, and upon reviewing the submitted documents, it appears that the Taxpayer has provided several lease contracts, which leads the circuit to accept the Taxpayer's appeal and cancel the decision of the circuit regarding this clause.

with regard to the Taxpayer's appeal on the remaining clauses in the case, the Circuit is not to be faulted for adopting the grounds for the decision under appeal without adding to them when it assesses that these reasons make it unnecessary to introduce anything new, because in upholding them with what these reasons contain, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons as the issuing Circuit scrutinized the dispute and reached the conclusion

it reached in its operative part, and as this Circuit did not observe any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit With respect to the outcome it reached on the clauses at issue in the case, bearing in mind its reasons.

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

### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the first circuit for adjudicating violations and disputes of income tax in Jeddah Province with number (IZJ-2023-97598) issued in case number (Z-2022-97598) related to the estimated zakat assessment for the year 2018 AD.

Second: On the Merits:

- 1- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (investments).
- 2- Regarding the Taxpayer's appeal on clause (dividends):
  - A- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding (in the amount of SAR 3,000,000).
  - B- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding (in the amount of SAR 1,707,448).
- 3- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding clause (exclusion of social security expenses loaded with increases).
- 4- Accept the Taxpayer's appeal and cancel the decision of the circuit regarding clause (rental expenses).
- 5- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding (various clauses represented in (credit commercial accounts, employee dues, accrued expenses and vacation pay, other credit balances).
- 6- Reject the Taxpayer's appeal and uphold the decision of the circuit regarding clause (adding a liability for investment in subsidiaries).



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

Decision No. IR-2024-169240

Case No. Z-2023-169240

### Principal No. 53

- Contract revenue is recognized as part of the income statement in the accounting period during which the work is performed. Accordingly, revenues from work are accounted for based on the percentage of completion, in accordance with the requirements of the applicable accounting standards.

### Facts

the appeal filed on 12/01/2023AD by ... company, against the decision of the Third Circuit for Adjudicating Income Tax Violations and Disputes in Riyadh, No. (ITR-2022-6014) issued in Case No. (Z-2021-47205) related to the 2018 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

Acceptance of the Plaintiff's objection/ Company ... (Commercial Register No. ...), appeals the decision of the Defendant/Zakat, Tax and Customs Authority on the formal aspect and rejects it on the merits aspect.

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

the Taxpayer disputes the decision of the Adjudication Circuit, claiming that with regard to the clause "Other Expenses (a) regarding the amount of SAR 1,580,617 the expense is related to and incurred for the purpose of practicing the activity, is accounted for in the company's books and records, is supported by supporting documents, and is a deductible expense based on Article 5(1) of the Zakat Executive Regulations, and is not a capital expense; the Taxpayer submitted an analytical statement the Taxpayer submitted an analytical statement about the expenses and a set of sample invoices in addition to an analysis of the value of the expense and proof of payment of the expense, as the dispute is documentary and the Taxpayer has the right to submit all documents if they are available according to Article (1909) of the Shari'ah Procedures Law.

the Taxpayer claims that the expense is related and incurred for the purpose of practicing the activity and is accounted for in the company's books and records and supported by supporting documents, and is considered a deductible expense based on paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection, and it is not a capital expense the Taxpayer submitted an analytical statement on the expenses

and a set of invoices as a sample in addition to an analysis of the value of the expense and proof of payment of the expense, as the dispute is documentary and the Taxpayer has the right to submit all documents if they are available based on Article (1909) of the Shari'ah Procedures Law. the Taxpayer claims that the Authority added an unauthorized estimated revenue clause to the Zakat base in the amount of SAR 2,033,856, despite the fact that the Taxpayer has audited financial statements approved by a certified public accountant and consistent with the Zakat declaration submitted by him, and the revenues shown in the Zakat base are identical to the revenues shown in the financial statements in the amount of SAR (48,519,202,47). the attached analysis shows the movement of revenues according to the percentage of completion with the total revenues during 2017 AD and 2018 AD and what has been invoiced. Therefore, the Taxpayer confirms that his total revenues in the Zakat declaration and financial statements include these estimated revenues because they are the total invoices issued from the project, which represents a Zakat enrichment. the Taxpayer also objects to the clause (Other expenses (b) regarding the amount of SAR 832,168) (Expenses charged from the head office), (Salaries and wages differences and support for the Circuit's decision), and (Accounts payable balances). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit under appeal for the above reasons.

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

### Grounds:

Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit 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, as for the Taxpayer's appeal regarding the clause "Other Expenses (A) for SAR 1,580,617, the Taxpayer's appeal is that the expense is related and incurred for the purpose of practicing the activity and is accounted for in the company's books and records and supported by supporting documents and is considered a deductible expense and is not a capital expense; the Taxpayer submitted an analytical statement of the expense and a set of invoices as a sample in addition to an analysis of the value of the expense and proof of payment of the expense. Where paragraph 1(/Second) of Article (5) of the executive

regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH states: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A - It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. in the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized according to the statutory rates." Article 6(2) of the Law stipulates that expenses that may not be deducted shall be: "Expenses for which the Taxpayer is unable to substantiate the expenditure by supporting documents or other evidence." Article 20, paragraph (3) of the Code also stipulates: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and where the Taxpayer's objection is that these expenses should be deducted because they are valid and incurred for the purpose of practicing the activity, while the Authority argued that it maintains the validity and integrity of its procedure and requests that the decision of the Adjudication Circuit be upheld, and where it is established by law that all ordinary and necessary expenses to achieve income may be deducted provided they are supported by supporting documents, and with reference to the documents submitted, namely (financial statements, statement of total expenses, statement of account report, samples of invoices and journal entries), and where we did not find in the financial statements an adequate and clear description of the nature of these alleged expenses whereas, we did not find in the financial statements a sufficient and clear description of the nature of these alleged expenses, and after reviewing the submitted statement, the Taxpayer clarifies the existence of several expenses categorized as (12) related to the disputed clause, and through the documents submitted by the Taxpayer, samples were selected and matched with the submitted statement of account as follows: 1/ (Expenses for the removal of waste for projects) with a value of SAR (375,811) (The Taxpayer submitted registration No. 00004304 and the supporting invoices with a value of SAR 19,500 and what is proven and paid), 2/ (Expenses for concrete works for projects) with a value of SAR (475,143) (The Taxpayer submitted several invoices related to a company ...), 3/ (Backfilling expenses) with a value of SAR (635,813) (The Taxpayer submitted an invoice for an institution .... (SAR 32,915), 4/ (Project Equipment Expenses) (SAR 93,850) (The Taxpayer provided one of two samples, an organization ... therefore, since the Taxpayer proved that he incurred the disputed expenses by submitting sample documents and invoices to support his objection, the Circuit concluded by accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit in this clause.

with regard to the Taxpayer's appeal regarding the clause (Expenses for the rental of machinery and equipment), the Taxpayer's appeal lies in the fact that the expense is related and incurred for the purpose of practicing the activity and is accounted for in the books and records of the company and supported by supporting documents and is considered a deductible expense and is not a capital expense; the Taxpayer submitted an analytical statement on the expense and a set of invoices as a sample in addition to an analysis of the value of the expense and proof of payment of the expense. Where paragraph 1/(Second) of Article (5) of the executive regulation for the collection of Zakat issued by Ministerial Decision (2082) dated 01/06/1438 AH states: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B- It must be related to the activity and not related to personal expenses or other activities. in the event that an expense of a capital nature is included in the expenses, the result of the activity shall be adjusted and the fixed assets shall be included and amortized according to the statutory rates." Article 6(2) of the Law stipulates that expenses that may not be deducted shall be: "Expenses for which the Taxpayer is unable to substantiate the expenditure with supporting documents or other evidence." Based on the above, and where the Taxpayer's objection is that these expenses should be deducted because they are valid and incurred for the purpose of practicing the activity, while the Authority argued that it maintains the validity and integrity of its procedure and requests that the decision of the Adjudication Circuit be upheld, and upon reviewing the case file; and where the Taxpayer provided the documents represented in (financial statements, statement of total expenses for renting machinery and equipment, account statement report showing description, date and movement, invoice samples, payment samples, and journal entries); and where the Taxpayer provided the documents represented in (financial statements, statement of total expenses for the rental of machinery and equipment, statement of account report showing description, date and movement, invoice samples, payment samples and journal entries) after reviewing the documents submitted by the Taxpayer, it was found that the documents submitted are sufficient to support the Taxpayer's appeal that he incurred these expenses, as the balances in the submitted statements match the balances shown in the financial statements, and he also provided proof of payment of these expenses, which means that the Taxpayer is entitled to deduct these expenses from his Zakat base, which leads the Circuit to accept the Taxpayer's appeal and annul the decision of the Adjudication Circuit on this clause.

whereas, regarding the Taxpayer's appeal regarding the clause (Revenues according to the unauthorized percentage of completion), his appeal lies in the fact that the Authority added an unauthorized estimated revenue clause to the Zakat base in the amount of SAR 2,033,856, although the Taxpayer has audited financial statements approved by a certified public accountant and consistent with the Zakat declaration submitted by him, and the revenues shown in the Zakat base match the revenues shown in the financial statements in the amount of SAR (48,519,202,47). the attached analysis shows the movement of revenues

according to the percentage of completion with the total revenues earned during 2017 AD and 2018 AD and what was invoiced. Where paragraph (4) of clause (First) of Article (Fourth) of the executive regulation for the collection of Zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 4- The revenues presented that have completed a year." The accounting standard for construction and service contracts issued by the Saudi Organization for Certified Public Accountants, approved by the Board of Directors in Decision No. (2/3) dated 28/02/2009 AD states: "3/3 Recognition and measurement of revenue and expenses. 1/3/3 At the date of the statement of financial position, when it is possible to estimate the outcome of the contract with a reasonable degree of certainty – recognize the revenue and the costs associated with the contract as revenues and expenses, and measure them based on the percentage of completion method. (Paragraph 113) 4/3/3 The percentage of completion method requires matching the contract revenue with the costs incurred up to the date of reaching the specified percentage of completion, resulting in amounts for both revenue and expenses and profits or losses related to the completed part of the contract, which have been presented in the financial statements. Paragraph 116. 5/3/3 According to the percentage of completion method, the contract revenue must be recognized within the revenues in the income statement for the accounting period in which the work was completed, and the contract cost must be recognized as expenses in the income statement for the accounting periods in which the related work was completed. The expected increase in the total cost of the contract over its total revenue must be charged to the income statement, according to paragraph (129)." Based on the foregoing, and where the Taxpayer's objection to the amendment of the Authority regarding this clause is disputed because the revenues disclosed in the declarations are identical to the financial statements submitted, while the Authority argued that it requests the response of the Taxpayer's appeal and the support of the decision of the Adjudication Circuit, and to reflect on the subject of the dispute, and where the Taxpayer's activity is represented in construction and contracts, and where the Taxpayer submitted the financial statements, the statement of account, and a table to follow up the contracts, which shows the revenues according to the percentage of completion to date in the amount of SAR (227,175,582) and the revenues according to the percentage of completion during the previous years in the amount of SAR (189,616,563); This means that the revenues according to the percentage of work completed during the year amounting to SAR (37,559,019), which is disclosed in the Zakat declarations and conforming to the approved financial statements, and according to the method of completion, the contract revenue is recognized in the income statement in the accounting period in which the work was completed, and the cost of the contract is recognized as expenses in the income statement in the accounting periods in which the related work was completed, and therefore the revenues of such works are recognized accounting according to the percentage of work completed in accordance with the requirements of the approved accounting standards, and since the audited financial statements are based on the presumption of validity And safety, and since the authority did not submit anything challenging these

lists, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause.

Regarding the remaining clauses subject to the lawsuit, there is no fault with the Circuit in adopting the grounds 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 Circuit 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 Circuit 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 Circuit to reject the Taxpayer's appeal and uphold the Adjudication Circuit'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 grounds stated, the Circuit unanimously decided as follows:

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ITR-2022-6014) issued in case number (Z-2021-47205) related to the Zakat assessment for the year 2018 AD.

Second: On the Merits:

1 - Regarding clause (Other Expenses):

A. Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding the amount of (1,580,617).

