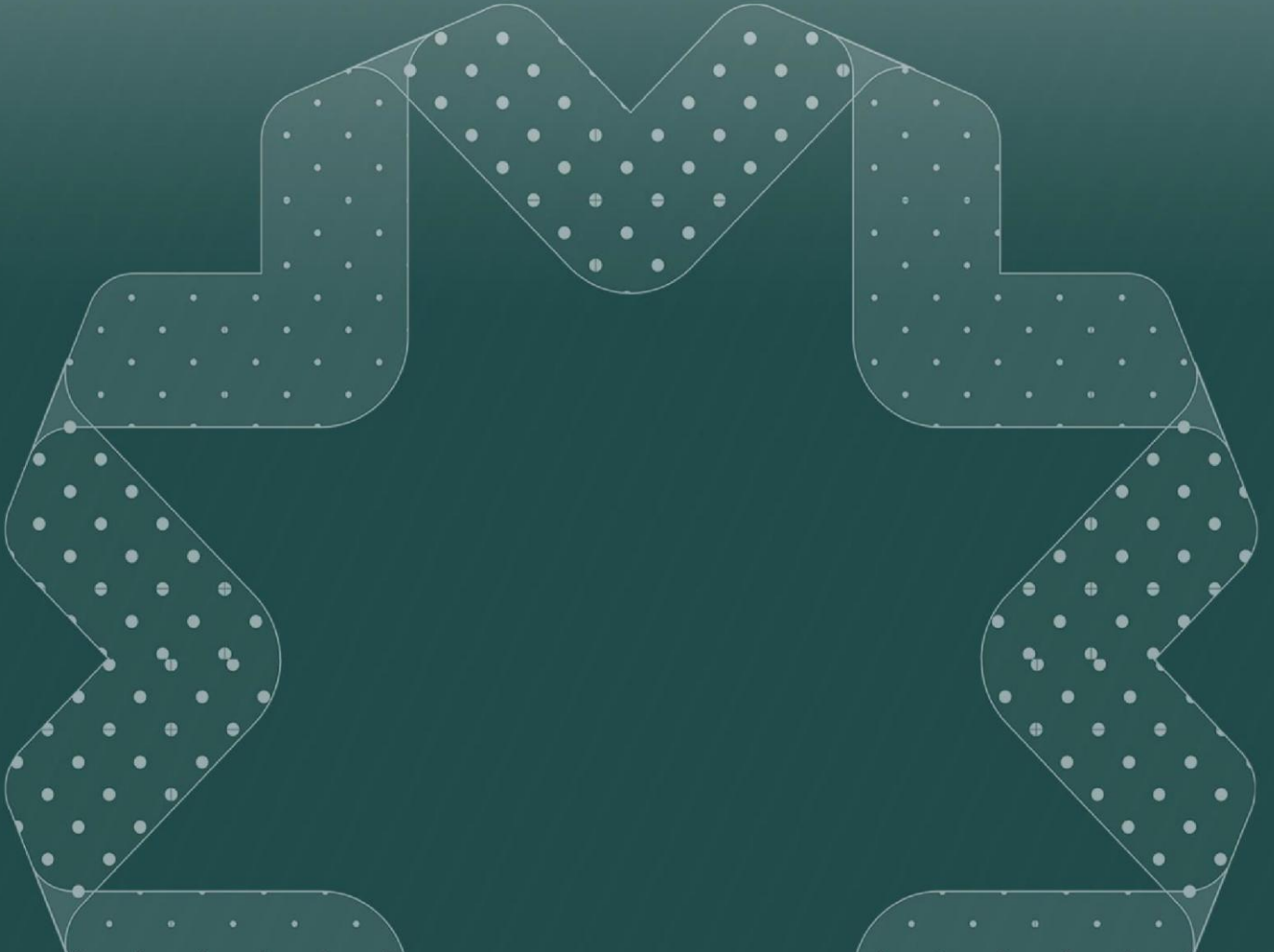




الأمانة العامة للجان الزكوية والضريبية والجمركية  
General Secretariat of Zakat, Tax and Customs Committees

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# Main Defenses Raised before Tax Committees for 2022





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

# **Main Defenses Raised before Tax Committees for 2022**



**In the Name of Allah, the Most  
Beneficent, the Most Merciful**



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## Introduction

Praise be to Allah, Lord of Worlds. May His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

It is no doubt that the courts and judicial commissions efforts, rulings and Decisions constitute an invaluable jurisprudential and judicial wealth that must be carefully preserved. In the context of commercial and industrial revolution that Kingdom of Saudi Arabia is experiencing under Saudi Vision 2030, various zakat and tax controversies have arisen, affecting many people. Therefore, and based on General Secretariat of Zakat, Tax and Customs Committees social responsibility, the Secretariat has sought to create a solid foundation and reference for committee members, Taxpayers and interested parties by publishing final Decisions issued by the tax committees while identifying the main defenses raised before those committees and the response of committees to those defenses. This contributes to effective settlement of zakat and tax disputes, and limits time taken for deciding upon cases. These records clarify Decisions reached by committees, which would have a positive impact on shortening litigation period, saving efforts for case examiner, fulfilling principle of transparency pursued by General Secretariat, and introducing practical aspects to bodies concerned with legal research, particularly academic, training and other relevant bodies.

We ask Allah Almighty that this book be a sincere endeavor for the sake of Allah, to reward our efforts and guide us to the goodness. He is indeed the most generous.



## **Message of His Excellency, Secretary General of Zakat, Tax and Customs Committees**

Praise be to Allah almighty,

General Secretariat of Zakat, Tax and Customs Committees vision and values has been committed to excel in resolving zakat, tax and customs disputes, adopt innovative and effective approaches, enhance transparency and neutrality, develop cooperation between parties of zakat, tax and customs ecosystem, and play an effective role in raising efficiency of legal consideration. This is intended to enable zakat, tax and customs committees to successfully resolve disputes before them, and provide support and assistance to committees at all stages by conducting studies and research, as well as also helping zakat payers by clarifying laws, Decisions and judicial precedents, and updating them periodically.

The General Secretariat has attached special importance to the defenses raised by the litigants and the response of the primary and appellate committees to these defenses, being of great importance for determining cases, leading to conclusions that help achieve many of the Secretariat's objectives, including to eliminate disputes and differences, strengthen the committees' positions regarding these defenses, and further support the grounds of Decisions delivered by the committees.

In conclusion, I would like to extend my sincere thanks to His Royal Highness the Custodian of the Two Holy Mosques, King Salman bin Abdulaziz, and his Crown Prince, His Royal Highness Prince Mohammed bin Salman bin Abdulaziz, Prime Minister, may Allah protect them, for their generous patronage and support for judicial activities in various fields. I also extend my sincere recognition to employees of General Secretariat for their distinguished efforts in issuing this product, which I hope will achieve its goals and be a qualitative addition to the legal field.

**Secretary General**

**Abdullah bin Abdulrahman Al-Suhaibani**



### Work Methodology:

To achieve the desired benefit, the General Secretariat was keen to select and publish judgments with comprehensive and general nature. Given the importance of appropriate description of case before primary and appellate committees and its impact on inference and reaching the Decision, which is the outcome sought by parties to case, and given the diverse facts and circumstances of zakat and tax cases, there has been a need to sort and classify customs committees Decisions for easy reference for litigants and interested parties.

Based on General Secretariat of Zakat, Tax and Customs Committees role in adopting and applying principles of continuous improvement and development in management of zakat, tax and customs disputes, to enable conclusive settlement of these disputes, the Secretariat was keen to identify the zakat and tax Decisions delivered by the tax committees. The Secretariat deemed it important to analyze the defenses presented by the parties during their pleadings before the committees and the committees' response to those arguments. Accordingly, a well-thought-out was developed to come up with an easy and accessible product. Work was divided into several stages according to the following:

- Inventorying the final Decisions issued by the tax committees in relation to zakat and tax disputes during 2022.
- Indicating the name of the Department that delivered the Decision in addition to the Decision number and date of issue.
- Setting keywords to facilitate search process.
  - Providing **Abstract** of Decision outlining key points.
- Indicating the grounds on which the Department based its Decision while providing links that support such grounds, if any.
- Stating the defenses and arguments of the case parties.
- Stating the committees' response to those defenses.
- Including the operative part of the Decision.
- Ensuring anonymity of litigants and other involved parties without affecting Decision.
- Checking Decisions to ensure they are free from any linguistic and spelling errors.
- Classifying Decisions objectively as appropriate and placing each Decisions under its relevant classification.



Before proceeding, we will define the defenses and their categories.

**First:** Definition of Defenses (Dofoo') Linguistically and Terminologically

Linguistically: Plural of (Daf'), which means to push away or rebel something<sup>(1)</sup>

Definition of Defense (Daf') in legal contexts: "a statement or something similar made by the Defendant to counter the Plaintiff's claim."<sup>(2)</sup>

Defense in Law: Procedural Rights used by the judge or Defendant in response to the Plaintiff's claims, with the intention of referring the case to another judicial authority, suspending or terminating the proceedings.<sup>(3)</sup>

**Second:** Categories of Defenses:

Defenses are divided into two main categories:

**First:** Formal Defenses: "the challenges made by the Defendant against the the formal procedures that the Plaintiff is required to perform before and during the pleading of the case to produce its effects", such as the defense of the lack of jurisdiction of the court hearing the case.()

**Second:** Substantive Defense The defense entered by the Defendant against the Plaintiff's claims, including to deny such claims or argue that they have expired.<sup>(4)</sup>

Defenses also vary in terms of continuity into two types:

**First Type:** Temporary Defenses: Time-barred defenses, which must be raised before any request or defense in the case; otherwise, they will be forfeited.<sup>(5)</sup>

**Second Type:** Absolute Defenses: Defenses that may be presented at any stage of litigation tha is not limited to any time or stage."<sup>(6)</sup>

<sup>(1)</sup> see Ibn Fāris, Maqāyīs al-Lughā (2/288), Ahmad ibn Faris al-Razi

<sup>(2)</sup> see Hashiyat Ibn Abidin (2/457), "Mu'in al-Hukkam" by Al-Tarablusi (p129), "Al-Kashif fi Sharh Nizam al-Marafa'at al-Shar'iya" (1/29), Abdullah Muhammad Al-Khunaine

<sup>(3)</sup> Research entitled: Al-Daf'u fi Nizam al-Mirafat al-Shar'iyyah, Fahad bin Abdul Aziz al-Yahya, published in the Journal of Saudi Scientific Judicial Association "Qadaa", Issue No. 9, 1437 AH, (p. 16).

<sup>(5)</sup> see Ibid.

<sup>(6)</sup> Al-Kashf fi Sharh Nizam Al-Murafa'at Al-Shari'ah (1/401).

<sup>(7)</sup> see Ibid (1/401).



## Formal Defenses



## Appeal Committee for Tax Violations and Disputes First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No.: IR-2022-232  
Case No.: Z-33647-2021

### Key words:

**Zakat- Objection to Zakat Assessment - ZATCA Assessment doesn't Meet Formal Requirements - Overturning Primary Department's Decision - Remanding Case**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZD-2020-255), regarding zakat assessment for 2016. Zakat Payer's appeal involves objection to dismissing its Case in form by Primary Department. Having taken cognizance of ZATCA assessment letter, the Department found that ZATCA assessment is marred by a defect in form. Therefore, the Department overturns Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses:

#### Defenses of Appellant (Taxpayer)

##### Item: Zakat Assessment:

The Zakat Payer argued that the assessment was made automatically by ZATCA on 27/01/1439 AH, and then he made several attempts to submit an objection automatically, but they were unsuccessful due to a technical failure in ZATCA's website. After other attempts, the objection was filed on 24/06/1439 AH, and later ZATCA's branch in Hafr Al-Batin sent a notice of receipt of the objection on 22/01/1440 AH in response to the letter sent to ZATCA on 20/06/1439 AH. Accordingly, the Zakat Payer requests that the Decision of the Primary Department be overturned for the grounds stated above.

#### Arguments of the respondent (ZATCA)

##### Item: Zakat Assessment:

ZATCA stated that it maintains its point of view presented before the Primary Department, arguing also that the Zakat Payer did not submit his objection within the prescribed period based on Article 22 of the Implementing Regulations for Zakat Collection issued in 1438 AH.





### Committee's Response to Defenses.

Having perused the assessment letter issued by ZATCA, the Department found that the letter did not satisfy its formal requirements as stipulated by the law, where it didn't include the grounds for assessment that enable the Zakat Payer to submit reasoned objection. ZATCA should have stated the grounds on which it based the adjustment of tax assessment so that the Zakat Payer can accept or object to the adjustment. As such, the Department holds that ZATCA's assessment was marred with formal defect. The fact that the Law provides protection against challenging ZATCA's assessment Decision after expiration of the legally specified objection periods does not undermine this conclusion. Such protection is applicable only if the assessments are valid and meet the formal requirements established by law. Accordingly, this Department concludes to overturn Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** and remand the case to the Department for substantive consideration.

### Decision

**First:** Accept the appeal in form filed by Zakat Payer (... Company), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No (IZD-2020-255) rendered in Case No. (Z-2943-2020) regarding tax assessment for 2016.