B. Rejecting the Taxpayer's appeal and affirming the decision of the adjudication circuit regarding clause (832,168).

3 - Accepting the Taxpayer's appeal and canceling the decision of the adjudication circuit regarding clause (Expenses for renting machines and equipment).

4 - Rejecting the Taxpayer's appeal and affirming the decision of the adjudication circuit regarding clause (Expenses charged from the head office).





- 5 - Rejecting the Taxpayer's appeal and affirming the decision of the adjudication circuit regarding clause (Salary and wage differences and affirming the decision of the circuit).
- 6 - Acceptance of the Taxpayer's appeal and cancellation of the decision of the Circuit regarding clause (revenues according to the unauthorized percentage of completion).
- 7 - Rejection of the Taxpayer's appeal and affirmation of the decision of the Circuit regarding clause (accounts payable balances).



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

Decision No. IR -2024-178265

Case No. Z-2023-178265

### Principle No. 54

- The entire adjusted net profit for the year is subject to Zakat, as it is considered a return on capital, regardless of whether a full lunar year has passed or whether it has been distributed.

### Facts

the appeal filed on 14/02/2023 AD, from / Company ... and the Zakat, Tax and Customs Authority (ZTA), on the decision of the Second Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh (ISR-2022-1977) issued in Case No. (Z-2021-83160) related to the 2020 AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority:

The claim is accepted procedurally and on the merits:

1- Amending the Defendant's procedure with regard to the clause of excluding dividends paid from the year's profit for 2020 AD, by deducting the remaining amount of dividends paid in excess of the balance of retained earnings at the beginning of the period from the Zakat base (year's profit).

2- Rejecting the claim regarding the clause of excluding the financing of assets from the general profit for 2020 AD.

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

regarding the Taxpayer's appeal, it submitted a list of appeals, which was reviewed by the Circuit, which stated that the Taxpayer requests that its appeal be accepted and that the decision of the Adjudication Circuit be overturned.

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

With regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal may be with regard to (excluding the dividends paid from the profit for the year 2020 AD), as the Appellant (the Authority) demands the cancellation of the Circuit's decision on this clause on the basis that what the Taxpayer is claiming is the deduction of dividends from the net profit for the year and this treatment is

baseless as it was not mentioned in the executive regulations for the collection of Zakat. The Authority also confirms that the executive regulations for the collection of Zakat issued by Ministerial Decision No. 2216 dated 07/07/1440 AH stipulated that The Authority explicitly states that the adjusted net profit is one of the funds subject to Zakat in paragraph (7) of Article (4). Therefore, deducting part of the profits distributed from the net income means that this profit is not subject to Zakat. The Authority also clarifies that Chapter III (Article 8 and 9) of the Executive Regulations for the Collection of Zakat issued by Ministerial Decision No. 2216 dated 07/07/1440 AH, clarified how the result of the activity is modified, and did not include what allows deducting the dividends from the profit of the year as an amendment to the result of this activity on the one hand. On the other hand, the Authority clarifies that the profits are not necessarily They are absorbed in cash until the completion of the property is addressed, as the companies rely on the calculation of profits on the basis of accrual in the sense of listing revenues despite the fact that they were not collected in cash, and bear the expenses due despite the fact that they were not paid in cash. From this, it becomes clear that the profit does not necessarily meet the full property condition. In response to the view of the Taxpayer regarding the non-conversion of the profits, the Authority clarifies that the jurisprudential characterization of profits as money benefited from the growth of the first capital, which is the capital, and growth may be by the nature of the thing or by work. Growth is more general than profit, as well as it is called the yield resulting from the exploitation of exploitations. These profits are added to their origin and are about one, which is about the original in accordance with Sharia Fatwa No. (19643) dated 23/05/1418 AH. in the event that the Taxpayer's objection is applied, the profits realized during the year will not be zakatable, as the Taxpayer's point of view is that the profits realized during the year will not be zakatable, as they have not yet been zakatable, if the Taxpayer's objection is applied, the money earned during the year will not be zakatable as it was not originally zakatable according to the Taxpayer's view. Rather, the company can zakat it immediately upon receipt and not wait for the passing of the hawl, which is the doctrine of Al-Awzai'i and Al-Dhahiriya and a baseessentially meaningful opinion from Imam Ahmad, chosen by Shaykh Al-Islam Ibn Taymiyyah

on Thursday, April 25, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members, whose names are recorded in the minutes, via videoconferencing in accordance with the procedures for remote videoconferencing; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No: (25711) and dated: 08/04/1445 AH; and by appealing to the litigants, he attended ..., National ID No. (...), in his capacity as an agent for the Plaintiff under Power of Attorney No. (412087430), and attended... (National ID No. ...), as the representative of the Defendant/Zakat, Tax and Customs Authority, under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) on March 19, 1445 AH., the Defendant's representative was asked what it wished to add, and it stated that it adheres to what was previously submitted in this case. when the Plaintiff's agent was presented with this information, he replied that he was sticking to what had already been submitted in this case. when the

parties were asked what they wished to add, they replied in the negative, so the Circuit decided to close the hearing and deliberations.

### Grounds:



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

On the merits, whereas, with regard to the Taxpayer's appeal regarding the clause (excluding the financing of assets from the general profit), the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them if it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and whereas it is established that the decision under appeal regarding the disputed clauses as the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and as this Circuit did not notice anything that warrants appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in the appeal. With respect to the result it reached on the clause in question, bearing in mind the grounds it gave for it.

Whereas, regarding the Authority's appeal on the clause (excluding dividends paid from the profit of 2020), paragraph (7) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, stipulates the following: "The zakat base for the Taxpayer who keeps commercial books consists of all his assets subject to zakat collection, including the following: 7. The net profit of the zakat year adjusted for zakat collection purposes in accordance with the provisions of the regulation." Paragraph (1) of Article (6) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH also stipulates the following: "The Zakat base shall be calculated by adding the clauses listed in Article (4) of the Regulations, minus the clauses listed in Article (5) of the Regulations, in accordance with the following controls: 1 - The Taxpayer's Zakat base must not be less than the net profit adjusted for the purposes of collecting Zakat in accordance with the provisions of the regulation."

Based on the above, and since the dispute lies in the Authority's failure to accept the reduction of the profits adjusted to the profit distributed from the profit for the year in question, as the Authority considers the imposition of Zakat on the adjusted profit while not reducing it by the paid dividends that exceed the balance of the beginning of the period for the retained profits, on the basis that the Zakat collection regulation issued in the year 1440 AH explicitly stipulates that the adjusted net profit is one of the funds

subject to Zakat, and also stipulates that the adjusted profit is the minimum amount of the Zakat base, While the Taxpayer confirms his entitlement to deduct the dividends from the adjusted net profit, on the basis that the Sharia rules stipulate that if the net profit is spent before the completion of the zakat, there is no zakat in it, and by reviewing paragraph (1) of Article (6) of the Zakat Collection Regulations issued in the year 1440 AH, it becomes clear that it stipulates that the zakat base must not be less than the adjusted profit as a minimum when calculating zakat, and since what the Taxpayer demands to deduct the dividends from the adjusted net profit entails that the adjusted profit is not subject to the collection of zakat, which contradicts what It was stipulated in the Zakat collection regulation, which subjected the entire net profit for the year adjusted for Zakat to the extent that it is a return of capital without regard to the year around it and before distribution from it, as these profits are about their origin, which shows the validity of the Authority's procedure not to reduce the profits adjusted for the dividend from the profit of the year, and does not affect what the Taxpayer pays from the issuance of a decision by the Appellate Circuit No. (IR - 2022-1201 )for the same company for the years from 2011 AD to 2015 AD, which ended up accepting the company's appeal by deducting all dividends paid during the year without its limit with any limits such as retained profits, as well as reducing the net profit adjusted for the dividends made from the profits of the year when determining the Zakat base, as the aforementioned decision relates to years that were not governed by a statutory text, while the year in question is governed by the Zakat Regulation 1440 AH, which did not include the reduction of profits adjusted for the dividends distributed from the profit of the year, which the Authority must accept the appeal and cancel the adjudication decision with regard to the clause (excluding dividends paid from the profit of 2020 AD).

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

#### Decision:

First: Accepting the appeal procedurally from the Taxpayer / Company ... (...), unique number (...) And the appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit for adjudicating violations and disputes of income tax in Riyadh with number (ISR-2022-1977) issued in case number (Z-2021-83160) related to the zakat assessment for the year 2016 AD.

Second: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (exclusion of dividends paid from the 2020 AD profit).
- 2- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (excluding asset financing from the general profit).



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

Decision No. IR -2024-192728

Case No. Z-2023-192728

Principle No. 55

- The occurrence of sale transactions involving investments results in their classification as trading inventory (commercial goods).

Facts



the appeal filed on 25/04/2023 AD, from ..., National ID No. (...) was considered as the statutory representative of the appellant company under its articles of incorporation, and the appeal filed by the Zakat, Tax and Customs Authority on 26/04/2023 AD against the decision of the Third Circuit for the adjudication of income tax violations and disputes in Riyadh with number (IFR-2022-6685) issued in Case No. (Z-2021-82799) related to the Zakat assessment for the years 2015 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 Circuit ruled as follows: Zakat, Tax and Customs Authority:

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

Second: On the merits:

- 1- Cancel the Defendant's decision regarding the clause "Available for Sale Securities".
- 2- Cancel the Defendant's decision regarding the clause (unrealized profits from available-for-sale securities).
- 3- Cancel the Defendant's decision regarding the clause "Realized profits from available -for-sale securities".
- 4- Annulment of the Defendant's decision regarding the "creditors" clause.
- 5- Annul the Defendant's decision regarding the clause "Accrued Expenses".
- 6- Reject all other objections.

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

with regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal is in relation to the clause (Available for Sale Securities). It claims that the Authority disallowed the value of available for sale financial investments amounting to SAR (29,749,430), SAR (24,879,431), SAR (18,404,913), and SAR (16,279,297) for the years 2015 AD to 2018 AD, respectively, due to the presence of a sale movement in all years, which indicates that their purpose is to trade, and upon objection, the Taxpayer submitted the Board of Directors' decision dated 10/12/2008 AD, which recommends investing in the following companies: (... - ... - ...) - it is clear that one of the objectives of the investment is to evade paying zakat on the cash amount at the end of the year by deducting these investments from the zakat base, and by reviewing the financial statements for the years under study, it is clear that part of the shares were sold in all the years under study, and the existence of sales operations confirms that these investments are for the purpose of trading in addition to the presence of a cash balance within the investments, which indicates that it is an investment fund, and two basic conditions must be met to consider the investment as a long-term investment, namely: The presence of documented intent by the authorized person before the investment decision is made, and the absence of trading activity (movement) during the year on such investments, are required conditions. Since one of these two conditions does not apply to the company's investments, the taxpayer's objection was rejected. The Authority's procedure was affirmed in Appellate Decision No. (1670) for the year 1438 AH and Appellate Circuit Decision No. (IR - 2021- 23). As for the reasoning provided by the Circuit, the Authority responded that it is incorrect and contrary to the applicable legal framework. With regard to the Authority's appeal regarding the clause (Realized profits from available-for-sale securities for the years 2015 AD, 2016 AD and 2017 AD), where the Authority disallowed the adjustment of the net profit by the value of dividends received from investing in available-for-sale securities, as they are funds that came out of the invested company and excluded them from its accounts and from its Zakat base under the clause of dividends and are considered revenues realized from the investment in the invested company, although these revenues were subject to Zakat in the invested company, but this was done in a previous year for the year in which they were distributed, and therefore they are subject to Zakat in the invested company although these revenues were subject to zakat in the investee companies, this was done in a year prior to the year in which they were distributed, and therefore they are subject to zakat in the investee company as income added to the investee company's revenues in a year subsequent to the year in which they were subject to zakat in the investee companies, and this is evident from the statement of changes in equity of investee companies, an example of which is the distributions of [.....] company for the years 2017 AD and 2018 AD. Accordingly, the Taxpayer's objection was rejected and the Authority's action in not adjusting the net profit by dividends was upheld in Appeal Decision No. (1479) of 1436 AH. As for the Circuit's reasoning, the Authority responded that it is incorrect and contrary to the statutory requirement. With regard to the Authority's appeal regarding (Accrued Expenses (2015 AD and 2018 AD) and (Accrued Expenses (2016 AD), the Authority clarified with regard to 2015 AD: Upon reviewing the data submitted for accrued expenses for the year 2015 AD upon examination and with objection, it turned out that the

balances do not match the financial statements, so the examiner's action was supported by adding the first or last period, whichever is less, based on paragraph (second) (5) of Article (4) of the executive regulation issued by Ministerial Decision No. (2082) dated 01/06/1438 AH corresponding to 28/02/2017 AD, which states that the following shall be added to the Zakat base: "Government and commercial loans and other sources of financing such as creditors, promissory notes, and overdraft accounts owed by the Taxpayer according to the following: A- Any portion thereof remaining in Cash and over which a full Lunar Year has elapsed. B- What has been used to finance what is intended for property acquisition. c- What has been used in trade offers and has passed the hawl" and paragraph (3) of Article (20) of the Executive Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438 AH corresponding to 28/02/2017 AD, which states that: "The burden of proving the accuracy of what is stated in the Taxpayer's zakat declaration from clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven accurate by the Taxpayer or may proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." the Taxpayer did not submit a detailed statement with the objection, so reliance was placed on the statement submitted at the time of the examination, and by reviewing the statement submitted at the time of the examination, it became clear that the accrued expenses balance amounting to SAR (420,435), and therefore the Authority's action to add what has turned into the Zakat base is correct based on paragraph (II) (5) of Article (4) of the executive regulations issued by Ministerial Resolution No. 2082 dated 01/06/1438 AH corresponding to 28/02/2017 AD, as for the year 2018: upon examination, the Taxpayer provided a detailed statement corresponding to the ending balance in the financial statements, which shows that the accrued expenses balance for the year 2018 AD amounted to SAR (2,202,420), on objection, the Taxpayer submitted a detailed statement corresponding to the financial statements, but upon examination of the statement, it was found that the Taxpayer zeroed out the beginning balance of the period, which made it not match the ending balance of the account in 2017 AD, and the movement during the year did not match the financial statements, so when examining the objection, reliance was placed on the statement submitted during the examination, which confirms the validity of the Authority's action by adding the amount of SAR (2,202,420) based on the aforementioned article, therefore, the Authority requests the reversal of the decision of the Dispute Adjudication Circuit on the clauses under appeal for the grounds set forth above. this decision was not accepted by the Taxpayer (Company...), so he filed a list of appeals, which was reviewed by the Circuit and included the following statement: "The Taxpayer requests the acceptance of his appeal and the reversal of the decision of the Adjudication Circuit.

on Thursday, on: 27/06/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are written in the minutes, via video communication in accordance with the procedures of remote video litigation; based on the provisions of clause (1) of Article 15 of the working rules of zakat, tax and customs committees issued by Royal Decree No: (25711) and



dated: 08 /04 /1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

### Grounds:

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

On the merits, regarding the Authority's appeal concerning the clause "Available-for-Sale Securities", the appeal centers on objecting to the decision of the Adjudication Circuit regarding this clause. The Authority asserts that there was trading activity involving these investments during all the disputed years, which, in its view, indicates that the investments should be treated as trading inventory rather than being held for investment purposes. based on paragraph (4/a) of Article (4) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, which stipulates that "Investments in establishments inside the Kingdom - in partnership with others - if those investments are subject to the collection of zakat under this regulation, and if the investment in those establishments is not subject to collection, it shall not be deducted from the base." Based on Article 20 (3) of the regulation, which stipulates that "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the foregoing and since two essential conditions must be met for investments to be considered capital holdings and therefore eligible for deduction from the zakat base — namely, (1) documented intent by an authorized person specifying the purpose of the investment, and (2) absence of any sales transactions during the year — a review of the case file reveals that the dispute concerns the Authority's rejection of the deduction of available-for-sale financial investments for the years 2015 AD to 2018 AD, due to the existence of sales activity within the investment portfolio. The taxpayer, however, argues that the company's intent was documented by a resolution of the Board of Directors, and that the sale of investments resulted from a need to address liquidity issues. The company's management had resolved that, in the absence of sufficient liquidity, certain investments could be sold to ensure continuity of operations. Nevertheless, upon examining the documents, it appears that the taxpayer did not submit any Board resolution specifically authorizing the sale of investments for liquidity purposes. Moreover, a review of the taxpayer's financial statements shows that sales activity occurred across all the disputed years, which indicates that the

investments are treated in practice as trading inventory rather than capital assets. Since the absence of sales activity is a condition for investment deduction, the Circuit concludes by accepting the Authority's appeal and overturning the Adjudicating Circuit's decision on this clause.

Regarding the Authority's appeal regarding the clause "Realized profits from available-for-sale securities for the years 2015 AD, 2016 AD, and 2017 AD", the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that it is money that has left the investee company and excluded it from its accounts and its Zakat base. based on Article 20(3), paragraph (3), which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and upon reviewing the case file, it is clear that the dispute between the parties lies in the Taxpayer's argument that the profits have been zakatized in the investee companies and their addition is considered as zakat deduction however, the Authority argues that the funds came out of the investee company's assets and excluded them from its accounts and its Zakat base under the heading of dividends and are considered revenues realized from the investment in the investee company, and that these revenues were subject to Zakat in the investee companies in a year prior to the year in which they were distributed and therefore subject to Zakat in the investee company as income added to the revenues of the investee company in a year subsequent to the year in which they were subject to Zakat in the investee companies, since the Taxpayer did not provide evidence that the Authority's argument is not correct therefore, the Circuit concludes to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

regarding the Authority's appeal regarding the clause (Accrued expenses for 2015 AD and 2018 AD) and the clause (Accrued expenses for 2016 AD), where the Authority's appeal is to dispute the decision of the Adjudication Circuit regarding this clause; it claims that for 2015 AD, the balances do not match the financial statements, and for 2016 AD, it claims that the Taxpayer did not submit a detailed statement with the objection, so the statement submitted at the time of the examination was relied upon for 2016 AD, it claims that the Taxpayer did not submit a detailed statement with the objection, so the statement submitted at the time of the examination was relied upon, and for 2018 AD, it claims that the Taxpayer zeroed out the beginning balance of the period, which did not match the ending balance of the account. Based on paragraph number (5) of clause (First) of Article (4) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH which states: "The zakat base consists of all the Taxpayer's assets subject to zakat, including: 5- government and commercial loans and other sources of funding such as creditors, promissory notes, and overdraft accounts that are owed by the Taxpayer



according to the following: A- What remains of it in cash and has completed a year. B- What has been used to finance what is intended for property acquisition. (c) What has been used in trade offers and has passed the hawl", and based on the text of Article 20(3) of the Tax Law, which stipulates the following: "The burden of proving the accuracy of what is stated in the zakat declaration of the Taxpayer regarding clauses and any other data lies with the Taxpayer, and if he is unable to prove the accuracy of what is stated in his declaration, the authority may not approve the clause that is not proven by the Taxpayer or may impose an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, trade payables and accrued expenses are considered a component of the Zakat base, provided they are turned over or used to finance the assets deducted from the Zakat base, and a review of the case file and the defenses and documents it contains reveals the following: with regard to the years of disagreement 2015 AD and 2018 AD, it appears that the Taxpayer submitted the audited financial statements in addition to the analytical statements, and by reviewing the analytical statements, it is clear that the balances match the financial statements and that the amounts that fell due are (SAR 2,659,237.08) for 2015 and (SAR 557,784.87) for 2018, which leads the Circuit to partially accept the Authority's appeal and modify the decision of the Adjudication Circuit regarding this clause. as for the year 2016 AD, it is clear that the Taxpayer submitted the audited financial statements but did not submit the analytical statement of the detailed movement of the disputed clause, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit regarding this clause.

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

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



## Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company..., Commercial Registration (...), Unique Number (...) The appeal submitted by the Zakat, Tax and Customs Authority against the decision of the third circuit regarding violations and disputes of income tax in Riyadh with number (IFR-2022-6685) issued in case number (Z-2021-82799) related to the tax assessment for the years from 2008 AD to 2016 AD.

First: On the Merits:

1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause "Available for Sale Securities".

2- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (unrealized profits from available-for-sale securities for the years 2015 AD, 2016 AD, 2017 AD, and 2018 AD).

3- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Realized profits from available-for-sale securities for the years 2015 AD, 2016 AD, and 2017 AD).

4- Rejecting the Authority's appeal and amending the decision of the Adjudication Circuit With respect to the (creditors) clause.

5- Regarding the Authority's appeal on the clause (Accrued Expenses):

a. Accepting the Authority's appeal in part and amending the decision of the Adjudication Circuit regarding (2015 AD and 2018 AD).

b. Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit (2016 AD).

6- Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding the clause (related parties).

7- Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause "Projects under implementation (2015 AD and 2016 AD)".



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

Decision No. IR -2024- 169269

Case No. Z-2023-169269

**Principle No. 56**

- The certificate issued by the certified public accountant is considered one of the requirements for substantiating the validity of written-off debts.

**Facts**

the appeal filed on 12/01/2023 AD from/... National ID number (...) as an agent for the appellant company under Agency No. (...), and the appeal filed on 15/01/2023 AD from the Zakat, Tax and Customs Authority (ZTA), against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2426) issued in Case No. (Z-2021-81678) related to the 2017 AD Zakat assessment, in the case filed by the Taxpayer against the ZTA, in which the decision of the Adjudication Circuit ruled as follows:

First: deny the Plaintiff's objection to the current liabilities clause.

Second: accepting the Plaintiff's objection to the salary difference clause.

Third: deny the Plaintiff's objection to the bad debt clause.

Fourth: the Plaintiff's objection to a labor hire clause was rejected.

Fifth: accepting the Plaintiff's objection to the OPT 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 Dispute Adjudication Circuit, the Taxpayer's appeal with regard to the clause (Bad Debts for 2017 AD) is that the clause in dispute has met the conditions for deduction in Article 5(3) of the Zakat Executive Regulations, as the Taxpayer submitted both a signed and sealed certificate from the Chartered Accountant as well as the Board of Directors' resolution to confirm the validity of the company's position. the Taxpayer also objects to the clause (Current Liabilities for 2017 AD) and the clause (Labor Hire for 2017 AD). Therefore, the Taxpayer requests the reversal of the decision of the Adjudication Circuit on the clauses under appeal for the above reasons.

with regard to the Authority's appeal against the decision of the Adjudication Circuit, its appeal lies in relation to the clause (Salary Difference for the year 2017 AD) that the Taxpayer did not provide documentary proof of the disputed clause, as the Authority requested the Taxpayer to provide the following during the linking phase: (An analytical statement of direct and indirect salaries and wages with the name of each Taxpayer and all details, a screenshot for each month in social insurance and for all branches and salaries and wages subject to social insurance), where the Taxpayer submitted the required information and after the examination, the unexplained difference related to salaries was refunded in the amount of SAR (2,143,221), during the objection stage, he did not provide a justification for the difference and merely stated that these differences "cannot be documented" and provided the statements provided during the examination that were taken into account when refunding the difference, and accordingly, due to the Taxpayer's failure to provide the necessary documentary proof, his objection was rejected. the Authority states that the dispute lies in the addition of a salary expense difference clause in the amount of SAR (2,143,221) to the net result, resulting between the Taxpayer's submission of statements and supporting documents for the disputed clause and the rejection of the difference that is not documented, and the acceptance of the proven documents, and the Authority states that through the Taxpayer's submissions of defenses and documents to the decision-making Circuit, which is a repeat of what he previously submitted, as the decision of the Circuit stated that the clause is accepted in favor of the Taxpayer based on the data submitted, which is not true, as according to the Taxpayer's claim sheet it is impossible for there to be a difference without documentary proof and the Taxpayer stated that while the Authority demands documentary proof of the difference, which the Taxpayer did not provide during the litigation phase, the decision of the Adjudication Circuit accepted all salary expenses without explaining the nature of the difference, which is the subject of the dispute with the Taxpayer, based on paragraph (2) of Article (6) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) mentioned above, which confirms that the expenses that the Taxpayer cannot prove their disbursement by supporting documents or other evidence of proof, the Taxpayer failed to provide documentary proof of the payment of salaries and the approved work organization regulation to verify the expenditure, which makes the decision incorrect in its conclusion and must be overturned.