**Second: On Merits:** Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam and remand the Case for reconsideration on merits according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.**



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

Decision No.: IR-2022-19  
Case No.: Z-30526-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Expiry of Prescribed Period - Failure to Notify of Zakat Assessment - Remanding the Case**

### Abstract

The Appellant (Zakat Payer) requests that the Primary Department's Decision No. (IZD-2020-194) regarding zakat assessment for 1432 be quashed. The Zakat Payer's appeal involves claim that the challenged Decision omitted ensuring that Zakat Payer statutorily received zakat assessment notification from ZATCA. Zakat Payer asserts filing an objection to assessment before ZATCA on 24/12/1440 AH, while the Department's Decision stated that Zakat Payer was notified on 06/09/1440 AH and filed an objection before ZATCA on 08/07/1440 AH. This discrepancy was the basis for Primary Department's Decision to dismiss Zakat Payer's objection in form on the grounds that it was filed after expiry of prescribed period. In addition, the Decision did not include grounds for disregarding dates provided by ZATCA, nor did it provide justification for the dates on which Primary Department relied in its Decision, which resulted in dismissing Zakat Payer's objection in form. Therefore, the Department ruled to overturn the Primary Department's Decision and remand the Case.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

#### **Item First:** Failure to Report Zakat Assessment:

The Zakat Payer objects to Primary Department's Decision, claiming that the Decision did not ensure validity of ZATCA procedures. The Zakat Payer claims that he was not duly notified of the Decision, arguing that it did not receive the Decision in accordance with Article 22.1 of the Implementing Regulations for Zakat Collection and that his claims is further confirmed by ZATCA's statement that the assessment was made on 05/07/1440 AH. ZATCA did not mention that she had notified the Zakat Payer of the assessment. Nonetheless, the period in which the assessment was issued, the Zakat Payer -according to ZATCA- was outside the Kingdom for treatment and he did not receive any notice of the assessment and he submitted a medical report that supports his claims.



## Arguments of the respondent (ZATCA)

Arguments of the respondent (ZATCA)

**Item First:** Failure to Report Zakat Assessment:

ZATCA argued before Primary Department, as documented in the Decision subject matter of appeal, that Zakat Payer was notified of assessment on 05/07/1440 AH. However, Zakat Payer filed an objection to the assessment before ZATCA on 24/12/1440 AH. The Department, in its reasoning, stated that Zakat Payer was notified on 06/09/1440 AH and filed an objection before ZATCA on 08/07/1440 AH. This is the basis on which Primary Department relied to reach its Decision dismissing Zakat Payer's objection in form, determining that the objection was filed after expiry of prescribed period.

## Committee's Response to Defenses.

The Department found that the Decision subject matter of appeal relied on facts that contradict the dates acknowledged by ZATCA without providing grounds for that discrepancy. Thereupon, this Department found that the Decision subject matter of appeal is not consistent with the facts established before this Department. This indicates that the dispute has not been fully resolved on its merits as concluded by Primary Department, and thus the Department has not exhausted its jurisdiction in adjudicating subject matter of dispute.

## Decision

**First:** Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No (IZD-2020-194) rendered in Case No. (Z-11880-2020) regarding tax assessment for 1432.

**Second: On Merits:** Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam and remand the Case for reconsideration on merits according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-20  
Case No.: Z-31152-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Failure to State Session Date in Notice Served- Remanding the Case**

### Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IFR-2020-207) regarding Zakat assessment for the year 1439 AH. Zakat Payer's appeal is based on the claim that he was unable to attend the hearing before the Primary Department due to the email sent to him by the Secretariat of Zakat, Tax, and Customs Committees lacking details about the time and date of the hearing. Upon reviewing subject of the dispute, it was found that Zakat Payer did not attend the hearing before the Department. The Decision to proceed with the case was based on confirmation that Zakat Payer had been notified through proper legal channels. As a result, Primary Department's Decision is annulled, and the case is returned for further consideration.

### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item First:** The session date was not included in the mail sent to the Zakat Payer. The Zakat Payer stated that he was unable to attend the judgment pronouncement session to explain the grounds for his objection and present his arguments for the notice served by the General Secretariat being void of the date and timing of session.



### Arguments of the respondent (ZATCA)

**Item First:** The session date was not included in the mail sent to the Zakat Payer. ZATCA argued that Zakat Payer is not considered a small-scale Zakat Payer, based on Article 13.1 of Implementing Regulations for Zakat Collection issued in 1438 AH and Paragraph 2 of the same Regulations. The assessment was modified using the estimated method, in accordance with Article 13.5 of the Regulations. ZATCA bases its actions on Paragraph (6/b) and Paragraph (8) of the same Article. Therefore, ZATCA maintains the validity and correctness of its procedures and requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision for the grounds stated.

### Committee's Response to Defenses.

The Department found that the Zakat Payer did not attend the hearing before the department, and the Decision to proceed with the case in the Zakat payer's absence was based on the belief that the Zakat payer had been duly served with notice. Since Zakat Payer argues in his appeal that he was not notified of the session date, and the Primary Department did not allow the Zakat Payer to present his objections to ZATCA's Decision; and given that the Zakat Payer submitted to this Department a copy of the email he received from the Secretariat of Zakat, Tax, and Customs Committees notifying him of the hearing date before the Primary Department and the email did not include the date or time of the hearing, making it unreasonable to expect the Zakat Payer to attend a session for which he was not properly notified. Since the Secretariat has not provided any information contradicting what Zakat Payer submitted regarding the contents of this email, this Department concludes that Zakat Payer was not duly notified, based on the established facts.

### Decision:

**First:** Accept, in form, the Appeal submitted by Zakat Payer, ..... Establishment, with Commercial Register No. (...), and TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh, under No. (IFR-2020-207), issued regarding Case No. (Z-5188-2020), related to Zakat assessment for the year 1439 AH.

**Second: On Merits:** Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh and remand the Case for reconsideration on merits according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-31  
Case No.: ZI-16396-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Ignorance of Technical Systems - Emergency Circumstances - Covid-19 Pandemic - Remanding the Case**

### Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2021-32) regarding the Zakat assessment for the year 2016, where it is based on its inability to attend the hearing before the Primary Department due to a lack of technical knowledge and the timing of the hearing coinciding with the COVID-19 pandemic. The Department's review of the primary Decision revealed that the Zakat Payer did not attend the initial hearing, which led the Primary Department to issue its appealed Decision. Additionally, the appealed Decision does not indicate that the Zakat Payer was given an opportunity to submit any evidence or response concerning the formal defense raised by ZATCA. Therefore, the Department accepts the appeal and remands the Case.

### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

#### **Item First:** Ignorance of Technical Systems:

The Zakat Payer stated that he submitted his objection to ZATCA within the regular period for objection, but it did not appear in the system until the day following the objection, and that his ignorance of technology and systems did not enable him to express his point of view before the Primary Department during the session, thus allowing ZATCA to request that the case be dismissed in form.



### Committee's Response to Defenses.

The Department found that the Zakat Payer did not attend the initial hearing, which led the Primary Department to deliver its Decision. Additionally, the appealed Decision does not indicate that the Zakat Payer was given an opportunity to submit any evidence or response concerning the formal defense raised by ZATCA. The Zakat Payer argued before this Department that difficulties, including COVID-19 restrictions, prevented him from submitting its objection within the prescribed period. The Department found that the case was not ready for determination due to the Zakat Payer's absence from the hearing and the lack of a written objection to reply to ZATCA's formal defense and to ensure the Zakat Payer's right to appeal on two levels,

### Decision:

**First:** Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISZR-2020-32), issued in case number (ZI-10994-2019), related to Zakat assessment for the year 2016.

**Second: On Merits:**

Accept Zakat Payer's appeal, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-32  
Case No.: Z-22362-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Within the Prescribed Period - Payment invoices - Remanding the Case**

### Abstract

Appellant (Zakat payer) requests overturning Primary Department's Decision No. (IRF-2020-27) regarding Zakat assessment for years from 2013 to 2016. Zakat Payer's appeal involves there is no ground for dismissing Zakat Payer's Case in form by Primary Department, as it was filed by a party having capacity and within the statutory period. Having taken cognizance of Zakat Payer's appeal, and since the Department's Decision subject matter of appeal was rendered dismissing Case on the ground that the objection before ZATCA was filed after expiry of statutory period. Therefore, the Department accepts the appeal and remands the Case.

### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

##### Item First: Payment Invoices:

The Appellant claimed that he submitted his objection to ZATCA within the prescribed period; however, due to the requirement of payment for the objection to be accepted, additional time was needed. This was not taken into account by ZATCA or the Primary Department in their Decision.

### Committee's Response to Defenses.

The Department found that the Appellant attached an image from ZATCA's website showing the details of the objection and attached payment invoices dated 29/05/2019, which shows that the Zakat Payer submitted his objection within the prescribed period, and ZATCA did not present to this Department anything that refutes this conclusion.



### Decision:

**First:** Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No (IRF-2020-27) rendered in Case No. (Z-7846-2019) regarding Zakat assessment for years from 2013 to 2016.

**Second: On Merits:**

Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh and remand the Case for reconsideration on merits according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-40  
Case No.: Z-36524-2021

### Key words:

**Zakat - Objection to Zakat Assessment - Material Errors in Assessment - Remanding the Case**

### Abstract

The Appellant (Zakat Payer) is requesting cancellation of Primary Department's Decision No. (ITR-2020-7) concerning Zakat assessment for the year 2016. Zakat Payer's appeal is based on the claim that Primary Department's Decision neglected the material errors in ZATCA's assessment and only considered the case on procedural grounds. Upon reviewing the matter and examining Primary Department's Decision, it was found that Zakat Payer did not attend the hearing. Furthermore, the contested Decision does not show that Zakat Payer was given an opportunity to address the procedural objection raised by ZATCA, indicating that the case was not ready for resolution due to Zakat Payer's absence from the hearing before the Primary Department. Therefore, the Department accepts the appeal and remands the Case.

### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**First:** Material Errors in Assessment :

The Zakat Payer submitted that ZATCA requested the Department to dismiss the case in form, and the Department accepted ZATCA's request without considering the material errors in ZATCA's assessment. Accordingly, the Zakat Payer challenges the Primary Decision for accepting ZATCA's request and dismissing the case in form, arguing that the objection was filed before the primary department the legally prescribed 30-day period. Additionally, the non-disputed amounts were paid, along with 10% of the disputed amounts, in accordance with the Implementing Regulations for Zakat Collection. The Zakat Payer requests that the substance of the case be considered and decided.



### Arguments of the respondent (ZATCA)

**First: Material Errors in Assessment:**

ZATCA maintained its point of view presented before the Primary Department, affirming the validity of the primary Decision for being consistent with the provisions of Article 2 of the Tax Dispute and Violation Committee Procedures, and arguing that the claims provided by the Zakat Payer does not go beyond what he had previously submitted and ZATCA responded to before the Primary Committee, and also requesting the Department to not accept any new requests from the Zakat Payer based on Article 186 of the Law of Civil Procedures.

### Committee's Response to Defenses.

The Department found that the Zakat Payer did not attend the hearing. The Appealed Decision didn't clarify whether the Zakat Payer was given a chance to submit his reply against ZATCA's formal defense. Thus, the Department concluded that the case was not ready for adjudication in light of the Zakat Payer's failure to attend the hearing before the Primary Department, or to submit a written reply to ZATCA's defense and that the Zakat Payer has the right to plead his case at the two grades.

### Decision:

**First:** Accept, in form, the Appeal submitted by Zakat Payer, ..... Company, (Commercial Register ...), TIN (...), against the Decision of the Third Department for Determination of Income Tax Violations and Disputes in Riyadh, Decision number (ITR-2020-7), issued regarding case number (Z-13482-2020), concerning Zakat assessment for the year 2016.

**Second: On Merits:**

Annul Decision of the Third Department for return the case to the Department for substantive review, in accordance with the reasons and considerations outlined in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-152  
Case No.: Z-78143-2021

### Key words:

**Zakat - Objection to Zakat Assessment - Failure to notify Zakat Payer with Adjusted Zakat Assessment - Remanding the Case**

### Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISR-2021-831) regarding Zakat assessment for 1434. Zakat Payer's appeal involves claim of failure to be notified of amended Zakat assessment on issuance date. This Department found that ZATCA did not submit sufficient evidence to support the claim that Zakat Payer was notified of assessment Decision on issuance date. Therefore, the Department accepts the appeal and remands the Case.

### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**First:** Failure to Notify the Zakat Payer of the Adjusted Zakat Assessment:

The Zakat Payer stated that ZATCA did not notify him of the adjustment to the Zakat declaration, and that the date on which the Primary Department based its Decision was the date of issuance of the notice, not its receipt, as he didn't receive the notice on its date of issue, nor was he notified of the adjustment by any means. Moreover, one of the conditions for adjusting the Zakat declaration is that the assessment includes the grounds for adjustment which was not the case.

#### Arguments of the respondent (ZATCA)

**First:** Failure to Notify the Zakat Payer of the Adjusted Zakat Assessment:

ZATCA maintained its point of view presented before the Primary Department, and claimed that the Zakat Payer did not object before ZATCA within the prescribed period specified in Article 22 of the Implementing Regulations for Zakat Collection issued in 1438 AH and Article 2 of the Tax Dispute and Violation Committee Procedures. As such, ZATCA's Decision becomes final for the lapse of the time period prescribed by law and cannot be appealed based on Article 3.1 of the Tax Dispute and Violation Committee Procedures. ZATCA also requested



the Department not to accept any new requests from the Zakat Payer based on Article 186 of the Law of Civil Procedures.