regarding the clause (Difference in foreign purchases for 2017 AD), the Authority clarifies that it refunded the difference between the foreign purchases based on the Taxpayer's declaration and the foreign purchases included in the customs declaration, after reviewing the documents submitted by the Taxpayer, namely: (The Authority explains that it refunded the difference in the unsubstantiated expense to the net profit because the Taxpayer did not provide justification for this difference and support its validity as an expense. The Authority responds to the grounds for the Circuit's decision that it is incorrect and contrary to the correct legal requirement because the dispute lies in the addition of an expense difference clause for foreign purchases of SAR (2,781,303) to the net result, resulting from the amount charged in the declaration from what is contained in the company's books and not matching the customs declaration according to the

documents submitted, load in the declaration from what is contained in the company's books and not matching it with the customs declarations according to the documents submitted, as the load in the declaration was compared with what is in the books according to the Excel spreadsheet provided by the Taxpayer to the Authority as it reflects the reality of the customs declaration, and the difference that is not documented was refunded based on Article 6 paragraph 2 of the Executive Regulations in addition, and in view of the existence of a difference and discrepancy between the customs data and the excel sheet submitted as stated in the Authority's appeal regulation, as the customs declaration submitted by the Taxpayer has a total value of SAR (454,383,621), while the company's records are worth SAR (2,370,315,525), which represents a larger value than the customs declaration, this is what was relied upon in the Authority's memorandum when comparing with what was stated in the declaration, as the Taxpayer was previously discussed about this discrepancy and provided statements and documents, some of which match and some do not match due to the existence of adjustments during the year, and it was found difficult for the Taxpayer to explain this difference, as he stated that it resulted from errors in customs clearance and lies in the timing of the month and the end of the year, but the Taxpayer did not prove this documentarily to the Authority, and based on the mentioned facts, it appears that the Taxpayer reports that the difference amounts to SAR (55,987,520) and provided an unsupported analysis of the amount, and the dispute with the Taxpayer of the difference added by the Authority lies in the amount of SAR (2,781,303), which the Taxpayer was unable to provide the supporting documents to verify its validity, so the Authority maintains the validity and integrity of its procedure and requests the reversal of the decision of the Circuit of Adjudication of the clauses under appeal for the above reasons.

on Thursday, 02/01/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

#### Grounds:

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

On the merits, regarding the Authority's appeal regarding the clause (Salary Difference for 2017 AD), and where its appeal lies in the fact that after examining the documents submitted by the Taxpayer at the request of the Authority, the unjustified salary difference of SAR (2,143,221) was refunded, and during the objection stage, he did not provide a justification for the difference and provided the statements submitted during the examination, which were taken into account when refunding the difference, and accordingly, due to the failure to provide the necessary documentary proof, his objection was rejected. Where paragraph (1/A) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "All ordinary and necessary expenses required for the activity shall be deducted whether they are paid or accrued, leading to the net result of the activity, provided that the following controls are met: A- It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if it relates to previous years." Paragraph (3) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and since the dispute between the two parties lies in adding the salary difference to the adjusted net profit; and since the authority appeals the Circuit's decision and clarifies that the dispute lies in adding the clause of salary expense difference amounting to SAR (2,143,221) to the net profit, as the difference is represented between what is stated in the declaration and what the Taxpayer submitted in documents and supporting evidence for the disputed clause, the authority rejected the unproven difference, while the Taxpayer argues that the salary clause represents necessary expenses incurred in the ordinary course of business; therefore, it should be recognized as actual expenses. Upon reviewing the documents submitted in the case file, it is clear that the Taxpayer submitted the financial statements for the year in question, where the salaries mentioned in those statements amounted to a total of (334,121) thousand riyals (267,914 thousand riyals + 65,207 thousand riyals as employee costs) in addition to an analytical statement of salaries. Upon reviewing the statement, it became clear that it does not match the financial statements; the total amount in the submitted statement was SAR (257,165,935). However, the essence of the dispute does not lie in matching the statement submitted by the Taxpayer with the financial statements, but rather in the difference between the salaries registered in the Taxpayer's declaration and the salaries verified in the statement submitted by the Taxpayer to the authority. The authority matched the statement submitted to it by the Taxpayer (included in the authority's appeal statement) with what was stated in the zakat declaration, which resulted in a difference of SAR (2,143,221) ( SAR 277,573,126 - SAR 257,429,905). Upon reviewing the statement submitted in the authority's appeal, which the Taxpayer provided to it during the objection phase, it became clear that there were differences amounting to SAR





(2,143,221) listed as adjustments (Adjustment), which is the same amount that the authority demands to be proven with documentary evidence. Upon reviewing the documents submitted in the case file, it became clear that the Taxpayer did not provide the supporting documents for his objection regarding the grounds for those differences (adjustments) mentioned in the statement he submitted, and that they indeed represent amendments to the salary clause which resulted in that difference. The Taxpayer's claim in his objection before the Circuit that the differences arose due to an error in classifying employee bonuses without any supporting evidence does not affect this, which leads the Circuit to accept the authority's appeal and overturn the decision of the Circuit regarding this clause..

regarding Authority's appeal regarding the clause (Foreign Purchases Difference for 2017 AD), and where its appeal lies, it refunded the difference between the foreign purchases from the Taxpayer's declaration and the foreign purchases included in the customs declaration, after reviewing the documents submitted by the Taxpayer, where it refunded the difference in the unsupported expense to the net profit because the Taxpayer did not provide the justification for this difference and support its validity as an expense. Where paragraph (3/A) of Article (20) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "The burden of proving the validity of what is stated in the Taxpayer's zakat declaration regarding clauses and any other data lies with the Taxpayer. If he is unable to prove the validity of what is stated in his declaration, the authority may refuse to approve the clause that is not proven valid by the Taxpayer or proceed with an estimated assessment according to the authority's perspective in light of the circumstances and facts related to the case and the information available to it." Based on the above, and since the dispute between the parties lies in adding the foreign purchase difference to the adjusted net profit, the Authority appeals against the Circuit's decision and clarifies that the dispute lies in adding the purchase difference clause in the amount of SAR (2,781.303) to the net profit, as the difference is the result of what is loaded in the declaration with what is in the books according to the Excel spreadsheet provided by the Taxpayer to the Authority as it reflects the reality of the customs declaration, and the difference that is not documented was refunded, while the Taxpayer argues that these differences are due to the timing difference of foreign currencies, Based on the above, the imports statement issued by the General Authority of Customs is a basic evidence from a neutral third party, and by reviewing the case file it appears that the Authority action is to adjust the results of the Taxpayer's business due to the differences in the value of the imports and the value of the imports based on the differences in the value of imports included in the Taxpayer's declaration compared to the imports according to the statement submitted by the Taxpayer, which reflects the reality of the customs declaration, and by reviewing the documents submitted in the case file, it appears that the Taxpayer submitted a reconciliation of purchases (attached additional documents - Purchase Reconciliation 2017 AD), and by looking at page (2), (which the Authority considered to reflect the validity and reality of the customs declaration after the Authority accepted all the adjustments attached to the declaration) the total purchases according to the statement submitted by the Taxpayer amounted to SAR (2,370,315,525), while the Zakat return for the year

in dispute included SAR (2,373,096,828), thus, comparing the statement with the Zakat return; this resulted in differences in the amount of SAR (2,781,302, 88). upon reviewing the documents submitted, it was found that the Taxpayer did not provide any of the documents supporting this difference, as he merely stated that these differences are due to exchange rates, which cannot be verified because there is no evidence to support it, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Dispute Adjudication Circuit in this clause.

with regard to the Taxpayer's appeal regarding the bad debts clause for the year 2017 AD, the Taxpayer's appeal is that the disputed clause met the conditions for deduction stipulated in Article 5(3) of the Zakat Collection Executive Regulations, as the Taxpayer submitted documents in support of his objection. Where paragraph (3) of Article (5) of the executive regulation for the collection of zakat issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states that: "Bad debts are considered an expense that may be deducted in accordance with the following rules: A- It must have been previously declared among the Taxpayer's revenues in the year the revenue is due. B- The bad debts must result from the activity being practiced. C- The Taxpayer must provide a certificate from their legal accountant indicating the write-off of these debts from the books by a decision from the authorized person. D- The debts should not be owed to parties related to the Taxpayer. the Taxpayer's obligation to declare income debts once they are declared." Based on the above, and since the dispute is about the failure of the disputed clause to meet the conditions set forth in the Zakat Regulation for the collection of Zakat, the Authority argues that the certificate submitted by the Taxpayer related to bad debts is invalid because it is not a reasonable confirmation of the write-off of these debts it is clear that the dispute over this clause is based on the documents submitted in the case file, and it is clear that the Taxpayer has provided evidence that it fulfills the conditions for the bad debt deduction, represented by (a certificate from the legal accountant in addition to the board of directors' decision to confirm that the debts have been written off), and this does not affect the Authority's argument this does not detract from the Authority's reference to considering the certificate as a non -confirmation report to prove the validity of the write-off of debts, as a review of the professional standard governing the auditor's report reveals that the text referred to by the Authority, which is part of the requirements of that standard (Standard 4400), which the chartered accountant must comply with when issuing the report; as the certificate submitted has taken into account what must be applied from the standard, as the certificate issued by the chartered accountant is a sufficient confirmation to prove the validity of the written-off debts, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Adjudication Circuit in this clause

Regarding the Taxpayer's appeal on the remaining clauses in the case. Whereas there is no fault in the Circuit'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 Circuit that issued it examined the substance of the dispute and reached the conclusion set out in its ruling. This Circuit did not find anything that would warrant correction or comment in light of the arguments presented before it. This Circuit therefore rejects the appeal and upholds the decision of the Circuit 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 grounds stated, the Circuit unanimously decided as follows:

#### Decision:

Acceptance of the appeal procedurally from the Taxpayer/company ..., commercial registration (...), unique number (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Jeddah Province with number (IZJ -2022-2426) issued in case number (Z-2021-81678) related to the Zakat assessment for the year 2017 AD.

2. On the merits:

- 1 - Acceptance of the Authority's appeal and cancellation of the decision of the circuit regarding clause (salary differences for the year 2017 AD).
- 2 - Acceptance of the Authority's appeal and cancellation of the decision of the circuit regarding clause (differences in external purchases for the year 2017 AD).
- 3 - Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding clause (current liabilities for the year 2017 AD).
- 4 - Acceptance of the Taxpayer's appeal and cancellation of the decision of the circuit regarding clause (bad debts for the year 2017 AD).
- 5 - Rejection of the Taxpayer's appeal and upholding the decision of the circuit regarding clause (hiring labor for the year 2017 AD).



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

Decision No. IR-2024- 170306

Case No. Z-2023-170306

### Principle No. 57

- The existence of incentives must be linked to the procedures prescribed by the Labor Law, and they have no bearing on the Zakat treatment in terms of whether their amounts are included in the taxpayer's Zakat base or not.

### Facts

the appeal filed on 16/01/2023 AD, from ..., National ID No. (...) was considered in his capacity as the General Manager of the appellant company under the Memorandum of Association, on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2022-2475) issued in Case No. (Z-2021-89209) regarding the 2019 AD Zakat assessment, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: rejecting the Plaintiff's objection to the (technicians - installation) incentives clause for 2019 AD.

Second: rejecting the Plaintiff's objection to the incentives clause (administrators and supervisors) for 2019 AD.

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

the Taxpayer disagrees with the decision of the Appeals Circuit, claiming that with regard to the clause (incentives/technicians/installation), the Authority and the Committee (installation), the Authority and the Committee determined that they were not satisfied with the deductibility of the expense from the organizational point of view only and did not look at the fact that the money was proven to have left the Taxpayer's estate, since the Authority's disapproval lies in its disagreement with the legality of deducting these incentives for employees on the grounds that they do not comply with what the Labor Law requires for their approval to become a deductible expense, and what the Authority stated and the Committee supported in the legality of the existence of these bonuses and incentives and the need for them to be based on the procedures established by the Labor Law, has nothing to do with the calculation of the Zakat base it

is irrelevant when calculating the zakat base and deciding whether or not the amounts enter the base, because these regulatory procedures are intended for another purpose from which the regulator aims to achieve the protection of the rights of workers in establishments, and since the basis for the obligation of zakat on the money is that it remains in the hands of the Taxpayer when the turn of the year passes, and the documents presented to the Authority and the Committee proved that the money left the Taxpayer's hands and was spent on these bonuses and incentives for workers.

with regard to the clause (incentives/administrators/supervisors) the Taxpayer claims that documents supporting the receipt of these incentives by employees (administrators and technicians) were submitted, and it is clear from the decision under appeal that these documents were accepted by the Authority and did not address them, but requested an increase in the regularity of the expense by having an internal regulation approved by the Ministry of Labor, which is contrary to the provisions of paragraph (1) of Article (5) of the Zakat Collection Executive Regulations, and the Taxpayer proved to the Authority that this incentive expense is applicable to all conditions stipulated in the aforementioned article, as he provided proof of the fact of the expense, which is the incentive account statement with the names of the employees entitled to it, all the conditions mentioned in the aforementioned article apply to it, as he provided proof of the reality of the expense, which is the incentive account statement with the names of the employees entitled to it, and also provided the documents of disbursement of these incentives to employees, whether transfers or receipt authorizations, and provided proof of the nature of this expense, thus all the conditions mentioned in the article - which does not include the requirement that salaries be registered in the insurance or incentives be approved by the labor office - have been applied to it exclusively he submitted documents supporting the deduction of the expense before the Authority during the examination process and submitted other documents and the internal policies regulation approved by the Labor Office during the filing of the preliminary lawsuit. The Taxpayer referred to the documents proving the expense as well as the reimbursement transfers, although the article did not require proof of reimbursement, but only proof of its entitlement, and also attached a copy of the internal policies regulation approved by the Labor Office.

on Wednesday, 07/02/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes met via videoconference in accordance with the procedures for remote videoconferencing; based on the provisions of Clause 2 of Article 15 of the Rules of Work of the Tax Violations and Disputes Resolution Committees issued by Royal Decree No. (26040) and dated: 21/04/1441 AH; after reviewing the appeal, after examining the contents of the case file, and after deliberating according to the law, and as the Circuit did not find it necessary for the parties to the appeal to be present, the Circuit decided to close the pleadings and reserve the case for adjudication.

## Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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, as for the Taxpayer's appeal regarding the clause (incentives/technicians/installation), the basis of the Taxpayer's appeal is that the money must remain in the hands of the Taxpayer when the turn of the year arrives, and it is proven from the documents submitted to the Authority and the Committee that the money left the Taxpayer's possession and was spent on these bonuses and incentives for the employees. Based on the above, and after reviewing the appeal list and the replying memorandum, it appears that the dispute between the parties lies in the incentives for technicians - installation for 2019 AD in the amount of SAR (3,278,824), and that the subject of the Taxpayer's appeal lies in the non-acceptance by the Adjudication Circuit of the Taxpayer's objection despite the documents that were submitted to the Authority and the Committee and the exit of the money from the Taxpayer's liability and spending it on these bonuses and incentives for employees, since the Taxpayer submitted the labor regulation approved by the Minister of Labor, bank transfers, disbursement documents and a statement of the incentives that were disbursed, and since the existence of these bonuses the existence of these bonuses and the need for them to be based on the procedures prescribed by the Labor Law is irrelevant when calculating the Zakat transaction, because these regulatory procedures are intended for another purpose, which is intended by the Law to achieve the protection of the rights of workers in establishments, which leads the Circuit to accept the Taxpayer's appeal and cancel the decision of the Circuit of Determination on this clause.

with regard to the Taxpayer's appeal regarding the clause (incentives/administrators-supervisors), and where his appeal lies in the fact that he submitted documents supporting the receipt of these incentives by employees (administrators and technicians), and it is clear from the decision under appeal that these documents are accepted by the Authority and did not address them, but requested an increase in the regularity of the expense in the presence of an internal regulation approved by the Ministry of Labor, which is contrary to the approval of paragraph 1 of Article 5 of the Executive Regulations for the Collection of Zakat Zakat (Zakat Collection). Based on the above, and after reviewing the appeal list and the replying memorandum, it appears that the dispute between the two parties lies in the incentives for administrators and supervisors for the year 2019 AD in the amount of SAR (49,013) the Taxpayer's appeal lies in the fact that the Adjudication Circuit did not accept the Taxpayer's objection despite the submission of documents supporting the receipt of these incentives by employees (administrators and technicians) and that the money was released from the Taxpayer and spent on these bonuses and incentives for employees, as the Taxpayer submitted the work organization regulation approved by the Minister, bank transfers,



disbursement documents and a statement of the incentives that were disbursed the existence of these bonuses and the need for them to be based on the procedures prescribed by the Labor Law is irrelevant when calculating the Zakat transaction, because these regulatory procedures are intended for another purpose that the Law aims to achieve in order to protect the rights of workers in the establishments, which concludes that the Circuit accepts the Taxpayer's appeal and cancels the decision of the Determination Circuit on this clause.

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

#### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company ..., commercial register (...), Unique number (...) Against the decision of the first circuit for adjudicating violations and disputes of income tax in Jeddah Province with number (IZJ-2022-2475) issued in case number (Z-2021-89209) related to the zakat assessment for the year 2015 AD.

Second: On the Merits:

- 1- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the incentives clause (technicians - installation).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the Adjudication Circuit regarding the incentives clause (administrators and supervisors).



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

Decision No. IR-2024- 191565

Case No. Z-2023-191565

**Principle No. 58**

- Employee bonuses are considered deductible expenses, provided that supporting documents evidencing their disbursement are available.

**Facts**

the appeal filed on 05/04/2023 AD, from the Zakat, Tax and Customs Authority, and the appeal filed on 06/04/2023 AD, from ... commercial Register No. (...), on the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-90609) issued in Case No. (Z-2022-90609) related to the 2016 AD Zakat assessment, in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

First: proof that the dispute over the end-of-service clause for 2016 AD has been resolved.

Second: the Plaintiff's objection to the hired labor clause for 2016 AD is denied.

Third: accepting the Plaintiff's objection to the remuneration clause for 2016 AD.

Fourth: deny the Plaintiff's objection to the 2016 AD salaries and wages clause.

Fifth: deny the Plaintiff's objection to the receivables clause for 2016 AD.

sixth: rejecting the Plaintiff's objection to the other payables clause for 2016 AD.

seventh: rejected the Plaintiff's objection to the 2016 AD receivables clause.

as this decision was not accepted by the Taxpayer (Company ...), he filed a list of appeals, which was reviewed by the Circuit, in which he demanded that his appeal be accepted and that the decision of the Adjudication Circuit be reversed and annulled.

this decision was not accepted by the appellant (Zakat, Tax and Customs Authority), so it submitted an appeal list, which was reviewed by the Circuit, where the Authority's appeal lies on the clause (bonuses). The Authority explains that it did not accept the deduction of the bonuses for the contested year from the Zakat base, and refunded them to the adjusted net profit because the Taxpayer did not submit the labor





regulation approved by the Ministry of Labor (previously), which explains the mechanism of bonuses and incentives, as follows

the Authority bases its action to deny the approval of this expense on Article 5(1) of the Zakat Collection Regulation regarding the expenses that may be deducted. The Circuit issuing the decision under appeal accepted the Defendant's objection on the pretext of providing supporting documents. In this regard, the Authority would like to inform you that the Defendant's objection initially lacked documentary proof of the clause under appeal and proper accounting proof of this clause; the Defendant stated in his claim that he had submitted the work organization regulation to the Authority, which the Authority affirms is completely untrue, and as for the contents of the decision under appeal, it does not change the regularity of the deduction of rewards and incentives on the basis of their inconsistency with the regulations the Authority emphasizes that this is completely untrue, and as for the contents of the decision under appeal that the failure to submit the approved labor regulation does not change the legality of deducting bonuses and incentives on the basis of their non-compliance with the requirements of the Labor Law to become a deductible expense, in addition to what is included in the decision the Authority responds that the issuing Circuit's reliance on the decision is incorrect, as it is no secret to your esteemed Circuit that in order to verify the validity of the expense and the completeness of its statutory elements, the following must be presented:

a. Employee contracts; to verify whether or not they include a clause for the payment of bonuses to employees. b. A labor organization regulation approved by the Ministry of Social Affairs to clarify the mechanism for calculating bonuses and the extent to which they correspond to employee contracts. c- Proof of disbursements to employees under the two paragraphs above, so that they are identical to what was authorized in the financial statements. the Authority also assures your esteemed Circuit that there is no truth to the statement in the grounds for the decision that the Defendant provided proof of payment of these amounts at the examination stage, as after reviewing the case file, no document was found to support what was mentioned and he did not provide a list of sanctions and rewards approved by the Ministry of Labor, in addition to his failure to provide proof of payment of the bonus through bank receipts or receipt bonds, which confirms that he does not meet the legal conditions for accepting the expense; therefore, it cannot be considered a deductible expense. it requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed and annulled.

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

## Grounds:

the conditions for considering the appeal procedurally are fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions, which means that the appeal requests are accepted procedurally, as they were submitted by a person with standing, and within the statutory period prescribed for their conduct.

On the merits, with regard to the Authority's appeal on the clause (remuneration), and where the Authority's appeal lies in the fact that it did not accept the deduction of the remuneration for the disputed year from the Zakat base, and based on Article 6, paragraph 2, regarding the expenses that may not be deducted, as follows: "Expenses that the Taxpayer is unable to prove their expenditure by supporting documents or other evidence." Based on paragraph (3) of Article (20) of the Zakat Collection Executive Regulations issued by Ministerial Decision No. (2082) dated 01/06/1438AH, which states: "The burden of proving the validity of the clauses and any other data contained in the Taxpayer's Zakat declaration shall be on the Taxpayer, and in case he is unable to prove the validity of the clauses contained in his declaration, the Authority may not authorize the clause whose validity is not proven by the Taxpayer or make an estimated link according to the Authority's view in light of the circumstances and facts related to the case and the information available to it." Based on the above, and after the Circuit's review, where it found that the dispute between the parties is a documentary dispute, and by reviewing the documents attached to the case file, it appears that the Taxpayer did not provide proof of the disbursement of these bonuses and their discharge from his liability, which is the payment of bonuses to employees, and where the adjudication decision was based on the Authority's defense that the labor regulation is not available and did not refer to the failure to provide disbursement documents whereas, the Authority referred to the failure to provide disbursement documents, while the Authority referred to it in the appeal list by not providing any supporting documents for this clause, such as proof of disbursement of the bonus through bank receipts or receipt bonds, and where the Taxpayer did not attach the necessary documents, which leads the Circuit to accept the Authority's appeal and cancel the decision of the Adjudication Circuit with regard to this clause.

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

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



## Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... commercial Register No. (...), Unique number (...), and the Zakat, Tax and Customs Authority, against the decision of the First Circuit for Adjudicating Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2023-90609) issued in Case No. (Z- 2022-90609) related to the 2016 AD Zakat assessment.

Second: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the (rewards) clause.
2. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (hired labor).
- 3 - Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (salaries and wages).
- 4- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication circuit regarding clause (Accounts payable).
- 5 - Rejection of the Taxpayer's appeal and upholding the decision of the Circuit regarding the clause (other credit balances).
6. Rejecting the Taxpayer's appeal and upholding the decision of the Adjudication Circuit regarding the clause (amounts due).



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

Decision No. IR-2023-94578

Case No. Z-2022-94578

**Principal No. 59**

- Seasonal labor cost expenses are considered deductible, provided that the conditions stipulated in the Regulation regarding deductible expenses are met.

**Principle No. 60**

- Expenses related to gifts for pilgrims are considered deductible, provided that the conditions stipulated in the Regulation regarding deductible expenses are met.

**Facts**

The appeal submitted on 07/02/2022 AD by the Zakat, Tax and Customs Authority, and the appeal submitted on 18/03/2022 AD by..., in his capacity as the director of the appellant company under its articles of incorporation, against the decision of the First Circuit to adjudicate income tax violations and disputes in the city of Dammam No. (IZD-2021-1943) issued in Case No. (Z-2020-16565) related to Zakat assessment for the years from 1436 to 1439AH, were considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows:

- 1- Amending the Defendant's decision regarding the clause of calculating the amount of Zakat paid for the year 1438 AH.
- 2- Annul the Defendant's decision regarding the seasonal labor cost clause.
- 3- Deny the Plaintiff's objection With respect to the Pilgrims' Gift Costs clause.