### Committee's Response to Defenses.



This Department requested ZATCA to provide evidence that the Zakat Payer was notified of the assessment Decision. ZATCA failed to provide such evidence. Accordingly, this Department ruled to overturn the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, and to remand the case to the Primary Department.

### Decision:

**First:** Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2021-831) rendered in Case No. (Z-36519-2021) regarding tax assessment for 1434.

**Second: On Merits:**

Overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Appeal Committee for Tax Violations and Disputes First Appellate Department for Income Tax Violations and Disputes

Decision No.: IR-2022-199  
Case No.: Z-33277-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Failure to Serve Notice - Decision in Absentia  
- Overturning Primary Decision - Remanding the Case**

### Abstract

Appellant (Zakat Payer) requests overturning Primary Committee's Decision No. (IFR-2020-295) regarding Zakat assessment for 1439. Zakat Payer appeals against the Decision for failure to attend the hearing session for a reason attributed to failure of being provided with the link of such session. In addition, the appeal Decision did not give Zakat Payer an opportunity for submitting documents regarding ZATCA argument. Thereupon, it is found that the Case is not ripe for adjudication in light of Zakat Payer's failure to attend the hearing session before Primary Department. Therefore, the Department overturns Primary Department's Decision and remands the Case.

### Documents:

- [Implementing Regulations for Zakat Collection issued by Minister of Finance Resolution No. \(2216\) dated 07/07/1440 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item:** Delivery of Decision in absentia:

The Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that the Decision, which dismissed Zakat Payer Case, was rendered *in absentia* due to an alleged failure to submit the contracts in question. The Zakat Payer asserts that this claim is untrue, as the Zakat Payer contacted the Secretariat and was instructed to send the documents via e-mail. The contracts were sent in three batches, and Zakat Payer received confirmation of receipt, copies of which have been attached. Therefore, Zakat Payer requests that the primary Decision be quashed for the aforementioned grounds.





### Arguments of the respondent (ZATCA)

**Item:** Delivery of Decision in absentia:

ZATCA maintained its arguments presented before the Primary Department, and that the Zakat Payer did not provide ZATCA with valid contracts for the years in question. He failed to submit them to ZATCA during the inspection and objection stage, nor did he submit them to the department that delivered the primary Decision, which indicates his inability to prove his claims. Moreover, for delivery of its Decision, ZATCA relied on the information and documents submitted to it according to Article 20.3 of the Implementing Regulations for Zakat Collection and Article 22.3 of the same regulations. ZATCA requests that no new requests from the Zakat Payer be accepted that were not submitted during the inspection and objection stage.

### Committee's Response to Defenses.

Having taken cognizance of subject matter of dispute, Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session. Since Zakat Payer claimed that it was not notified of the hearing session date. Since the appealed Decision does not indicate that Zakat Payer was given an opportunity to submit its documents regarding ZATCA argument, it turns out that the Case is not ripe for adjudication due to Zakat Payer's failure to attend the hearing session and lack of a written objection to reply to ZATCA arguments raised before Primary Department. Thereupon, the Department overturns Primary Department's Decision and remands the Case for reconsideration after verifying that Zakat Payer was properly and adequately served.

### Decision

**First:** Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No (IFR-2020-295) rendered in Case No. (Z-8862-2019) regarding tax assessment for 1439.

**Second: On Merits:** Overturn Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh and remand the Case for reconsideration according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Appeal Committee for Tax Violations and Disputes First Appellate Department for Income Tax Violations and Disputes

Decision No.: IR-2022-368  
Case No.: Z-12981-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Zakat Assessment Failed to Meet Formal Requirements- Overturning Primary Decision - Remanding the Case**

### Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (27) regarding Zakat assessment for years from 2011 to 2014. Since Zakat Payer's appeal involves the claim that the statutory periods start as of assessment receipt date, rather than assessment issuance date. Since the Department found that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection. Therefore, the Department overturns the Decision rendered by Primary Committee for Zakat and Tax Objections and remands the Case for reconsideration on merits.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

##### Item: Zakat Assessment:

The Zakat Payer argued that the periods start from the date of receipt of the assessment letter, not from the date of issuance of invoices. Therefore, the Zakat Payer requests that his claim be considered on the merits, without merely considering the formal aspect.

#### Committee's Response to Defenses.

Having taken cognizance of ZATCA assessment Decisions for years from 2011 to 2014, the Department found that assessment Decisions did not meet the formal elements stipulated by the law, as such assessment Decisions did not include grounds for adjustment whereby Zakat Payer can file a reasoned objection, since ZATCA should state the grounds for adjustment so that Zakat Payer can accept or object to ZATCA adjustment. Since the assessment in issue didn't meet this requirement and that it is the Zakat payer's right to know the grounds for assessment; therefore, this Department concludes that ZATCA assessment is marred with formal defect. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when the



Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department overturns the Decision rendered by the Second Primary Committee for Zakat and Tax in Riyadh and refers the Case to the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for reconsideration on merits.

### Decision

**First:** Accept appeal in form filed by Zakat Payer (... Company, C.R. No. (...), TIN (...), against Second Primary Committee for Zakat and Tax Objections in Riyadh Decision No. (27) of 1438 AH rendered in Objection No. (38/17) regarding Zakat assessment for years from 2011 to 2014.

**Second: On Merits:**

Overturn the Decision rendered by the Second Primary Committee for Zakat and Tax Objections in Riyadh and refer the Case to the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for reconsideration on merits according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-271  
Case No.: Z-26049-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Statute of Limitations**

#### Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-62) regarding Zakat assessment for years from 1998 to 2011. Zakat Payer's appeal involves objection to items subject matter of the Case. The Department found that ZATCA assessment was made after lapse of statutory period for amendments to Zakat Payer's declaration of five years from the deadline for filing Zakat Payer's declaration for each year. Therefore, the Department accepts the appeal regarding items in question and overturns Primary Department's Decision.

#### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

#### Parties' Defenses

##### Defenses of Appellant (Taxpayer)

Defenses of the Appellant (Zakat Payer)

##### Item: Zakat Assessment:

The Zakat Payer argued that he had submitted his declarations regularly based on audited accounts, and that ten years have lapsed since the period from 1997 to 2007. Therefore, the case should be considered time-barred under the statute of limitations.

#### Committee's Response to Defenses.

Since the Department concluded that ZATCA assessment was after lapse of the prescribed period for making adjustment to Zakat Payer's declaration of five years from the deadline for filing Zakat Payer's Zakat declaration for each year. Since these rules are established to maintain transaction stability and prevent instability of Zakat Payers' financial positions in case of absence of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to reopen assessments after the expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments was invalid. Thereupon, the Department cancels ZATCA assessment of Zakat Payer for years in question and overturns Primary Department's Decision.



### Decision

**First:** Accept appeal in form filed by Zakat Payer (... Company), C.R. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No. (IFR-2020-62) rendered in Case No. (Z-4297-2019) regarding Zakat assessment for years from 1998 to 2011.

**Second: On Merits:**

Accept appeal filed by Zakat Payer regarding items subject matter of the Case, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh and cancel ZATCA assessment for years in question according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Committee for Determination of Tax Violations and Disputes

### Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-4500  
Case No. 31699-2020-Z

#### Key words:

**Zakat - Objection to Zakat Assessment – Misapplication of Elements of Administrative Decision by ZATCA (Failure to Provide Grounds for Assessment) – Legally-prescribed Period Expired for ZATCA (Statute of Limitations)**

#### Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 2016. The Plaintiff objects to the Zakat assessment issued by the Defendant the year 2014 AD, specifically with regard to the item (Misapplication of the elements of administrative Decision by ZATCA (lack of grounds for assessment)), which violated the provisions contained in the Implementing Regulations for Zakat Collection, the item (the prescription of legally-prescribed period for ZATCA for the year 2014), ZATCA's failure to comply with the provisions of the Implementing Regulations for Zakat Collection when making the assessment, and the item (investment in the (...) Real Estate Fund) In the amount of SAR 88,937,786. The department has established that with regard to the item (Misapplication of the elements of administrative Decision by ZATCA (lack of grounds for assessment)), the Plaintiff's claims are baseless as the grounds for adjustment and assessment were clear. With regard to the item "the prescription of legally-prescribed period for ZATCA for the year 2014", the Department found that the Defendant had made the assessment after prescription of period specified by law. With regard to the item "(investment in (.....) real estate fund), the department decided to cancel the Defendant's Decision with regard to item No. (2) related to prescription of period for adjusting the 2014 return. Accordingly, this Department ruled to dismiss the Plaintiff's objection regarding the item (lack of grounds of assessment), and cancel the Defendant's Decision regarding the item of prescription and the item (investment in (.....) real estate fund) .

#### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles 82 and 83 of the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Articles 8, 21.10 and 22.1 of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's defenses

**Item First:** Misapplication of the elements of the administrative Decision (lack of grounds for assessment):

The Plaintiff held that the assessment was defective and did not comply with the procedures stipulated in the Implementing Regulations for Zakat Collection. The Plaintiff relied on Article (22.7) related to inspection procedures. Upon referring to the assessment issued on 31/08/2020 (attached), it was found that that ZATCA did not provide grounds for its administrative Decision (the assessment). Therefore, and based on the above-mentioned article, ZATCA's notice is defective and cannot be relied upon.

**Item Second:** Prescription of period for the year 2014

The Plaintiff stated that ZATCA did not comply with the provisions of the Implementing Regulations for Zakat Collection and that it had made the 2014 assessment after prescription of the legally-prescribed period, which is five years. The deadline for adjusting the declaration was 30/04/2020 AD. The Plaintiff relied on Article (21.10) of the Zakat Collection Implementing Regulations, as well as on the Appeal Decision No. (IR-2020-43). given that dispute between the two parties is a legal dispute, as explained in item (3); accordingly, ZATCA's right to make the assessment lapses after (5) years from the expiration of the deadline for submitting the Zakat declaration. Accordingly, the Plaintiff requests that the Department accepts the objection and cancel ZATCA's procedure due to the expiry of the legally-prescribed period for making the assessment.

### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1440.

The Plaintiff stated that this item was not included in the Plaintiff's objection statement filed to ZATCA within the legally-prescribed period. Based on paragraph (1) of Article (22) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 1/6/1438 AH, which states "1. The Zakat Payer may object to ZATCA's assessment within sixty days from the date of receipt of the assessment letter. The objection must be made in writing indicating the grounds for objection addressed to the entity that notified the Zakat Payer of the assessment. If the last day of the objection period falls on an official holiday, the objection shall be acceptable if submitted on the First working day immediately following that holiday"

**Item Second:** Prescription of period for the year 2014

The Plaintiff held that based on Article 21.8 of the Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH stating "The Authority may make or modify the assessment at any time without being bound by the time limit specified in the following cases: A. If the Zakat Payer agrees in writing to the assessment being made or modified. B. If the Zakat Payer does not submit his declaration. C- If it was found that that the declaration contains incorrect information". Additionally, Article (21.10) states: "10. ZATCA may rectify the incorrect implementation of Zakat Law or regulations within five (5) years from the final date set for submission of Zakat Declaration for the Zakat Year at Zakat Payer's request, or if the error was discovered by ZATCA or by the regulatory authorities".

### Committee's Response to Defenses.

**Item First:** Misapplication of the elements of the administrative Decision (lack of grounds for assessment):





Based on the above, and since it was plain that the Plaintiff requested to cancel the assessment issued on 31/08/2020 AD due to the Defendant's failure to provide grounds for its Decision and clarify the grounds for the assessment, and by referring to the aforementioned documents, including the objection statements submitted by the Plaintiff to the Defendant, through which it was clear that the Plaintiff is aware of the grounds for amending the declarations by the Defendant. The Department found that the Plaintiff's claims are baseless due to the clarity of the ground for the amendment and the assessment procedure. Therefore, this department ruled to dismiss the Plaintiff's objection regarding (the lack of grounds for assessment).

**Item Second: Prescription of period for the year 2014**

The Defendant's right to make Zakat assessments prescribes after (5) years from the deadline specified for submitting the declaration. It was found that the Defendant made the Zakat assessment for the years in dispute on 31/08/2020 AD, while the prescribed period for the year 2014 AD ends on 30/04/2020 AD. Given that the Defendant made the assessment after the end of the prescribed period specified, its right to make the Zakat assessment for that year ceases to exist based on the above-mentioned legal texts, where that right cannot survive the prescribed period except in cases where the Zakat declaration is found incomplete with the intent to evade Zakat, and upon reviewing the Defendant's Reply, it was found that that it did not provide any valid material evidence that the Plaintiff's declaration is incorrect with the intent to evade Zakat, but rather it arises from disputed Zakat treatments, and whereas this item does not constitute part of the components of the assessment (Decision) issued by the Defendant, but rather it is a formal defense that may be entered at any stage of the appeal, in accordance with Articles 82 and 83 of the Law of Civil Procedures, which allow the Plaintiff to submit any interlocutory motions that are considered of material importance in the dispute. Since this defense cannot be dismissed even if it is not objected to by the Defendant; therefore, this Department rules to cancel the Defendant's Decision.