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

the Taxpayer claims that this clause is the only clause for which he has only temporary invoices from the agent of the Chinese factory from which the gifts were imported, and due to the disappearance of the agent and the company's loss of large sums of money as a result, he tried throughout the past period to reach the factory until they were contacted and agreed to provide the Taxpayer with invoices for these gifts and



attached them (two invoices) to make these invoices the only document that was not previously attached because he was unable to obtain it due to import issues and others, therefore, he requests the cancellation of the Authority's decision to re-establish the Zakat assessment on the mentioned gifts clause, as this clause in the activity of internal pilgrims is not a recreational or optional clause, but an expense imposed on internal pilgrims companies according to the regulation of the Ministry of Hajj, therefore, the Taxpayer requests the reversal of the decision of the Circuit of Determination of the clauses under appeal for the above reasons.

the decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the challenged decision by means of an appeal regulation that included the following summary: with regard to Authority's appeal against the decision of the Adjudication Circuit, its appeal lies with regard to (the cost of seasonal labor). Authority explains that the Adjudication Circuit reviewed samples and not the entire clause, as it did not conduct a thorough examination, did not clarify the type and date of these samples, and did not request the certification of a chartered accountant on them. Authority also appeals the clause (formality) and the clause (calculating the amount of Zakat paid for the year 1438 AH).

On Thursday, December 21, 2023 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no: (2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, the Circuit decided that the case has become ready for adjudication and issuing the decision On the merits, so the Circuit decided to close the pleading door and reserve the case for adjudication.

### Grounds

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

On the merits, with regard to the Authority's appeal regarding the clause (calculation of the amount of Zakat paid for the year 1438 AH) and where Article (70) of the Sharia Procedure Law issued by Royal Decree No. M/1 dated 22/01/1435 AH stipulates that: "The parties may request the court in any case to record what they have agreed upon in acknowledgment or settlement or otherwise in the case record, and the court shall issue a document to that effect," as stated in paragraph (1) of Article (70) of the executive regulations of the Sharia litigation law issued by the Minister of Justice's decision No. (39933) dated 19/05/1435 AH. "If the agreement takes place before the case is set, the content of the case and the answer must be monitored

before the agreement is recorded, taking into account that the origin of the case is within the jurisdiction of the Circuit, even if the content of the agreement is within the jurisdiction of another court or Circuit, provided that the merits of the case or some of it is among those agreed upon." Based on the foregoing, and where this Circuit has established the Authority's request to abandon the appeal as stated in the letter issued by it in the supplementary memorandum containing the following: "In the event that the Circuit overrides the formalities, the Authority would like to inform the Honorable Circuit that its appeal in relation to the above-mentioned clause in particular, and the consequences of the Authority's appeal in relation to this clause, has been dismissed by the Circuit in accordance with the reasoning of the decision of the Adjudication Circuit." Therefore, the Circuit accepts the abandonment of the dispute.

Whereas, with regard to the Authority's appeal regarding the clause (Cost of Seasonal Labor), the Authority's appeal lies in objecting to the decision made by the Adjudication Circuit regarding this clause; it claims that the Adjudication Circuit reviewed samples and not the entire clause, as it did not carry out a thorough examination, did not clarify what kind of samples or the date, and did not require a certified public accountant to certify them. Whereas paragraph (1) of Article (5) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted, stipulates that "All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A- The expense must be actual and supported by documentary evidence or other indications that allow the authority to verify its validity, even if it relates to previous years. Based on the above, it is clear that the Authority abandoned its appeal regarding the years 1438 AH and 1439 AH for the Taxpayer's submission of supporting documents, and regarding the years 1436 AH and 1437 AH, the Authority maintains its appeal for failure to submit documents, and accordingly, with reference to the case file, it became clear that all the documents submitted by the Taxpayer regarding the above clause are for the years 1438 AH and 1439 AH only, and he did not submit any documents regarding the other years 1438 AH. And 1439 AH. Only, and no document was submitted for the other years, which leads the Circuit to accept the Authority's appeal regarding the years 1436 AH. And 1437 AH. Because the Taxpayer did not provide documentary proof of these expenses, cancel the decision of the Dispute Adjudication Circuit regarding it, and accept the abandonment of the litigation regarding the appeal for the years 1438 AH. And 1439 AH.

With regard to the Taxpayer's appeal regarding the clause (Pilgrims' Gift Costs), the Taxpayer's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause; he claims that this clause in the internal pilgrims' activity is neither a recreational nor optional clause, but an expense imposed on the internal pilgrims' companies according to the Ministry of Hajj's regulations. Whereas paragraphs (1/a) and (1/b) of Article (5) of the Executive Regulations for the Collection of Zakat issued by the Minister of Finance Decision No. (2082) dated 01/06/1438 AH, concerning the expenses that may be deducted, stipulate that

"All ordinary and necessary expenses required for the activity are deductible whether paid or accrued to reach the net result of the activity provided that the following controls are met:" A - It must be an actual expense supported by documentary evidence or other indications that enable the authority to verify its validity, even if related to previous years. B. They must be related to the activity and not related to personal expenses or other activities." Based on the above, it is clear that the Authority accepted the Taxpayer's objection for the years 1437 AH, 1438 AH, and 1439 AH only for submitting supporting documents, while for the year 1436 AH, the Authority maintains its rejection of the Taxpayer's objection for not submitting supporting invoices, and accordingly, with reference to the case file, it is clear that the Authority's reference to the failure to submit supporting invoices is correct the Circuit therefore concludes to reject the Taxpayer's appeal for the year 1436 AH for failure to provide documentary proof of these expenses, uphold the Circuit's decision thereon, and establish the end of the dispute for the years 1437 AH, 1438 AH, and 1439 AH for the Authority's acceptance of the Taxpayer's appeal.

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

### Decision:

First: Acceptance of the appeal procedurally from the Taxpayer/ Company..., Commercial Registration (...), Unique Number (...) And the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the first circuit regarding violations and disputes of income tax in Riyadh number (IZD-2021-1943) issued in case number (Z-2020-16565) related to the zakat assessment for the years from 1436 AH to 1439 AH.

Second: On the Merits:

1- Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit with regard to the (formalities) clause.



2- Accepting the abandonment of litigation regarding the Authority's appeal on the clause (calculating the amount of Zakat paid for the year 1438 AH).

3- Regarding the Authority's appeal on the (seasonal labor cost) clause:

a- Accepting the appeal and canceling the decision of the Adjudication Circuit for the years 1436 AH and 1437 AH.

b- Acceptance of abandonment of litigation in relation to appeals for the years 1438 AH and 1439 AH.

4- Regarding the Taxpayer's appeal on the clause (costs of pilgrims' gifts):

a- Rejecting the appeal and upholding the decision of the Adjudication Circuit regarding the year 1436 AH.

b- Proving the end of the dispute regarding the appeal for the years 1437 AH, 1438 AH, and 1439 AH.





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

Decision No. Z -2023- 192726

Case No. Z-2023-192726

### Principle No. 61

- The burden of proof lies with the taxpayer to provide supporting documents substantiating their position—such as copies of invoices/contracts, bank payment notices, and financial statements—in order to verify whether the expense is deductible in accordance with the applicable Zakat laws and regulations.

### Facts

The appeal filed on 25/04/2023 AD by the Zakat, Tax and Customs Authority against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2023-133881) issued in Case No. (Z-2022-133881) related to Zakat assessment for the year 2019 AD was considered in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the adjudication circuit ruled the following:

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

Second: On the Merits:

- 1- Annul the Defendant's action With respect to the Fines and Penalties clause for 2019 AD, as stated in the grounds.
- 2- Dismissal of the claim With respect to the 2019 AD trade creditors clause.
- 3- Dismissal of the claim in relation to the clause of retained insurance to secure business for 2019 AD.
- 4- Revoke the Defendant's action with respect to an additional funding line clause for 2019 AD, as stated in the grounds.
- 5- Dismissal of the case With respect to the 2019 AD advance revenue clause.
- 6- Reject the Plaintiff's objection With respect to the 2019 AD loss carryforward clause.

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

In objecting to the decision of the Appealed Decision, the Authority claims that with regard to the clause (Fines and Penalties for 2019 AD), the Authority explains that the Circuit issuing the Appealed Decision annulled the Authority's decision on the grounds that the Authority did not submit its response on the merits and that it made a response that did not meet the reality of the case. The Authority responds that the Circuit should have specifically asked the Authority representative about its view on that clause in accordance with the general rules in court proceedings and Article (60) of the Sharia Procedure Law: "If the Defendant refuses to answer at all, or responds with an answer that is not relevant to the case, the judge shall repeat the request for the correct answer three times in the same session, and if he insists on this, he shall be considered a *nakl* after warning him, and the case shall proceed as per the legal requirements", which makes it clear to your Circuit that the Circuit's procedures are deficient, and accordingly, the Authority requests that this clause be returned to the Circuit that issued the decision to study the point of view of the Authority in detail in the event that your esteemed Circuit wishes to consider the merits of the clause, the Authority explains that it amended that clause as it represents added tax fines and traffic fines, after inquiring from the Taxpayer and responding on 18/11/2021 AD, and during the objection phase, the Authority reviewed the financial statements and data submitted, as the Taxpayer provided a detailed movement of the fines clause for a total amount of SAR (401,523), where it was found that a total of SAR (312,361,41) represent traffic fines and VAT fines that cannot be deducted as they are not related to the activity based on Article 8 paragraph (1) of the Executive Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates (The following expenses may be deducted to determine the net result of the activity: of which: b. They must be related to the Taxpayer's activity, and not related to personal expenses or other activities that do not belong to the Taxpayer.) Based on paragraph (3) of Article 9 of the same regulation, which stipulates the expenses that may not be deducted, including "3 - Zakat or tax due or paid", and the Authority maintains the validity of its procedure, and Based on the above, the decision of the Circuit in this case under appeal is legally incorrect and should be annulled without any doubt, and therefore the Authority requests the reversal of the decision of the Circuit for the above reasons.

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

#### Grounds:

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

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

On the merits, as it relates to the Authority's appeal regarding the clause (Fines and Penalties for 2019 AD), and where the Authority's appeal lies in objecting to the decision of the Adjudication Circuit regarding this clause, as it claims that it is not related to the activity and therefore cannot be resolved. Based on Article Eight Paragraph (1) of the Executive Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH, which stipulates: (The following expenses may be deducted to determine the net result of the activity: of which: b. It must be related to the Taxpayer's activity, and not related to personal expenses or other activities not related to the Taxpayer), and based on paragraph (6) of Article (11) of the Executive Regulations for Zakat Collection issued by the Minister of Finance Decision No. (2216) dated 07/07/1440 AH: "Bad debts, subject to the following conditions: a. It must have been previously recognized as revenue in the year the revenue is due. B. The debts must be the result of practicing the activity", and based on paragraph (3) of Article 9 of the Executive Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulates the expenses that may not be deducted, including "3- Zakat or tax due or paid", and based on Article (18) of the Zakat Collection Executive Regulation issued by the Minister of Finance Decision No. (2216) dated 07/07/1440 AH: "Without prejudice to the provisions of Article (10) of the Regulation, every Taxpayer shall maintain - within the Kingdom and in Arabic - the commercial books necessary to accurately determine the amount of Zakat, as well as the documents that prove their authenticity and the data and explanations that support them. The burden of proving the authenticity of the clauses and any other data in the declaration is on the Taxpayer, and if he is unable to prove the authenticity of the clauses in his declaration, the Authority may not approve the clause that is not proven by the Taxpayer or make an estimated link according to the view of the Authority in light of the circumstances and facts related to the case and the information available to it." Based on the above, it appears that the Authority's appeal included the detailed movement of fines and penalties expenses totaling SAR (401,523) for the year 2019, which was rejected by the Authority in the amount of SAR (312,361) for the year 2019 AD as they relate to both (VAT fines and traffic fines), and since the Taxpayer did not provide proof that these fines are not the result of violating the laws and regulations in force in the Kingdom and that they are due to the failure to fulfill the contractual conditions and given the Taxpayer's failure to provide documents supporting his point of view (copies of invoices/contracts, bank payment certificates and financial statements) to verify whether or not the expense can be deducted in accordance with Zakat laws and regulations, the burden of proof lies on the Taxpayer, which leads the Circuit to accept the Authority's appeal and annul the decision of the Adjudication Circuit regarding this clause.