**Decision:**

**First: In Form: In form:**

Accept objection filed by Plaintiff ..... Company, C.R. No. (...), against the Defendant's Decision.

**Second: On Merits:**

1. Dismiss the Plaintiff's objection regarding (lack of grounds for assessment).
2. Cancel the Defendant's Decision concerning the prescription item .
3. Cancel the Defendant's Decision regarding (Investment in .....Fund). .

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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## **Second: Decision based on Substantive Aspect Zakat**



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

Decision No.: IR-2022-197  
Case No.: Z-30435-2020

### Key words:

**Zakat - Objection to the Zakat Assessment - Partners' Current Accounts - Bad Debts - Excess sales returns - Dividends - Fixed Assets.**

### Abstract

Appellant (Zakat Payer / ZATCA) requests overturning Primary Department's Decision No. (IZJ-2020-123) regarding Zakat assessment for 1438. Zakat Payer's appeal involves the following: Regarding (Shareholders' Current Account) item, Zakat Payer claims that the objection was filed with regard to the amount added to Zakat base by ZATCA, rather than adding shareholders' current account to Zakat base. Since it turns out that the opening balance is the lower one, and that there are not additions to the balance from equities. Therefore, the amount that completed a full year is the opening balance of SAR 56,780,594.37. As for ZATCA appeal regarding (Bad Debts for 1438), ZATCA appeal involves claim that Zakat Payer did not provide documents that support meeting conditions stipulated by the Implementing Regulations for the Collection of Zakat, considering bad debts as allowable expenses. As for ZATCA appeal regarding (Bad Debts for 1438), ZATCA appeal involves claim that Zakat Payer did not provide documents that support meeting conditions stipulated by the Implementing Regulations for the Collection of Zakat, considering bad debts as allowable expenses. The Department hereby ruled to accept Zakat payer's appeal and dismiss ZATCA's appeal.

### Documents:

- [Article \(17\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)

### Parties' Defenses

### Appellant Defenses

**Item First:** Bad Debts for the Year 1438 AH:

ZATCA argues that Article (5.3) of the Implementing Regulations for the Collection of Zakat stipulates several conditions for considering bad debts as deductible expenses, including: 1- Zakat payer presents a certificate from its chartered accountant indicating writing off the debts from the books pursuant to a Decision by the competent authority. 2. The debts must not be owed to entities affiliated with the Zakat Payer, and the Zakat Payer did not provide supporting documents to prove that these two conditions were met. Furthermore, the Primary Department's reliance on a circular addressed in the Implementing Regulations for Zakat Collection for the Year 1438 AH regarding the issue of bad debts is dismissible, as there is a legal provision in the Regulations that addressed the issue.

**Item Second:** Excess sales returns for the year 1438 AH:



ZATCA argued that it had studied the trial balance submitted by the Zakat Payer and found that there were sales returns for the month of December 1438 AH in the amount of (SAR 28,312,631), and the Zakat Payer did not provide supporting documents and the reason for the existence of sales returns at the end of the year. After asking the Zakat Payer about the ground for the existence of sales returns in this amount at the end of the year, he did not provide any supporting documents for these returns. Accordingly, ZATCA treated this amount comparing the sales returns for the year 1438 AH with the ending inventory and adding the difference within the adjusted net profit, based on paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection.

**Item Third:** Dividends for the Year 1438 AH

ZATCA argued that it had not reviewed the supporting documents, namely the written authorization mentioned in the grounds for the Primary Department's Decision, whereby the company's profits were transferred to some of the partners' children. ZATCA maintained that it cannot rely on documents it has not reviewed, based on Article (29) of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) dated 21/04/1441 AH.

**Fourth Item** Fixed Assets for the Year 1438 AH:

ZATCA argued that its procedure was based on Circular No. (9/2574) dated 14/05/1426 AH, Circular No. (9/1724) dated 24/03/1427 AH, and Article (17) of the Tax Law, and that the Primary Department's argument that ZATCA's circulars gave the Zakat Payer the option to apply the depreciation method it wanted is invalid.

**Committee's Response to Defenses.**

**Item First:** Bad Debts for the Year 1438 AH:

The Zakat Payer provided the necessary documents that support the write-off of debts subject matter of the dispute and presented evidence proving cancellation of debt amounting to SAR 116,521. Since the Department found that Primary Department's conclusion is valid, and that the grounds underpinning its Decision are sufficient to uphold it. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision regarding this item.

**Item Second:** Excess sales returns for the year 1438 AH:

The Department found that ZATCA's basis for adding this amount to Zakat Payer's Zakat base was the presence of a sales return amount in the trial balance and ZATCA's request for Zakat Payer to explain reasons for these returns. Since sales returns are considered a natural part of business operations and are typically handled by reducing sales and adjusting cost of sales by the value of returned goods, and since that ZATCA did not establish a link between sales returns and their corresponding effect on the cost of sales, there is no ground for ZATCA to ask Zakat Payer to provide reasons for returns recorded in the accounting books, unless there is an issue with the accounting proof of the amounts that offset and adjust the overall impact of returns on Zakat Payer's profit. Therefore, this Department dismisses ZATCA appeal and upholding Primary Department's Decision regarding this item.

**Item Third:** Dividends for the Year 1438 AH

The dividends are not added to Zakat base if proven to be distributed and transferred to independent accounts from Zakat Payer. Since Zakat Payer provided the supporting documents for distributing such profits. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision regarding this item.

**Fourth Item** Fixed Assets for the Year 1438 AH:

Upon reviewing ZATCA's appeal, it has become apparent that ZATCA has presented grounds that differ from those it presented to the Primary Department. While ZATCA argued before the Primary Department that it had applied the Implementing Regulation for Zakat Collection, it now argues before this Department that it had applied ZATCA's circulars related to the application of certain procedural provisions and accounting standards contained in the tax law to Zakat payers. Such an argument does not undermine the outcome of the Primary



Department's Decision, which was based on the argument presented before it. Since ZATCA did not provide, in its appeal, an analysis of amendments that it introduced to Zakat Payer's depreciation schedule, which would clarify the errors made by Zakat Payer and how those errors were corrected in a way that would allow for a reasoned objection to its procedure. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision regarding this item.

### Decision

**First:** Accept appeal in form filed by Zakat Payer (...), CR. No. (...), TIN (...), and appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes In Jeddah Decision No. (IZJ-2020-123) rendered in Case No. (Z-7747-2019) regarding Zakat assessment for 1438.

**Second: On Merits:**

1. Accept Zakat Payer appeal regarding (Shareholders' Current Account for 1438) item and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Jeddah according to reasons and grounds stated herein.
2. Dismiss ZATCA appeal regarding (Bad Debts for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Jeddah according to reasons and grounds stated herein.
3. Dismiss appeal filed by ZATCA regarding (Excess Sales Returns for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Jeddah according to reasons and grounds stated herein.
4. Dismiss appeal filed by ZATCA regarding (Dividends for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Jeddah according to reasons and grounds stated herein.
5. Dismiss appeal filed by ZATCA regarding (Fixed Assets for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Jeddah according to reasons and grounds stated herein



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

Decision No.: IR-2022-198  
Case No.: Z-31160-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Debts on Silos - Calculation of Adjusted Profit as Zakat Base - Accepting Appeal**

### Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-141) regarding Zakat assessment for 2005 and 2006. Regarding (Calculation of Adjusted Profit as Zakat Base) item, Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in not fully deducting fixed assets and taxing adjusted profit rather than Zakat base. Since that fixed assets and equivalents are considered capital assets that contribute to both current and future production, regardless of their source of financing, Zakat base is determined by the adjusted profit if Zakat base is lower than that profit. As such, the Department decided to accept the Appeal Zakat payer's appeal.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item First:** Silo Debts for the Years 2005 and 2006:

The Zakat Payer requested that the Tax Appeal Committee's Decision No. (1628) of the year 1438 AH be enforced, which upheld the Zakat Payer's right to deduct this item, which was inadvertently omitted in its operative part the two years subject of the claim.

**Item Second:** Zakat base assessment based on adjusted profit:

The Zakat Payer argued that ZATCA retroactively applied the Zakat Regulations issued on 01/06/1438 AH, and did not apply the provisions of the answer to the fourth question of Fatwa No. (23408) issued by the Council of Senior Scholars, dated 18/11/1426 AH. The Zakat Payer requested that the entire fixed assets be deducted and that the assessment is made based on the Zakat base, not the adjusted profit.



### Arguments of the respondent (ZATCA)

**Item First:** Silo Debts for the Years 2005 and 2006:

ZATCA argued that it maintains the conclusion of the primary department based on the provisions of Paragraph (1) of Article (76) of the Law of Civil Procedures.

**Item Second:** Zakat base assessment based on adjusted profit:

ZATCA argued that it deducts fixed assets as per the ownership rights, in accordance with Circular No. (1/8443/2) dated 08/08/1392 AH. The Zakat Payer's invocation Fatwa No. (23408) dated 18/11/1426 AH is consistent with ZATCA's procedure, because the net profit for the year under assessment is not determined until after the accounts are closed at the end of the fiscal year. Also, adopting the adjusted net profits for the purposes of determining the Zakat base as a minimum is due to the fact that subjecting the yield to Zakat is a valid jurisprudential opinion for the Zakat of exploited goods as per the Decision issued by the Islamic Fiqh Council in its second session. The fatwa, the subject of the Zakat Payer's argument, applies precisely if the cash available to the company was used in fixed assets or acquisition assets, where the profit balance would decrease in return. Also, according to accounting principles, the purchase of fixed assets is not considered a revenue expense recognized in the income statement. Moreover, Zakat is imposed on capital. However, in some cases, the Zakat base is limited to the capital's income and its yield due to the nature of the activity practiced. This is according to Article (4/9/t) of the Implementing Regulations for Zakat Collection for the year 1438 AH.

### Committee's Response to Defenses.

**Item First:** Silo Debts for the Years 2005 and 2006:

Having taken cognizance of subject matter of the dispute and Zakat Payer's appeal, the Department found, upon referring to the previous Appellate Department's Decision, that the Department had discussed the dispute and mentioned the years 2005 and 2006. In addition, the Department based its Decision on notes to the financial statements for such two years. Therefore, this Department concludes that the previous Department had adjudicated the dispute. The omission of those years in its wording is considered a clerical error. Thereupon, this Department corrects such error by confirming that the previous Appellate Department's Decision accepted Zakat Payer's appeal regarding this item for 2005 and 2006.

**Item Second:** Zakat base assessment based on adjusted profit:

Having taken cognizance of subject matter of the dispute, and considering that the standard procedure for calculating Zakat base for Zakat Payer involves adding positive elements to Zakat base, such as capital, equity, annual profits and other sources of funding, while deducting negative elements from Zakat base, such as fixed assets, long-term investments, annual losses and carried forward losses. Since fixed assets and equivalent assets are considered capital assets that help in current and future production, regardless of their source of funding, the limitation of Zakat base by the adjusted profit, if the base is lower than that profit, has no legitimate or legal ground. Therefore, Zakat Payer is entitled to deduct the net fixed assets and capital investments without being restricted by any specific limit. As such, this Department accepts Zakat Payer's appeal with regard to the matter of considering adjusted net profit as Zakat base and overturns Primary Department's Decision regarding this item.



## Decision

**First:** Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No. (IFR-2020-141) rendered in Case No. (Z-182-2018) regarding Zakat assessment for 2005 and 2006.

**Second: On Merits:**

1. Accept Zakat Payer's appeal regarding (Debts on Silos for 2005 and 2006) item and correct the Decision rendered by Appellate Department for Income Tax Violations and Disputes, by confirming that the Decision includes acceptance of Zakat Payer's s appeal regarding this item for 2005 and 2006 according to reasons and grounds stated herein.
2. Accept Zakat Payer's appeal regarding (Calculation of Adjusted Profit as Zakat Base) item and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-201  
Case No.: Z-28234-2020

### Key words:

**Zakat - Objection to Zakat Assessment- Balances of subcontractors - Opening balance of Statutory Reserve - Adding Short-term Loans to Zakat Base**

### Abstract

The Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISZR-2020-139) regarding Zakat assessment for 2017 in assessment with (Balances of Subcontractors) item, (Defendant's Error in Calculating Opening Balance of Statutory Reserve) item and (Adding Short-term Loans to Zakat Base) item. Zakat Payer's appeal involves filing an objection to items amended by ZATCA. However, ZATCA website did not accept such objection due to a previous objection regarding the same year. Therefore, the Department accepts the appeal and remands the Case.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

**Item First:** (Subcontractor Balances), (Defendant's Error in Calculating Opening Balance of Statutory Reserve), and (Addition of Short-term Loans to the Zakat Base):

The Zakat Payer argued that he initially objected to the Zakat assessment for 2017 AD, and that the above items had not been amended by ZATCA. ZATCA subsequently amended the above items after the objection. The Zakat Payer also stated that he attempted to object to the items, but ZATCA's electronic system did not accept it due to a previous objection for the same year. He attached a copy demonstrating this.