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



### Decision:

1- Accepting the appeal in form of the applicant/Zakat, Tax and Customs Authority, against the decision of the Second Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ISR-2023-133881) issued in Case No. (Z-2022-133881) related to Zakat assessment for the year 2019 AD.

2. On the merits:

accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (fines and penalties for 2019 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 -2024-169242

Case No. Z-2023-169242

**Principal No. 62**

- The taxpayer may deduct dividend distributions from the Zakat base if they provide the partners' resolutions approving such distributions, along with evidence of the actual distribution in dispute and bank statements proving that the amounts were disbursed from the claimant's assets before the completion of the lunar year.

**Facts**

The appeal filed on 12/01/2023 AD by the Zakat, Tax and Customs Authority (ZTA) against the decision of the First Circuit for the Adjudication of Income Tax Violations and Disputes in Jeddah Governorate No. (IZD-2022-2450) issued in Case No. (Z-2021-68151) related to the Zakat assessment for the years 2017 AD and 2018 AD, was considered in the case filed by the Taxpayer against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The Taxpayer's claim was filed against the Zakat, Tax and Customs Authority:

First: confirmation of the end of the dispute based on the Plaintiff's agreement to take action against the Defendant on the clause of non-deductible expenses (Authorities and incentives) for the year 2017 AD.

Second: confirmation of the end of the dispute based on the Plaintiff's agreement to take action by the Defendant on the clause of non-deductible expenses (donations) for the year 2017AD.

Third: accepting the Plaintiff's objection to the clause of Zakat profits for the years 2017AD and 2018AD.

Fourth: Rejecting the Plaintiff's objection to the dividend difference clause for the years 2017AD and 2018 AD.

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

The Authority objects to the decision of the Adjudication Circuit, claiming that with regard to the clause (clause Zakat Dividends for 2017), it has disallowed the deduction of dividends received for 2017 AD from the adjusted profit of ( SAR 9,950,000), based on Note (2) in the financial statements, as it recognizes investments using the cost method, and upon reviewing the objection, it turns out that the Taxpayer's

objection lies in his request to approve the deduction from net income of local investment dividend income of ( SAR9,950,000) for the year 2017 AD, since he distributed them during the year and discharged them from his liability, and with reference to the Taxpayer's objection, it turns out that the amount disputed is the distribution of profits of investments in local companies received during the year 2017 AD, and by reviewing the lists of invested companies "Company .company ..., Company ..." it turns out that the dividend distributions were made from the balance of the rounded profits of the invested companies, and with reference to the cash flow statement within the Taxpayer's financial statements, account statements, entries and transfers provided by the Taxpayer; it turns out that the Taxpayer distributed profits during the year amounting to SAR (21,458), in light of the above, the Taxpayer's objection was rejected because the company recognizes investments using the cost method, and dividends are recorded as income to the company, so it is not correct to exclude the profits of investments from the adjusted profit even if they are distributed and the distributions are deducted not exceeding the balance of the carried forward profits accordingly, and based on Article (4) of the first paragraph (6) of the Executive Regulations governing the collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, the Authority maintains the validity of its procedure, and the Circuit issuing the decision under appeal accepted this clause, reasoning that these profits were distributed to the partners and did not clarify that date or address what the Authority argued above, which makes the Circuit's decision flawed. Therefore, the Authority requests that the decision of the Adjudication Circuit on the clauses under appeal be overturned for the above reasons.

On Monday, January 29, 2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of all its members via video conferencing in accordance with the procedures of remote video litigation; based on the provisions of clause no:(2) of Article Fifteen of the Rules of Work of the Committees for Adjudicating Tax Violations and Disputes issued by Royal Decree No. (26040) dated 21/04/1441 AH; after reviewing the appeal submitted by the parties to the case, and after examining the contents of the case file, and where the Circuit found nothing to require the presence of the parties to the appeal, the Circuit decided that the case has become ready for adjudication and issuing a decision on its subject, so the Circuit decided to close the pleading door and reserve the case for adjudication.

#### Grounds:

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



On the merits, and as for the Authority's appeal regarding the clause (Zakat profits clause for the year 2017 AD), and where its appeal lies in that, referring to the Taxpayer's objection, it was found that the objected amount is the distribution of profits of investments in local companies received during the year 2017 AD, and by reviewing the lists of invested companies, it was found that the dividends were made from the balance of the profits of the invested companies, and it was also found that the Taxpayer in 2017 AD distributed profits during the year amount of SAR (21,458,501), including (the balance of profits at the beginning of the period and the net income of the year, including the dividends of investments received during the year). In light of the above, the Taxpayer's objection was rejected because the company recognizes investments in a cost manner, and the dividends are recorded as revenues of the company, so it is not valid to exclude the profits of investments from the adjusted profit even if distributed and the distributions are deducted not exceeding the balance of profits carried over the beginning of the year. And since paragraph (8) of clause (First) of Article (4) of the executive regulations for the collection of Zakat issued by the Minister of Finance's decision No. (2082) dated 01/06/1438 AH stated: "The zakat base consists of all the Taxpayer's assets subject to zakat, including:" 8- The balance of carried forward profits from previous years at the end of the year." Based on the above, it was found that the dispute lies in the deduction of dividends received, and since the Taxpayer may deduct dividends, and since the dispute over this clause is an evidentiary dispute, and since the Taxpayer did not submit documents for the year 2017 except for the undated distribution decision, the Circuit concludes that the Authority's appeal should be accepted and the Circuit's decision on this clause should be overturned.

Whereas, with regard to the Authority's appeal regarding the clause (2018 AD Zakat Profits Clause), and after the Circuit's consideration of the merits of the dispute, and after the Circuit's review of the Authority's appeal, and where the Circuit may adopt the grounds for the decision under appeal without adding to them when it determines that those reasons do not contain anything new, because in supporting the decision with what those reasons contained, it is certain that it did not find any objections to the decision that merit a response beyond what was contained in those reasons, and whereas it is established that the decision under appeal with regard to the dispute regarding the clause under appeal was consistent with the sound reasons that it was based on and sufficient to carry its judgment, as the issuing Circuit scrutinized the dispute in it and concluded with regard to it the issuing Circuit scrutinized the dispute and came to the conclusion it reached in its operative part, and where this Circuit found that the conclusion reached by the adjudication Circuit in its decision is correct and that the grounds on which it based its decision are sufficient to support that decision, and where this Circuit did not notice anything that warrants censure or comment in light of the defenses raised before it, which leads this Circuit to reject the Authority's appeal and uphold the decision of the adjudication Circuit in this clause on the basis of its reasons.

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



### Decision:

First: Acceptance of the appeal procedurally from the appellant, the Zakat, Tax and Customs Authority against the decision of the first Circuit regarding violations and disputes of income tax in Jeddah province with number (IZD-2022-2450) issued in case number (Z-2021-68151) related to the zakat assessment for the years 2016 AD, 2017AD.

Second: On the Merits:

- 1- Accepting the Authority's appeal and canceling the decision of the Adjudication Circuit regarding the clause (Zakat Dividend Clause for 2017 AD).
- 2 - Rejecting the Authority's appeal and upholding the decision of the Adjudication Circuit regarding the clause (Zakat Dividend Clause for 2018 AD).





## Estimated Assessment



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

Decision No. IR-2024-191136

Case No. ZIW-2023-191136

**Principal No. 63**

- Liability for Zakat collection is linked to the practice and exercise of an activity intended to generate profit, regardless of whether a profit or loss is realized, as such activity is considered a form of trading inventory (commercial goods).

**Principal No. 64**

- In the event the taxpayer ceases their activity, they must submit evidence of deregistration with the Ministry of Commerce or provide supporting documents proving that the activity is no longer being carried out.

**Facts**

The appeal was considered on 29/03/2023 AD, from/ ...(National ID No ..... ) as a former owner of a... commercial Register No. (...), on the decision of the Third Circuit for the Adjudication of Income Tax Violations and Disputes in Riyadh, No. (ZIWR-2022-64432) issued in case No. (ZIW-2022-93222) regarding the estimated Zakat assessment for the years 1429 AH to 1433 AH and 1442 AH, in the case filed by the appellant against the Zakat, Tax and Customs Authority, in which the decision of the Adjudication Circuit ruled as follows: The appellant's appeal is filed against the Zakat, Tax and Customs Authority: the case is inadmissible in procedural.

As this decision was not accepted by the Taxpayer (...), he submitted an appeal list, which was reviewed by the Circuit, where the Taxpayer's appeal lies on the clause (year 1442 AH). The Taxpayer explains that all declarations on the commercial register expired on 19/05/1429 AH, and the commercial register was canceled by the Ministry of Commerce on 16/03/1434 AH. He requests that its appeal be accepted and the decision of the Adjudication Circuit be reversed.

On Monday, 27/05/2024 AD, the First Appellate Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video communication in accordance with the procedures for remote video litigation; based on the provisions of clause (1) of Article 15 of the Rules of Work of Zakat, Tax and Customs Committees issued by Royal Decree No. 25711 and dated: 08/04/1445 AH, after reviewing the appeal request, the pleadings submitted, the papers and documents contained in the case file, after deliberation, and since the case is ripe for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

### Grounds:



Upon reviewing the case documents and the appeal list submitted by the Taxpayer, the Circuit found that the conditions for considering the appeal 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 regarding the Authority's appeal concerning the clause (Zakatized Profits for the Year 2017 AD), the basis of the appeal is that upon reviewing the taxpayer's objection, it was found that the disputed amount represents distributed profits from investments in local companies received during the year 2017 AD. Upon reviewing the financial statements of the investee companies, it was determined that the distributions were made from the retained earnings balances of the investee companies. It was also found that the taxpayer distributed profits during 2017 AD amounting to SAR (21,458,501), which include (the retained earnings balance at the beginning of the year and the net income for the year, which includes the investment dividends received during the year). In light of the foregoing, the taxpayer's objection was rejected because the company recognizes investments under the cost method, and dividend distributions are recorded as income; accordingly, investment dividends cannot be excluded from the adjusted profit, even if distributed, and such distributions are deductible only up to the retained earnings balance at the beginning of the year. According to paragraph (8) of section (First) of Article (4) of the Executive Regulations for Zakat Collection issued under Ministerial Resolution No. (2082) dated 01/06/1438 AH: "The Zakat Base shall include all zakatable assets of the Taxpayer, including: 8. Retained earnings from previous years as of year-end." Based on the above, the dispute pertains to the deductibility of received dividends. Since this is a document-based dispute, and since the taxpayer did not submit documentation for the year 2017 AD except for an undated distribution resolution, the Circuit resolves to accept the Authority's appeal and cancel the Decision of the Adjudication Circuit regarding this clause.

With regard to the Taxpayer's appeal on the clause (for the years 1429 AH to 1433 AH), the Circuit has no fault in adopting the grounds for the decision under appeal without adding to them when it determines that these reasons make it unnecessary to introduce anything new, because in supporting the decision with the

contents of these reasons, it is certain that it did not find any objections to the decision that merit a response beyond what is contained in these reasons, and since this is the case and it is proven that the decision under appeal regarding the disputed clauses was in accordance with the valid reasons on which it was based and sufficient to carry its judgment as the issuing Circuit scrutinized the dispute and reached the conclusion it reached in the operative part of its decision, and as this Circuit did not notice any reason to appeal or comment on it in light of the defenses raised before it, this Circuit concludes to reject the Taxpayer's appeal and uphold the decision of the Adjudication Circuit in this clause, bearing in mind its reasons.

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

### Decision:

First: Acceptance of the appeal procedurally, from the applicant/ ... Identity No. (...), distinctive number (...), against the decision of the Third Circuit to adjudicate income tax violations and disputes in the city of Riyadh No. (ZIWR-2022-64432) issued in Case No. (ZIW- 2022-93222) related to the estimated zakat assessment for the years from 1429 AH to 1433 AH, and the year 1442 AH.

Second: On the Merits:

- 1- Rejecting the Taxpayer's appeal and upholding the decision of the adjudication committee regarding clause (for the years 1429 AH to 1433 AH).
- 2- Accepting the Taxpayer's appeal and canceling the decision of the adjudication committee and the authority's action regarding clause (for the year 1442 AH).



## Detailed Index of Principles

Principle number	Subject	Principle
Additions to the Zakat Base		
1	Adding the increase in the capital of the Zakat base	The capital increase shall be added to the Zakat based upon the lapse of a full lunar year (Hawl) or if it originates from equity items or is used to finance an asset that has been deducted from the Zakat base.
2	Adding the carried-forward balance of the end-of-service provision.	The Zakat treatment of provisions involves adding the amount formed during the year to the accounting net profit and adding the opening balance—after deducting the utilized portion—to the positive elements of the Zakat base in order to determine the amount that has completed a full lunar year (Hawl).
3	Provision for doubtful debts	The portion utilized from the provision for doubtful debts related to related parties is considered a non-deductible expense.
4	Trade Payables	A distinction must be made between ordinary financial transactions and debts arising from loan agreements between the lender and the borrower, as the determining factor lies in the substance of the obligation and the resulting liability incurred by the debtor due to the benefit derived from funds granted to or retained by them. The debtor is obligated to pay Zakat on such funds if they remain in their possession at the end of the lunar year (Hawl), while the creditor holds a right in the debtor's liability, which constitutes a form of ownership in the debtor's obligation. Accordingly, the funds are not subject to double Zakat.
5	Loan from partner	A loan from a partner is considered part of the Zakat base and shall be added to the Zakat base without applying the deductible limit if it is classified under equity.



6	Long-term loans	Loans are considered part of the Zakat base regardless of their type, source, or classification, provided that a full lunar year (Hawl) has passed over them, or if they have been used to finance assets deducted from the Zakat base, in which case the passage of a full year is not required.
7	Difference in retained earnings	The balance of retained earnings that has completed a full lunar year (Hawl) is subject to Zakat, after deducting actuarial losses.
8	Other Precautions	Reserves are added to the Zakat base at the beginning of the year.
9	Subcontractors	Subcontracting activities are considered part of the Zakat base, provided that a full lunar year (Hawl) has passed over them, or if they have been used to finance assets deducted from the Zakat base.
10	Accounts payable for construction	In the Zakat treatment of accounts payable, all Taxpayer funds must be added if they are used to finance what is prepared for the Taxpayer.
11	Miscellaneous Accrued Expenses	Accrued expense balances are considered part of the zakat base, provided that a full lunar year has passed over those balances.
<b>Deductions from the Zakat Base</b>		
12	Settlement of what is required from related parties	Holding companies that provide loans to subsidiaries are entitled to deduct part of the loans provided to the subsidiary from the Zakat base in an amount equal to the percentage of their investment in the subsidiary.
13	Land and buildings in the name of the partners	The Taxpayer has the right to deduct any increase in assets that is offset by a corresponding increase in liability or equity.
14	Net Fixed Assets	In the event of any dispute arising prior to the issuance of the Implementing Regulations of the Zakat Collection Law in 1440H, the provisions of the Implementing Regulations issued in 1438H shall apply.



15	Properties under development	Real estates under development are considered deductible from the Zakat base, provided that two conditions are met: (1) documented intent by the authorized person clarifying the intended purpose of the properties, and (2) the absence of any sales transactions during the year recorded in the account.
16	Balances due from customers	Debts shall not be deducted from the Zakat base, unless it is proven that they cannot be collected.
17	Zakat base for foreign investments	The Taxpayer has the right to deduct foreign investments from their zakat base, provided they comply with the stated condition — namely, submitting audited financial statements from a certified public accountant in the country of investment. This is for the purpose of calculating the zakat due on those investments and remitting it to the Authority, thereby allowing the deduction of such investments from the zakat base of the investing company to avoid double zakat.
18	Investments at fair value	Investments classified as long-term holdings (Qunyah) are considered deductible from the Zakat base, provided that two conditions are met: (1) a documented intent by the authorized person clarifying the purpose of the investment, and (2) the absence of any sale transactions during the year involving such investments.
19	Investments in subsidiaries and associates	The taxpayer is entitled to deduct the investment in a subsidiary from their Zakat base when Zakat is calculated on the taxpayer's share in that investment based on the subsidiary's financial statements.
20	investing in a stock portfolio	If the investments in shares are held for long-term retention (Qunyah) and not for sale or trading, they may be deducted from the Zakat base.
21	Government Debt	Zakat is not due on amounts owed to the creditor by government entities when the delay in collection is attributable to the government entities themselves, and not due to the creditor's own negligence or failure to meet the



		standards and requirements set by the relevant government authority.
22	Overdue Government Debt	A debt may be deducted from the Zakat base if it is proven that the inability to collect the debt is due to delays by the other party, and not due to any negligence on the part of the taxpayer.
23	Deducting a foreign translation reserve from the Zakat container	The taxpayer's submission of evidence proving the payment of Zakat on their investments serves as proof of compliance with Zakat obligations related to those investments.
24	Fixed Assets Calculation	The Regulations issued in the year 1438H supersede all previous resolutions and circulars related to Zakat collection.
25	Lands registered in the name of the partners	Assets registered in the names of partners may be deducted from the Zakat base, provided that such assets are used in the business activity and supporting justification is submitted explaining the reasons preventing the transfer of ownership to the company.
26	Other non-current assets (homeownership program)	Housing loans granted to employees may be deducted, provided that the company is not entitled to any financial gains or fees in return for such loans, in accordance with the Implementing Regulations of the Zakat Collection Law issued in 1440AH.
27	Deduction of investment property	Assets may be deducted, provided that they are used in the business activity.
28	Investments in local companies	The proper Zakat treatment for dividend distributions is to ensure that Zakat has been paid for them by the investee company, to justify not reducing the deducted investment from the Zakat base of the investing company.
29	Additional contribution from a partner (deduction of related parties)	Partner financing shall be deducted from the Zakat base in proportion to the ownership percentage.





30	Long-term receivables	A debt that arose during the year and has not completed one full year may not be deducted from the Zakat base.
31	Failure to deduct government subsidies due at the end of the year from the net profit	The general principle in Zakat calculation is to start with the accounting profit and adjust it by adding expenses that are not deductible under Sharia. Thereafter, the Zakat base is determined, which includes both the taxpayer's assets and liabilities. Government grants that have not been received must be adjusted in the Zakat base, as they are considered elements of the balance sheet.
32	Failure to accept deduction of loan due from subsidiary	The portion of loans and advances corresponding to the investment percentage does not constitute lending to a third party. Accordingly, the taxpayer (lender) is entitled to deduct from their Zakat base the portion of loans and advances granted to the subsidiary, in an amount equivalent to their ownership percentage in that subsidiary.
33	Not deducting the full value of assets	The user has the right to apply the straight-line method of depreciation.
34	Not deducting long-term employee benefits	Long-term employee housing ownership benefits may be deducted from the Zakat base, provided that the company does not generate any profit.
35	Not deducting investment in foreign companies	The company is entitled to deduct foreign investments from its Zakat base, provided that it submits audited financial statements issued by a certified public accountant in the country of investment. This is to enable the Authority to calculate the due Zakat on these investments and ensure its remittance. Accordingly, the invested amounts may be deducted from the investing company's Zakat base in order to avoid double Zakat payment.
36	Failure to Allow Deduction of Long-Term Retention	Zakat is not due on receivables until they are collected by the taxpayer and a full lunar year has passed following their receipt, provided that the delay in payment is due to reasons



		beyond the taxpayer's control and not a result of their negligence or non-compliance.
37	Refusal to deduct the subsidy loan granted to a subsidiary	The proper treatment of loans granted to a subsidiary company, in accordance with the Zakat Regulations of 1440H, is that such loans shall not be deductible, as each company is considered a separate legal entity.
38	Refusal to deduct expenses paid	Operating expenses that are not capital expenditure are considered non-deductible items from the Zakat base.
39	Failure to deduct provision for impairment and sale of investment	The amount of impairment must be deducted and considered when calculating the Zakat base, and the investment must be presented in the financial statements at its market value, which is the cost adjusted for any losses or increased by any gains resulting from market value revaluation.
40	Retained Losses	It is permissible to deduct carried forward losses that were previously reduced from the Zakat base in the year in which they were incurred.
41	Deferred Underwriting Costs	If the taxpayer does not add the amounts financed for costs to the Zakat base, then the full balance of deferred costs may not be deducted from the Zakat base. Instead, only the periodic realized expense shall be deductible, as this item is not considered among the element's deductible from the base.
42	Amounts due from related parties	If the amounts are subject to Zakat in the subsidiary company's base, then the loans and advances granted to the subsidiary may be deducted from the Zakat base.
43	Expenses Paid	The accounting treatment based on the accrual and matching principles requires recognizing prepaid expenses, from which no revenue has yet been realized, as an asset item. These expenses shall then be amortized periodically, and the income shall be charged with the amortization expense attributable to the relevant year.



44		The full balance of deferred costs may not be deducted from the Zakat base; rather, only the periodically realized expense included in the income statement shall be deductible.
Adjustments to Net Profit		
45	Failure to deduct government subsidies due at the end of the year from the net profit	The principle in Zakat is to calculate the accounting profit and amend it by adding expenses that are not legally deductible, and then calculating the Zakat base.
46	Investment income	If the distributed profits are derived from the retained earnings of previous years of the investee company, they must be subject to Zakat within the investing company's Zakat base.
47	Not to reduce the adjusted profits by the distributed profit from the profit of the year	Distributable dividends are considered part of the Zakat base, provided that a full lunar year has passed since their entitlement or they have been used to finance assets deductible from the Zakat base.
48	Life Insurance	The fundamental basis for calculating the Zakat base and determining the amount due requires the presence of the zakatable wealth in the possession of the taxpayer at the end of the lunar year.
49	Non-retroactivity of laws	The provisions of the Regulation apply only to matters occurring after its effective date and shall not have retroactive effect, in accordance with the principle of non-retroactivity of laws.
50	Amortization of goodwill	The goodwill amount and its amortization expense, as recorded in the audited financial statements approved by a certified public accountant, shall be deductible from the Zakat base.
51	Depreciation differences	When the taxpayer deducts assets based on their book values as stated in the financial statements, in addition to deducting



		depreciation differences from the assets' book values at year-end and from the net profit, this results in double deduction.
52	Rental Expense	Necessary and essential expenses incurred to carry out the activity are considered deductible expenses.
53	Revenues according to the percentage of unauthorized completion	Contract revenue is recognized as part of the income statement in the accounting period during which the work is performed. Accordingly, revenues from work are accounted for based on the percentage of completion, in accordance with the requirements of the applicable accounting standards.
54	Dividend paid excluded from profit for the year	The entire adjusted net profit for the year is subject to Zakat, as it is considered a return on capital, regardless of whether a full lunar year has passed or whether it has been distributed.
55	Dividends from securities available for sale	The occurrence of sale transactions involving investments results in their classification as trading inventory (commercial goods).
56	Bad Debts	The certificate issued by the certified public accountant is considered one of the requirements for substantiating the validity of written-off debts.
57	Incentives	The existence of incentives must be linked to the procedures prescribed by the Labor Law, and they have no bearing on the Zakat treatment in terms of whether their amounts are included in the taxpayer's Zakat base or not.
58	Rewards	Employee bonuses are considered deductible expenses, provided that supporting documents evidencing their disbursement are available.
59	Seasonal labour cost	Seasonal labor cost expenses are considered deductible, provided that the conditions stipulated in the Regulation regarding deductible expenses are met.



60	Pilgrims Gift Costs	Expenses related to gifts for pilgrims are considered deductible, provided that the conditions stipulated in the Regulation regarding deductible expenses are met.
61	Fines and Penalties	The burden of proof lies with the taxpayer to provide supporting documents substantiating their position—such as copies of invoices/contracts, bank payment notices, and financial statements—in order to verify whether the expense is deductible in accordance with the applicable Zakat laws and regulations.
62	Zakat Dividend (Dividend Received Deduction)	The taxpayer may deduct dividend distributions from the Zakat base if they provide the partners' resolutions approving such distributions, along with evidence of the actual distribution in dispute and bank statements proving that the amounts were disbursed from the claimant's assets before the completion of the lunar year.
Estimated Assessment		
63	Estimated Assessment	Liability for Zakat collection is linked to the practice and exercise of an activity intended to generate profit, regardless of whether a profit or loss is realized, as such activity is considered a form of trading inventory (commercial goods).
64		In the event the taxpayer ceases their activity, they must submit evidence of deregistration with the Ministry of Commerce or provide supporting documents proving that the activity is no longer being carried out.

سبحان