**Item Second:** Current account of an affiliated company and current account of a subsidiary of the Zakat base:

The Zakat Payer argued that the amount of (SAR 65,199,829) is not included in the Zakat base due to its nature and composition, which is as follows: SAR 56,350,169 was an advance payment to Company Owner, Eng. ..., for ... Enterprise (Affiliated Company), who is Owner of ... Company. It should be noted that there are retained earnings, and Sharia principle stipulates that partner's overdraft shall be deducted within the limits of retained earnings. SAR 8,849,653 that outlines the value of investment in ... Company in which the Company owns (60%), and this amount has already been subject to Zakat. Thereupon, Zakat Payer requests overturning Primary Department's Decision regarding the items subject matter of appeal.

### Arguments of the respondent (ZATCA)

**Item First:** (Subcontractor Balances), (Defendant's Error in Calculating Opening Balance of Statutory Reserve), and (Addition of Short-term Loans to the Zakat Base):

ZATCA stated that it upholds the Primary Department's Decision, for being consistent with the provisions of Paragraph (1) of Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

**Item Second:** Current account of an affiliated company and current account of a subsidiary of the Zakat base:

ZATCA stated that it upholds the Primary Department's Decision, for being consistent with the provisions of Paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection for the year 1438 AH. It also stated that what the Zakat Payer raised does not go beyond what he had previously submitted and which ZATCA had responded to. ZATCA requests the Department not to accept any new requests from the Zakat Payer based on Article (186) of the Law of Civil Procedure.



## Committee's Response to Defenses.

**Item First:** (Subcontractor Balances), (Defendant's Error in Calculating Opening Balance of Statutory Reserve), and (Addition of Short-term Loans to the Zakat Base):

Having taken cognizance of subject matter of the dispute, the Department found that Zakat Payer objected to Zakat assessment for 2017. Then, ZATCA amended its assessment regarding such item. Since Zakat Payer claims attempting to object to such adjustments, but ZATCA e-system did not accept the same due to a previous objection filed by Zakat Payer for the same year. Since Zakat Payer submitted a screenshot of ZATCA e-system that shows failure to file an objection to such adjustments. Since this Department concluded that it is not required to file a new objection to adjustments made by ZATCA to its assessment for the same year, as long as Zakat Payer preliminarily objected thereto. Therefore, this Department overturns the Decision rendered by the Second Department for Determination of Income Tax Disputes and Violations in Riyadh and remands the Case regarding such items for reconsideration on merits.

**Item Second:** Current account of an affiliated company and current account of a subsidiary of the Zakat base:

This Department found that the amount of SAR 56,350,169 outlined in advance payments to an affiliated company is an amount payable by a sole proprietorship owned by one of the partners and not an affiliated company of Zakat Payer. Since Zakat Payer did not provide evidence on delay by debtor or prove insolvency. Therefore, according to the applicable fatwas, Zakat Payer is not entitled to exclude this amount from Zakat base. As for the amount of SAR 8,849,653 that Zakat Payer argues to outline advance payments to an affiliated company: Since it turns out that Zakat Payer owns (60%) of such company. Therefore, Zakat Payer is entitled to exclude (60%) of the amount payable by the affiliated company from its Zakat base. Thereupon, this Department amends Primary Department's Decision, by dismissing Zakat Payer's appeal regarding the amount payable by the affiliated company and upholding exclusion of (60%) of the amount payable by the subsidiary from its Zakat base.



## Decision

**First:** Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-139) rendered in Case No. (Z-7975-2019) regarding Zakat assessment for 2017.

**Second: On Merits:**

1. Accept Zakat Payer's appeal regarding (Balances of Subcontractors) item, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case to the Department for reconsideration of this item on merits according to grounds stated herein.
2. Accept Zakat Payer's appeal regarding (Defendant's Error in Calculating Opening Balance of Statutory Reserve) item, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case to the Department for reconsideration of this item on merits according to grounds and grounds stated herein.
3. Accept Zakat Payer's appeal regarding (Adding Short-term Loans to Zakat Base) item, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for consideration of this item on merits according to grounds and grounds stated herein.
4. Regarding the item (not deducting the current account of an affiliated company and the current account of a subsidiary from the Zakat base):
  - A. Dismiss the Zakat Payer's appeal regarding the amount owed by the affiliated company, and uphold the Decision of the Second Department for Determination of Income Tax Disputes and Violations in Riyadh as per the grounds stated in this Decision.
  - B. Accept the Zakat Payer's appeal regarding the amount owed by the so-called subsidiary company, and modify the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, by deducting (60%) of the amount owed by the subsidiary company from the Zakat Payer's Zakat base, in accordance with the grounds stated in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax  
Violations and Disputes in Riyadh

Decision No.: IR-2022-203  
Case No.: Z-29772-2020

**Key words:**

**Zakat - Objection to Zakat Assessment - Actual Financial Position - Amended Financial Statements - Assessment based on Financial Statement Prior to Amendment**

**Abstract**

The Appellant (Zakat Payer) filed this appeal seeking cancelation of Primary Department Decision No. (IRF-2020-116) regarding Zakat assessment for 2007 to 2012, since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure regarding negligence of assessment based on amended financial statements. Having examined contents of case file, and since Zakat Payer's request lies in canceling ZATCA's assessment and relying on his Zakat declarations based on amended financial statements. Since ZATCA did not object to reasonableness of those amendments, and since it was found that those audited financial statements reflect Zakat Payer's actual financial position. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

**Item:** Assessment Based on Unadjusted Financial Statements:

Zakat Payer argued that the basis for Zakat calculation of any establishment is the actual financial position which was not reflected in financial statements as a result of irregular, illegal and incorrect transactions and were corrected in the amended financial statements. Moreover, final judicial rulings reveal and confirm invalidity of the Company's previous position. It is also clear that the Primary Department ignored in its Decision that all lands on which transactions took place are part of one land owned by the company under an undivided deed that is mortgaged in full to a bank in exchange for a loan. This loan is subject to Zakat base and it is not permissible to dispose of it by sale or any other transactions. Furthermore, the Company's AOA does not include real estate and land sale activity. Therefore, all that was done is illegal acts by the former Board Chairman, as he entered these assets owned by him into the company in exchange for increasing the capital and obtaining shares, then he attempted to acquire these assets again in an irregular manner, which caused harm to the Company by issuing incorrect financial statements that do not reflect the actual position, and losses were incurred for more than (10) years, which necessitated issuance of amended financial statements. ZATCA was addressed more than once with a request to approve amended statements to no avail. ZATCA also calculated the short-term loan and treated it as a long-term loan and ignored Company's failure to pay due to its poor financial position.

### Arguments of the respondent (ZATCA)

**Item:** Assessment Based on Unadjusted Financial Statements:

ZATCA argued that the Zakat Payer did not submit amended financial statements for 2006 to 2012, or a declaration explaining amendments during that period to him or to Primary Committee, which is the basis of dispute regarding assessment. Zakat Payer submitted a letter dated 22/05/1439 AH stating his desire to submit amended financial statements and set a date for their presentation by chartered accountant without clarifying the reasons preventing their submission, noting that statements were issued on 04/05/1439 AH. Therefore, ZATCA assessed Zakat Payer according to information available to it and in accordance with contents of financial statements, without any change to the contrary. Since Zakat Payer objected during the specified period, he did not submit his declaration immediately after the end of fiscal year, which the Law specified as 120 days in accordance with Article 20.2 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. In addition, for the purposes of Zakat, Zakat base is calculated in accordance with Zakat Payer's current situation and with assets and liabilities shown by financial statements at the end of Zakat year subject to the objection. ZATCA requests that no documents not submitted during the examination and objection stages be accepted. Accordingly, ZATCA adheres to validity and soundness of its procedure.



### Committee's Response to Defenses.

Having examined contents of case file, and since Zakat Payer's requested to cancel ZATCA's assessment in addition to relying on Zakat declarations based on amended financial statements. Since ZATCA did not object to reasonableness of those amendments, and since it was found that those audited financial statements reflect Zakat Payer's actual financial position, and since Zakat Payer submitted supporting documents supporting grounds on which he relied in reissuing the financial statements audited by the chartered accountant. Since ZATCA did not provide evidence that can be relied upon to reverse the reasons provided by Zakat Payer to reissue financial statements, including what clarifies existence of a dispute before judicial authorities regarding disputed lands. Since the matter was as mentioned, and since the basis for calculating Zakat to Zakat Payers relies on supporting evidence and documents, and since Zakat Payer submitted audited financial statements for disputed years, and ZATCA did not challenge those statements and their contents, which determines Zakat Payer's right to calculate his Zakat base based on what is stated in the audited financial statements. Therefore, the Department concludes to cancel ZATCA's assessment Decisions based on financial statements prior to amendment, and to overturn Primary Department's Decision.

### Decision

**First:** Accept the appeal in form filed by Zakat Payer/ ..... Company, under C.R NO. (.....)• TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No. (IRF-2020-116) delivered in Case No. (Z-174-2018) regarding Zakat assessment for years 2007 to 2012.

**Second: On Merits:**

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-204  
Case No.: Z-29933-2020

### Key words:

**Zakat - Objection to Zakat Assessment- Accumulated Losses - Delay In Issuing Zakat Assessment - Zakat Payer Declaration - Assessment on Retained Losses**

### Abstract

The Appellant (Zakat Payer) claims to abolish Primary Department's Decision No. (IZD-2020-204), on Zakat assessment of 2018, with respect to item of (Accumulated Losses). Since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure on negligence of his claim for approval of adjusted carried forward losses according to Zakat assessments issued by ZATCA for years preceding the disputed year. Having examined contents of case file, and since the outcome of dispute related to determining whether ZATCA will modify carried forward losses based on a future matter that has not been achieved at the time of assessment. Given existence of a dispute between the parties in determining that amount, based on a dispute in a number of items affecting it and related to Zakat assessment for a previous year(s), which are still subject to objection by Zakat Payer until the date of consideration of this year's assessment. Therefore, the Department accepted the appeal and amended Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

##### Item: Accumulated Losses:

Zakat Payer argued that ZATCA was late in issuing Zakat assessment and that Zakat Payer desires to approve the adjusted carried-forward losses under Zakat assessments issued by ZATCA for (2015, 2016, 2017) and deduct the same from Zakat base for 2018 amounting to SAR 4,893,562. In addition, ZATCA stated in its answer uploaded to the General Secretariat of Tax Committees' system that it will observe the same after making assessment for previous years. Moreover, the adjusted carried-forward losses of ZATCA assessment will be deducted. It is also unfair to disallow the Company to deduct losses due to delay in issuing assessments. Therefore, Zakat Payer requests overturning Primary Department's Decision, subject matter of appeal.



## Arguments of the respondent (ZATCA)

### **Item:** Accumulated Losses:

ZATCA maintained its point of view before the Primary Department, and stated that it did not deduct the accumulated losses according to the financial position statement for the year 2018 AD, as the deducted losses are the deferred losses according to ZATCA's assessments based on Article (4) Paragraph (9) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Accordingly, the accumulated losses deducted from the base are the losses carried forward according to ZATCA's assessments for previous years, and ZATCA will take this into account after the assessment for previous years, and the adjusted carried forward losses will be deducted according to ZATCA's assessments in case of existence of carried forward losses, in accordance with the aforementioned regulatory instructions. Accordingly, ZATCA adheres to the validity and soundness of its procedure.

## Committee's Response to Defenses.

Having considered subject of the dispute, having examined papers contained in the case file, and since outcome of dispute related to determining whether ZATCA would modify carried-forward losses was based on a future matter that was not realized at the time of assessment. Given existence of a dispute between the parties in determining that amount, based on a dispute in a number of items affecting it and related to Zakat assessment for a previous year(s), which are still subject to objection by Zakat Payer until the date of consideration of this year's assessment. Since the established principle is to take Zakat Payer's declaration into account, it is necessary to conduct assessment to Zakat Payer regarding those retained losses to the amount stipulated in its declaration, so that Zakat Payer's assessment for the year in dispute shall not depend on occurrence of unspecified future matters. ZATCA retains the right to demand Zakat Payer for any Zakat differences resulting from determining amounts of retained losses to determine their amount after amending the final assessment for each year in which ZATCA demands Zakat Payer to collect differences. Therefore, the Department concludes to amend the Primary Department's Decision regarding the item under consideration, to calculate assessment on Zakat Payer when determining his Zakat base by taking into account what was stated in his declaration regarding determining deducted amount of retained losses for 2018, with the right of ZATCA to calculate any Zakat differences that may result from adjusting balance of retained earnings for 2018 as a result of assessment on Zakat Payer for previous years, and Zakat Payer's right to object to such calculation.

## Decision

**First:** Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) 'TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No. (IZD-2020-204) delivered in Case No. (Z-2216-2020) in connection with Zakat assessment for 2018.

### **Second: On Merits:**

Accept Zakat Payer's appeal and amend the First Department for Determination of Income Tax Violations and Disputes In Dammam Decision, by deciding to take into account what was stated in Zakat Payer's declaration regarding determining the deducted amount of carried-forward losses for 2018, in accordance with reasons and grounds contained in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

**Decision No.: IR-2022-208  
Case No.: Z-29888-2020**

**Key words:**

**Zakat - Accounts - Long-Term Advances - Commercial and Other Creditors - Foreign Investments**

**Abstract**

Appellant (Zakat Payer) filed his appeal to object Primary Department's Decision No. (IZD-2020-209), on Zakat assessment for 2016, with regard to the items (Long-Term Advances), (Commercial Creditors and Other Creditors and Advance Payments for 2016) and (Foreign Investments), to refute his objection that additional Zakat obligation was calculated on the long-term advances, which are in nature an investment in a foreign subsidiary. In confirmation of the foregoing, additional Zakat was paid and invested to purchase fixed assets used in income generation, thereby relying on SOCPA regulations. Therefore, the Department accepted Zakat Payer's appeal regarding the items (Long-Term Advances) and (Foreign Investments) and rejected its objection to the item (Commercial and Other Creditors and Advance Payments for 2016).

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First:** Long-term advances:

The Zakat Payer argued that the additional Zakat obligation was calculated on long-term advances, which are considered an investment in a foreign subsidiary. He stated that an additional Zakat of SAR 225,555 was paid. Furthermore, the long-term advances provided to the company are considered an equity investment, as the Zakat Payer owns a 49% stake, and it was invested to purchase fixed assets used to generate income. According to the Saudi Organization for Certified Public Accountants (SOCPA) regulations, long-term advances are classified as investments and must therefore be deducted from the tax base.

#### **Item Second:** Trade and other creditors and advances from customers:

The Zakat Payer argued that these amounts are owed to suppliers and are not subject to Zakat due to the failure to meet the condition of full ownership.

#### **Item Third:** Foreign Investments:

The Zakat Payer argued that audited financial statements for the investee companies were submitted, and that they were subject to Zakat in the amount of SAR 277,463. The Zakat Payer also provided proof of Zakat payment via a bank statement. Accordingly, the Zakat Payer requests that the appealed Decision be overturned.

### Committee's Response to Defenses.

#### **Item First:** Deducting long-term advances from the Zakat base:

It is established that Zakat Payer calculated Zakat on his share of foreign investments, he has the right to deduct loans provided to subsidiaries according to percentage of the investment therein. Therefore, the Department decides to accept Zakat Payer's appeal and overturn the Primary Department's Decision regarding this item.

#### **Item Second:** Trade and other creditors and advances from customers:

The credit balances, regardless of their type, are considered a part of Zakat base whenever a year has passed thereon. Since ZATCA added the lower balance after comparing balance at the beginning and end of the period, as an indication of the fact that a year has passed on balance added to the base. Since Zakat Payer did not submit evidence to the contrary of ZATCA's findings, thus ZATCA's procedure to add the disputed amounts is valid. This does not affect Zakat Payer's argument regarding lack of complete ownership of these amounts, since application of fatwas regarding debts of Zakat Payer requires considering the passage of a year thereon or using the same to finance assets that are deducted from the base. Condition of complete ownership has no relation to the extent of including debts in Zakat base of Zakat Payer. Therefore, the Department concludes to dismiss Zakat Payer's appeal and uphold the Primary Department's Decision regarding this item.

#### **Item Third:** Foreign Investments:

The investment in foreign facilities is considered one of the items deducted from the Zakat base, provided that proof of paying Zakat thereon is provided in the country of investment. Since Zakat Payer has provided proof of paying Zakat on investments in foreign companies, the Department concludes to accept Zakat Payer's appeal and overturn the Primary Department's Decision regarding this item.



## Decision

**First:** Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No. (IZD-2020-209) delivered in Case No. (Z-8068-2019) in connection with Zakat assessment for 2016.

**Second: On Merits:**

1. Accept Zakat Payer's appeal regarding (Long-Term Advances), and reverse Decision of the First Department for the Determination of Income Tax Violations and Disputes in Dammam according to the grounds stated in this Decision.
2. Dismiss Zakat Payer's appeal regarding the item (Commercial Creditors, Other Creditors and Advance Payments), and uphold Decision of the First Department to Adjudicate Income Tax Violations and Disputes in Dammam according to the grounds and reasons stated in this Decision.
3. Accept Zakat Payer's appeal regarding the item (Foreign Investments), overturn First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, and return the case to the same Department for consideration on merits, in accordance with reasons and grounds set forth in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-209  
Case No.: Z-31451-2020

### Key words:

**Zakat - Objection to Estimated Zakat Assessment - Neglecting Submitted Financial Statements - Assessing an Amount Exceeding What Zakat Payer Declared**

### Abstract

Appellant (Zakat Payer) filed this appeal seeking cancellation of Primary Department's Decision No. (IZD-2020-179) on Zakat assessment 1439 AH, since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure on neglecting submitting financial statements and estimated assessment thereon, and since the principle is the integrity of what is included in the audited financial statements, and since ZATCA did not challenge integrity of those financial statements. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- Article 20.3 of [the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item:** Estimated Assessment:

The Zakat Payer asserted that he had submitted the approved financial statements, and that the amount of capital accounted for by ZATCA was incorrect. He stated that he had no imports or contracts for the year 1439 AH.



### Arguments of the respondent (ZATCA)

**Item:** Estimated Assessment:

ZATCA confirms validity of its opinion submitted before the Primary Department, and matters raised by Zakat Payer does not go beyond what was previously submitted and responded to by ZATCA at the time. Zakat Payer submits his statements based on estimated method and pays accordingly. In addition, financial statements on the basis of which Zakat Payer seeks to be held accountable were prepared at a date subsequent to the date of legal period for filing the declaration. Accordingly, ZATCA exercised its right to estimated assessment based on Article 13 of the Implementing Regulations for the Collection of Zakat and Article 20.3 of the same Regulations. Zakat Payer was held accountable as a result of estimated assessment based on value added tax sales, based on Article 13 of the Implementing Regulations for the Collection of Zakat.

### Committee's Response to Defenses.

It was found that ZATCA carried out estimated assessment on Zakat Payer in an amount exceeding what Zakat Payer acknowledged in the declaration submitted to ZATCA. Since ZATCA's assessment was not based on a field inspection of Zakat Payer, and since Zakat Payer submitted audited financial statements, Zakat Payer has the right to submit the same as evidence proving validity of his claim based on the provisions of Article 20.3 of the Implementing Regulations for the Collection of Zakat. Preparation of such financial statements at a date later than the date of submitting the declaration is without prejudice to the fact that they were submitted by Zakat Payer as evidence proving validity of expenses claimed to have incurred in realization of revenues on which ZATCA based its assessment. Since the principle is integrity of what is included in the audited financial statements, and since ZATCA did not challenge the integrity of these financial statements and did not provide evidence that can be relied upon to revoke what was stated therein. This Department decides to cancel ZATCA's assessment Decision and entitlement of Zakat Payer to calculate his Zakat base based on what was stated in his declaration, and overturn the Primary Department's Decision.

### Decision

**First:** Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No (IZD-2020-179) rendered in Case No. (Z-10278-2019) regarding tax assessment for 1439.

**Second: On Merits:** Accept Zakat Payer's appeal, overturn Decision of Primary Department, and cancel ZATCA's assessment Decision subject of the case, according to reasons and grounds set forth in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-216  
Case No.: Z-29556-2020

### Key words:

**Zakat - Objection to Zakat Assessment- Field Inspection Work - Headquarters Fire - Loss of Documents**

### Abstract

Appellant (Zakat Payer) filed this appeal seeking cancellation of the Primary Department's Decision No. (IFR-2020-96), regarding Zakat assessment subject of the case of 2013, since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure regarding calculating Zakat according to items in favor of ZATCA and neglecting the items in favor of Zakat Payer. The Department has proven ZATCA relied in its assessment on Zakat Payer's financial statements audited by a chartered accountant, which indicates soundness of Zakat Payer's position. This is not affected by what ZATCA indicated in the field inspection report regarding absence of regular documents and books. Zakat Payer submitted to this Department a document proving the loss of these documents as a result of a fire at the company headquarters. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item:** Zakat Assessment for 2013:

The Zakat Payer argued that the company confirmed in the field inspection reports that there were no regular documents and records. This was due to a fire at the company's factory. A statement from the General Directorate of Civil Defense was attached, stating that the data on electronic devices was recovered by professionals and submitted to ZATCA's inspection official. The Zakat Payer also argued that calculating Zakat only on the elements that weigh in favor of ZATCA and disregarding otherwise is against Sharia provisions and the Implementing Regulations for Zakat Collection. Rather, the items that in favor of the Zakat Payer should be deducted as well especially since the financial information has been sourced from a single financial statement. The Zakat Payer requested that Zakat be recalculated based on all items in the financial statements on which ZATCA relied.





## Arguments of the respondent (ZATCA)

### Item: Zakat Assessment for 2013:

ZATCA stated that during the field inspection phase, Zakat Payer reported that there was no accounting system for 2010 to 2015 AD, and then it became clear to ZATCA through the data available to it that financial statements of 2010 to 2015 were issued, other than those submitted to ZATCA during the field inspection phase, issued by ..... Office. Through these financial statements, it is found that there was a fundamental difference in values of the assets, liabilities and results of Company's business contained in these financial statements submitted at the time of field inspection. The last paragraph of notification explaining results of field inspection indicates that ZATCA verified the company's responsibility for issuing these statements. Accordingly, ZATCA believes that Zakat dues should be calculated on the company in the light of existence of financial statements that differ from those submitted to ZATCA by Zakat Payer. Having reviewed Note No. (21) of the financial statements reissued in 2015 by ..... Office, it is evident that the comparative year (Opening Year of 2015, i.e. 2014 Balances) has been amended due to exclusion of an activity that does not pertain to the company. Therefore, since the Primary Department has established that financial statements of disputed years are incorrect, and since multiplicity of Zakat Payer's financial statements naturally leads to dissatisfaction and reliance on the said financial statements, since it is not known which statement is more correct than the other, which indicating the validity of ZATCA's procedure for carrying out estimated assessment on Zakat Payer and relying on data available thereto based on the provisions of Article 13.8 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. If this Department sees the necessity of assessing based on financial statements, ZATCA requests that the Decision include what indicates that it shall carry out assessment based on financial statements without this conflicting with the principle of prescription.

## Committee's Response to Defenses.

It is established to this Department that ZATCA relied in its assessment on Zakat Payer's financial statements audited by a chartered accountant. It is also established to the Department that ZATCA took positive items in Zakat base from those financial statements and refrained from taking the effect of negative items on Zakat base. It is practically inconceivable, according to the nature of Zakat Payer's activity and capital, to carry out business of that company without the existence of operational assets, and since ZATCA relied on those financial statements and there was no evidence of any challenge to those audited financial statements, which establishes soundness of Zakat Payer's position. This is not affected by what ZATCA indicated in the field inspection report regarding absence of regular documents and books. Zakat Payer submitted to this Department a document proving the loss of these documents as a result of a fire at the company headquarters. The Department did not find any negligence or intentionality on the part of Zakat Payer to destroy these documents, which makes it clear that Zakat Payer is entitled to be held accountable for Zakat in accordance with the financial statements on which ZATCA relied in its assessment. Therefore, the Department concludes to accept Zakat Payer's appeal and overturn the Primary Department's Decision regarding Zakat Payer's objection.



## Decision

**First:** Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No (IFR-2020-96) rendered in Case No. (Z-6884-2019) regarding tax assessment for 2013.

**Second: On Merits:**

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-229  
Case No.: ZI-25724-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Suppliers and Advance Payments that had a Year Passed on them - Case Remanded**

### Abstract

Appellant (Zakat Payer) filed his appeal seeking cancellation of the Primary Department's Decision No. (IZD-2020-113), on Zakat assessment of 2016. Zakat Payer's appeal with regard to (Suppliers and Payments that have completed a full year) lies in objection to the Primary Department's upholding of ZATCA's procedure of subjecting amounts that a year has not passed thereon to Zakat. Since this item consists of two elements, suppliers and advance payment customers. Since the Department's consideration of these two elements as a single item in the reasons and wording of Decision has resulted in Zakat Payer submitting his appeal on part of this item related to suppliers despite his approval of ZATCA's procedure regarding customers of advance payments. Therefor, Zakat Payer's appeal shall be accepted and the case shall be returned.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item:** Suppliers and Advance Payments:

The Zakat Payer argued that this item should be deducted from the Zakat base, as a year has not passed on the full amount of this item. A trial balance was attached to show the detailed transactions. A financial analysis was also prepared for each account, showing the beginning balance and payment method. Accordingly, the balances paid at the beginning of the year are not carried forward and have not have a year passed on it.



### Arguments of the respondent (ZATCA)

**Item: Suppliers and Advance Payments:**

ZATCA argued that it added the lesser of the opening and closing balances, considering that a year has passed on them. ZATCA based its procedure on Fatwa No. (22665) of 1424 AH, Fatwa No. (2/3077) of 1426 AH, and paragraphs (5) and (4) of Article (4) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

### Committee's Response to Defenses.

Since it turned out that this item consists of two elements, namely suppliers and advance payment customers. Since the Primary Department considered such two elements as a single item in Decision reasons and wording. Thereupon, Zakat Payer filed a partial appeal regarding this item related to suppliers, despite that fact that Zakat Payer stratified with ZATCA procedure regarding customers of advance payments. Since the Primary Department did not explain in reasons of its Decision the justification for not considering such two items independently. Since the rules of justice require enabling Zakat Payer and ZATCA to litigate in a manner that enables both parties to object thereto and submit their appeal in accordance with the relevant rules that require submitting justifications for the appeal against the contested item. Since the Primary Department adjudicated such two elements as a single one rather than addressing each of such two items separately. Therefore, this Department overturns Primary Department's Decision and remands the case to the Primary Department to reconsider this item after hearing stance of both parties in the (Suppliers) item and (Advance Payments) item separately.

### Decision

**First:** Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No. (IZD-2020-113) delivered in Case No. (ZI-6055-2019) in connection with Zakat assessment for 2016.

**Second: On Merits:**

Cancel Decision of the First Department for Determination of Income Tax Violations and Disputes In Dammam, and return the case to it to consider the item (Suppliers and Advance Payments that Have Completed a Full Year) again, according to reasons and grounds contained in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-231  
Case No.: Z-37417-2021

### Key words:

**Zakat** **Objection to Zakat Assessment - Zakat Expense - investments - Unrealized Losses from Investments**

### Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (IZD-2020-281) delivered by the Primary Department regarding Zakat Assessment of 2011 to 2015 AD, As for Zakat Payer's appeal regarding (Zakat Expense for 2015) item, Zakat Payer's appeal involves objecting to adding an amount of SAR 84,143 by ZATCA that is not reflected in the financial statements as a Zakat expense. As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2015) item, Zakat Payer's appeal involves requesting that the addition of amounts to Zakat base be limited to SAR 31,516,295 that completed a full year and excluding otherwise amounts. As for Zakat Payer's appeal regarding (Creditor Banks for 2015) item, Zakat Payer's appeal involves objecting to the addition of this item to Zakat base. As for Zakat Payer's appeal regarding (Investments for 2015) item, Zakat Payer's appeal involves objecting to the addition of this item to Zakat base. As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2014) item, Zakat Payer requested that only the amount of SAR 39,183,411 be added to the Zakat base for the passage of a year on it. As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2013) item, Zakat Payer's appeal involves requesting that the addition of amounts to Zakat base be limited to SAR 42,313,681 that completed a full year and deducting otherwise. As for Zakat Payer's appeal regarding (Creditor Banks for 2013) and (Investments for 2013) items, Zakat Payer's appeal involves objecting to the addition of these two items to Zakat base. As for Zakat Payer's appeal regarding (Investments for 2013 AD) and (Unrealized Losses from Investments for 2013) item, Zakat Payer's appeal involves objecting to the non-deduction of this item from Zakat base. The Department, having reviewed ZATCA's assessment, found that the assessment have been made on 26/07/1439 AH, which shows that the assessment for the years 2011 and 2012 was made more than five years after the statutory deadline for ZATCA's right to assess the Zakat Payers, with regard to the item (Zakat expense for 2015), it was found that from revenues the Zakat expense have not been deducted and therefore they should not be added to the net profit, and the item (Owner's current account for 2015) and the item (Creditor Banks for 2015), the Zakat Payer did not present to this Department proof for his claims, and the item (Investments for 2015), it was found that this item consists of real estate and shares and that the Zakat Payer is charged according to his accounts. As for the item (Unrealized losses from investments for 2015), the accounting treatment for unrealized losses in investments requires recognizing the loss in the income statement and deducting the loss amount from the Investment balance. Therefore, the Department accepts Zakat Payer's appeal regarding (Investments) item and (Unrealized Losses from Investments) item and dismisses otherwise requests.



## Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First:** Zakat Expense:

The Zakat Payer argued that the Zakat provision amounted to SAR 157,719, as shown in the financial statements, and that net profits before the Zakat Provision amounted to SAR 2,495,482. The Zakat payer noted that the financial statements do not show the SAR 84,143 added by ZATCA as Zakat expense.

#### **Item Second:** Investments:

The Zakat Payer argued that investments at the end of the year amounted to SAR 7,903,089 , representing real estate investments amounting to SAR 7,144,776 and investments in company shares amounting to SAR 758,313 . The Zakat Payer indicated that with regard to real estate investments, ZATCA deducted the value of two properties related to the Company's business but did not accept the deduction of two other properties in the owner's name. The Zakat Payer requested that if the investments were not accepted, this amount should be considered as withdrawals for the owner, which would reduce the owner's current account. Regarding equity investments, there was no sale activity, indicating that they are long-term investments that must be deducted.

#### **Item Third:** Unrealized Losses from Investments:

The Zakat Payer argued that unrealized losses from equity investments amounted to SAR 2,482,251, and this amount must be deducted from the Zakat base because the value of the investments decreased by the value of these losses.

### Arguments of the respondent (ZATCA)

#### **Item First:** Zakat Expense:

ZATCA argued that it upholds the Primary Department's Decision, as it was consistent with the judicial principle of "the burden of proof is on the claimant," and the Zakat Payer did not provide supporting documents to support his claim.

#### **Item Second:** Investments:

ZATCA stated that it upholds the Primary Department's Decision, for being consistent with the provisions of Paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Ministerial Letter No. (8676/4) dated 12/24/1440 AH.

#### **Item Third:** Unrealized Losses from Investments:

ZATCA stated that it upholds the Primary Department's Decision, for being consistent with the provisions of Paragraph (2) of Article (6) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Ministerial Letter No. (8676/4) dated 12/24/1440 AH.



## Committee's Response to Defenses.

### **Item First:** Zakat Expense:

The dispute between the parties involves ZATCA procedure outlined in adding an amount of SAR 84,143 that is not reflected in the financial statements as Zakat expense. Having reviewed Zakat declaration for the year in question, the Department found that the revenues were not decreased by Zakat expense. Therefore, such revenues should not be added to the net profit. In addition, ZATCA argument that Zakat expense in the trial balance does not match the financial statements is not valid, as the inclusion of the amount in trial balance does not indicate that it is a final amount due to the fact that the trial balance is not considered a final financial statement, because it is subject to adjustments according to accounting practices. In addition, the existence of this expense does not mean that it is deducted from profit for Zakat purposes. Since ZATCA did not provide any evidence to justify deviating from data presented in the financial statements. Therefore, the Department accepts Zakat Payer's appeal and overturns the Decision rendered the First Department for Determination of Income Tax Disputes and Violations in Dammam regarding this item.

### **Item Second:** Investments:

The Department found that this item comprises real properties and stocks. Since Zakat Payer is assessed based on its statutory accounts, the rejection of deducting real estate from Zakat base on the ground that it is not used in business activities must be balanced by excluding the same amount from total equity in accordance with the principle of balance in financial statements. This principle states that every asset in the balance sheet corresponds financing on liability and equity side. Since ZATCA has not proven that the non-deducted real properties are considered trading assets and did not exclude a corresponding amount from equity to reflect these non-deducted assets, Zakat Payer is entitled to deduct these real properties from its Zakat base. As for investment in shares of Saudi companies, since it turns out that these shares were not held for trade and there was no evidence of active sale activity. Therefore, Zakat Payer shall be entitled to deduct such investments from its Zakat base. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam regarding this item.

### **Item Third:** Unrealized Losses from Investments:

It was found that the dispute pertains to unrealized losses resulting from long-term investments in company shares. Since the accounting treatment of unrealized losses in investments requires recognizing loss in income statement and decreasing investment balance by the amount of loss. Thereupon, Zakat Payer is entitled to deduct the loss for Zakat calculation purposes in return for deducting investment from Zakat base decreased by the amount of such loss. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam regarding this item.





## Decision

**First:** Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No (IZD-2020-281) rendered in Case No. (Z-7745-2019) regarding Zakat assessment for years from 2011 to 2015.

**Second: On Merits:**

1. Accept Zakat Payer's appeal regarding all appealed items for years from 2011 to 2012 and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam regarding such items according to reasons and grounds stated herein.
2. Accept Zakat Payer's appeal regarding (Zakat Expense for 2015) item and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
3. Dismiss Zakat Payer's appeal regarding (Owner's Credit Current Account for 2015) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
4. Dismiss Zakat Payer's appeal regarding (Creditor Banks for 2015) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
5. Accept Zakat Payer's appeal regarding (Investments for 2015) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
6. Accept Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2015) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
7. Dismiss Zakat Payer's appeal regarding (Owner's Credit Current Account for 2014) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
8. Dismiss Zakat Payer's appeal regarding (Creditor Banks for 2014) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
9. Accept Zakat Payer's appeal regarding (Investments for 2014) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
10. Accept Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2014) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
11. Dismiss Zakat Payer's appeal regarding (Owner's Credit Current Account for 2013) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
12. Dismiss Zakat Payer's appeal regarding (Creditor Banks for 2013) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
13. Accept Zakat Payer's appeal regarding (Investments for 2013) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.
14. Accept Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2013) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Dammam according to reasons and grounds stated herein.



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

Decision No.: IR-2022-233  
Case No.: Z-28856-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Transfer of Ownership of Company - Company's Liability is Inseparable from Its Owner**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision No. (IZD-2020-202), regarding Zakat assessment for 2011 and 2012. Zakat payer's appeal is based on its objection that the Primary Department dismissed its claim in form. The Department found that ZATCA had assessed Zakat on [...], and that the ownership of the Enterprise had been transferred to [...] after the disputed years, as evidenced by the Enterprise's commercial registration. However, Zakat assessment was issued in the name of the previous Owner of the Enterprise. The Department further noted that the financial liability of the enterprise is inseparable from the liability of its owner. As such, the Department decided to accept the Appeal Zakat payer's appeal.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**First:** Making Assessment for Deceased Owner of a Company:

The Zakat Payer argued that the person who owned Company had died and stated that he wanted to pay Zakat on him to clear his liability.

#### Arguments of the respondent (ZATCA)

**First:** Making Assessment for Deceased Owner of a Company:

The Zakat Payer did not submit his objection within the legally-prescribed period, based on Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH.



### Committee's Response to Defenses.

It was found that ZATCA's assessment was made against (...). However, the ownership of the enterprise was transferred to (...) after the disputed years, as evidenced by the Enterprise's commercial registration. However, Zakat assessment was issued in the name of the previous Owner of the Enterprise. Since financial liability of an enterprise is inseparable from its owner. Therefore, Zakat debt is considered a personal debt of the enterprise's owner during the years subject to the assessment. Based on these findings, this Department concludes that ZATCA is not entitled to claim Zakat from Zakat payer (B) for the years prior to his ownership of the Enterprise. The fact that Zakat payer did not initially object to the assessment before ZATCA does not affect this conclusion, as he was not Zakat payer liable for Zakat during the years subject to the assessment. Therefore, his claim does not pertain to an assessment of Zakat against him. Consequently, this Department decides to uphold Zakat payer's appeal, overturn the primary Decision, and declare that ZATCA is not entitled to claim Zakat from (B) for the years prior to his ownership of the enterprise.

### Decision

**First:** In form, Accept the appeal filed by Zakat payer/ (.....) Enterprise, CR. No. (.....), TIN No.(.....), against First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No. (IZD-2020-202), issued in Case No. ((Z-10316-2019), in connection with Zakat assessment for 2011 and 2012.

**Second: On Merits:** Accept the appeal filed by Zakat payer and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes In Dammam, in accordance with the grounds and merits mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IIR-2022-236  
Case No.: Z-28572-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Suppliers - Lands**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZJ-2020-142), regarding Zakat assessment for 2016. Regarding Zakat payer's appeal concerning the items (Suppliers), (Liabilities against leased assets), and (Land), Zakat payer's appeal is based on its objection to the Primary Department's upholding of ZATCA's Decision to exclude the balance of these items from Zakat base. The Department has found, with respect to item (suppliers), that Zakat payer has paid a total of (SAR 15,501,270.99) from the opening balance of (SAR 17,799,672.71), leaving a balance of (SAR 2,298,401.72), as a whole lunar year has passed on this amount. Regarding the item (liabilities against leased assets), the applicable fatwas related to this item state that any financing obtained by Zakat payer, regardless of its source or classification, is added to Zakat base when a full lunar year has passed or when it finances an asset that has been deducted from Zakat base. Regarding the item (land), the audited financial statements are considered a valid document for proving the amounts related to Zakat base. Therefore, the Department ruled to accept the appeal with respect to (suppliers) and (land), and reject the appeal with respect to (liabilities against leased assets).

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First: Suppliers:**

The Zakat Payer argued that the balance of suppliers, amounting to SAR 6,534,711, should be deducted from the Zakat base for 2016. These suppliers are not "creditors", as they did not lend the company cash that could be rotated more than once during the year or used to finance various aspects of the company's activities. Therefore, their balances would be subject to the fatwa issued by the Grand Mufti in his letter No. 3077/2, dated 08/11/1426 AH. Accordingly, the accounting and Zakat adjustments made to the suppliers' accounts in the company's books and the resulting account balances are valid. The transaction in the suppliers' balances account has been attached to the Primary Department and is included in the appeal.

#### **Item Second: Lands:**

The Zakat Payer argued that the land item should be deducted from the Zakat base for 2016, as the area in which the land is located does not have title deeds, but rather contracts, as attached. A warehouse was built on it for the purposes of the Appellant company's business.

### Arguments of the respondent (ZATCA)

#### **Item First: Suppliers:**

ZATCA argued that it added the suppliers item, which had a year passed on it, amounting to SAR 6,534,711 to the Zakat base, in accordance with Sharia Fatwas No. 1570/2 of 1405 AH, 2384/2 of 30/10/1406 AH, 18497 of 18/11/1408 AH, and 22665 of 15/01/1424 AH, and 23408 of 1426 AH. Based on Article (4.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH,

#### **Item Second: Lands:**

ZATCA argued that deducting lands from Zakat base is contingent upon submitting a proof of ownership, or that reasons for why the ownership has not been transferred in the Company name. However, Zakat Payer failed to provide any supporting documents. Therefore, deduction for these amounts has been disallowed in accordance Article (4.1) and Article (20.3) of Implementing Regulations for Zakat Collection issued in 1438 AH. Accordingly, ZATCA maintained the validity and integrity of its action.



## Committee's Response to Defenses.



### Item First: Suppliers:

It was found that Zakat payer paid a total of (SAR 15,501,270.99) from the opening balance of (SAR 17,799,672.71), leaving a balance of (SAR 2,298,401.72), as a full lunar year has passed on this amount. This Department decides to amend the primary Decision by reporting the addition of (SAR 2,298,401.72) to Zakat payer's Zakat base, and exclude the remaining amount disputed in this item.

### Item Second: Lands:

Given that Zakat payer calculates Zakat based on its systematic accounts and audited financial statements, and since any asset in the balance sheet is matched by a corresponding funding amount to balance the budget, and given that the rejection of deducting a non-Zakatable asset from Zakat base necessitates the exclusion of an equal amount from the sources of funding, and that ZATCA rejected deducting the asset but did not simultaneously exclude a corresponding funding amount, and that the impact on Zakat base is the same whether the asset and its funding are excluded or retained, and that the audited financial statements are a document relied upon to prove amounts related to Zakat base, the Department therefore has decided to accept Zakat payer's appeal and overturn the primary Decision in this regard.

## Decision

**First:** In form, Accept the appeal filed by Zakat payer/ Company (...), CR. NO. (...), TIN No (...), against First Department for Determination of Income Tax Violations and Disputes In Jeddah Decision No (IZJ-2020-142) issued in Case No. (Z-9265-2019) in connection with Zakat assessment for 2016.

### Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (suppliers), and amend the Decision issued by First Department for Determination of Income Tax Violations and Disputes In Jeddah to include (SAR 2,298,401.72) to Zakat payer's Zakat base, excluding the rest, based on the grounds and merits mentioned herein.
2. Dismiss Zakat payer's appeal regarding the item (liabilities against leased assets), and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes In Jeddah, based on the grounds and merits mentioned herein.
3. Accept Zakat payer's appeal regarding the item (land), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes In Jeddah, based on the grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-262  
Case No.: ZI-21519-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Loans and advances from partners – Remuneration and incentives – Contributions – Technical Fees, Board Fees, and Dividends – Investments**

### Abstract

The Appellant s (Zakat Payer/ZATCA) requested to cancel the Primary Decision No. (Z-94-2018) regarding the Zakat assessment for the years 1998 to 2010. Regarding these appeals, the Department established that ZATCA's assessments for the years 1998 to 2000 and for the years 2004 to 2010 were after the legally-prescribed period for amending the Zakat Payer's declaration had passed. AS for ZATCA's appeal regarding the item (contributions, loans, and advances from partners) for covering the losses of affiliates for the years 2001 and 2002, ZATCA claimed that the loss coverage was not subject to Zakat in the affiliates during the year of coverage and was added to the company's accounts, so it was not deducted being non-deductible expenses. As for the Zakat Payer's appeal regarding the item (Remuneration and incentives for the years 2001 to 2003), the Zakat Payer claimed that these expenses should be deducted because they are supported by documents and necessary for the income-generating activity. As for the item (technical fees, board of directors' fees, and dividends for the years 2001 to 2003), the Zakat Payer claimed that this item should be deducted to avoid double taxation. Regarding the item (investments for the years 2001 to 2003), the Zakat Payer claimed that this item should be deducted because the purpose of these investments was acquisition and they had not have a year passed on them. Accordingly, the Department ruled to dismiss ZATCA's appeal and accept the Zakat Payer's appeal regarding all items except foreign investment for the years 2001 to 2003.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)





## Parties' Defenses

### Defenses of Appellant (Taxpayer)

**Item First:** As for the Item (Remunerations and Incentives for the period 1998 - 2007 AD).

The Zakat Payer argued that these expenses were incurred in the course of usual business and that they had been paid and had not remained with the company for twelve months.

**Item Second:** Technical fees, board fees, and distributed dividends:

The Zakat Payer argued that the technical fees received from .....Company were subject to Zakat and tax in the affiliated company, and to the ends of justice, this income should not have been subject to Zakat in the same year in which (.....) Company has paid due Zakat. Regarding board fees, the Zakat Payer stated that they should have been deducted to avoid double taxation, as they were subjected to Zakat in the affiliates. Regarding dividends, they were also double taxed, as they were subject to Zakat in the current year's profit and were again subject to Zakat in the same year's profit of the investee companies.

**Item Third:** Investments:

The Zakat Payer argued that the deduction of investments in the stock portfolio for all years from 2005 to 2010 was acceptable, given that the management's intention was to retain the investments for the long term for the purpose of capital increase rather than short-term profit. He also argued that government bonds should be deducted from the Zakat base, as they were funds that had left the company in the form of investments and had not remained with the company for twelve months.

### Appellant Defenses (ZATCA)

**Item First:** Remuneration and Incentives:

ZATCA stated that it added Remuneration and Incentives to the Zakat base based on Paragraph (1) of Article (5) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Paragraph (2) of Article (6) of the same regulations.

**Item Second:** Technical Fees:

ZATCA argued that the expenses are not legally deductible, in accordance with ZATCA's Letter No. (5097/10) of 1423 AH and based on Paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection.

**Item Third:** Investments:

ZATCA stated that the Department accepted the documents submitted by the Zakat Payer, even though these documents were requested during the examination and objection stage and the Zakat Payer did not submit them.

**Fourth Item** Contributions (loans and advances from partners) to cover losses of affiliates:

ZATCA stated that the loss coverage, which the Zakat Payer claims was provided as advances and loans to affiliates, was not subject to Zakat for the affiliates in the coverage year. Furthermore, it was added to the company's accounts. Therefore, ZATCA did not accept the deduction of these amounts from the Zakat base, for being an expense that cannot be deducted. Furthermore, the conversion of the item to loans and contributions to the affiliated company does not change the nature of the item, which was confirmed by the appellate department (as an expense added to the income statement). If the Zakat Payer's claim that the item is loans and advances to affiliates is proven, then the amount that should be deducted from the Zakat Payer's Zakat base is limited to the percentage of the contribution to the capital of the affiliates.



## Committee's Response to Defenses.

### **Item First:** Contributions (loans and advances from partners) to cover losses of affiliates:

Having reviewed ZATCA's appeal and examined the Case file, the Department found that Zakat Payer's contribution to cover losses of subsidiary companies, whether to comply with corporate law or as a voluntary act, is considered an investment in those companies which is deductible from Zakat Payer's Zakat base. Given that this Department has verified based on Zakat Payer's financial statements that Zakat Payer has covered the losses of the investee companies, this Department decided to reject ZATCA's appeal and uphold the primary Decision.

### **Item Second:** Remuneration and Incentives:

After reviewing Zakat Payer Appeal and examining Case file, it was established that all regular and necessary expenses required for performing activity—whether paid or due—may be deducted if they are actual expenses supported by documents or any other evidence that enables ZATCA to verify the same. It is worth noting that Zakat shall be imposed on funds kept in the possession of Zakat Payer for a complete year. However, it was proven that such funds were released by Zakat Payer and paid to fulfill employee remunerations and incentives, and this matter did not constitute a subject of any dispute. ZATCA arguments regarding the legality of these remunerations and the necessity for adopting procedures stipulated by Labor Law when dealing therewith are irrelevant to calculating Zakat transaction or including the related funds in Zakat base of Zakat Payer or not, since such regulatory procedures are aimed at achieving another purpose, which is protecting employee rights in establishments. As such, the Department concluded that the entire amount is deductible when calculating Zakat, in contrast to the Primary Department Decision. Therefore, the Department decided to accept Zakat Payer Appeal and overturn the Primary Department Decision reached in this regard.

### **Item Third:** Technical fees, board fees, and distributed dividends:

After reviewing Zakat Payer Appeal and examining Case file, the Department found that ZATCA refused to deduct the disputed amounts based on the grounds that Zakat Payer failed to submit copies of the Adjusted Zakat assessments of affiliates for the years being disputed. Whereas Zakat assessments amended pursuant to appellate Decisions are considered Decisions issued by ZATCA, and ZATCA has full access thereto, this shall not constitute a justification for ZATCA to reject Zakat Payer declaration based on the allegation that Zakat Payer failed to submit such assessments, especially given the fact that such assessments were related to a legal person that is separate from Zakat Payer, and since the Department request for Zakat Payer to submit the supporting documents for the disputed amounts is unreasonable, considering that Zakat Payer failure to provide supporting documents for the disputed amounts was not the basis for ZATCA Decision. As a result, the Department decided to accept Zakat Payer Appeal and overturn the Primary Department Decision reached in this regard.

### **Fourth Item Investments:**

The department, having reviewed the appeal submitted and having examined the contents of the case file, found that the investments subject matter of appeal that this Department accepted to consider consist of foreign investment in ..... Company, and investments in government bonds, and since the Zakat Payer did not submit the audited financial statements of the foreign company from a certified accountant in the country of investment, this Department concludes to dismiss the Zakat Payer's appeal regarding this investment. With regard to investment in government bonds for the years from 2001 AD to 2003 AD, and since the bonds are considered in principle debt instruments are treated like all other types of debt with regard to the Zakat assessment, with the exception stipulated in Ministerial Resolution (32/925) dated: 25/05/1409 AH, which provides that Zakat Payer shall be exempted from paying Zakat to ZATCA on the bonds held in possession, since this resolution is related to the procedural aspect represented in collecting Zakat by ZATCA and has nothing to do with releasing Zakat Payer from its Zakat obligation.



Accordingly, the Department decided to accept Zakat Payer Appeal regarding ZATCA ineligibility to collect Zakat on those bonds for the disputed years.

### Decision

**First:** In form, accept the Appeal filed by Zakat Payer/ .....Company, C.R. No. ...., TIN No....., and the Appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes In Jeddah Decision No. (IZJ-2020-50), issued in Case No. (Z-94-2018) with relation to Zakat assessment for the period (1998 - 2010 AD).

**Second: On Merits:**

1. Dismiss both ZATCA Appeal and Zakat Payer Appeal with regard to all appealed items for the period (1998 - 2000 AD) and the period (2004 - 2010 AD), overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Jeddah in this regard, and confirm Zakat calculation based on Zakat Payer declarations for these years, in accordance with grounds and merits mentioned herein.
2. Dismiss ZATCA Appeal with regard to Item (Loans and Advances from Partners) aimed at covering losses of affiliated companies for the years 2001 AD and 2002 AD, and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Jeddah, in accordance with grounds and merits mentioned herein.
3. Accept Zakat Payer Appeal regarding Item (Remunerations and Incentives for the Period 2001 - 2003 AD) and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Jeddah, in accordance with grounds and merits mentioned herein.
4. Accept Zakat Payer Appeal regarding Item (Technical Fees, Board Remunerations and Dividends for the Period 2001 - 2003 AD) and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jedda, in accordance with grounds and merits mentioned herein.

As for Item (Investments for the Period 2001 - 2003 AD):

- A. Dismiss Zakat Payer Appeal regarding foreign investment for the period (2001 - 2003 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Jeddah, in accordance with grounds and merits mentioned herein.
- B. Accept Zakat Payer Appeal regarding Investment in Government Bonds for the period (2001 - 2003 AD), and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Jeddah, in accordance with grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-274  
Case No.: Z-28103-2020

### Key words:

**Zakat - Objection to Zakat Assessment- Accounts Payable - Advance Payments from Customers - Upholding the Primary Decision**

### Abstract

Appellant (Zakat Payer/ZATCA) filed its appeal to request cancellation of the Primary Department Decision No. (IZD-2020-167) on 2016 Zakat assessment. With regard to Item (Accounts Payable), Zakat Payer filed its appeal to challenge the Primary Department Decision, which confirmed ZATCA action represented in imposing Zakat on all item amount. Zakat Payer claimed that it is invalid to recognize all Zakat base obligatory components without taking into consideration payable and receivable accounts and it was evidenced that the amount of (SAR 662,865) was held for a complete year when reviewing account activity. With regard to Item (Advance Payments Provided by Customers), Zakat Payer filed its appeal to challenge ZATCA action represented in imposing Zakat on the full amount, as Zakat Payer claimed that such amount was not possessed for a complete year. While ZATCA made its Appeal to challenge confirmation of Zakat Payer objection by the Primary Department regarding this item. ZATCA argued that it requested addition of items that completed one year in Zakat base, and Zakat Payer was requested to present item related account activity, but it failed to do the same. Since the dispute was centered around documentation matters in form, and since the documents provided by Zakat Payer proved that the Advance Payments Item did not complete a whole year; therefore, the Department decided to dismiss Zakat Payer Appeal regarding Item (Accounts Payable), disregard Zakat Payer Appeal with relation to Item (Advance Payments Provided by Customers), and dismiss ZATCA Appeal with regard to Item (Advance Payments Provided by Customers).

### Documents:

- [Article \(23\) of Tax Dispute and Violation Department Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

**Item First:** Accounts Payable for 2016:

The Zakat Payer argued that the balance of SAR 662,865 had been added to the Zakat base, calculating the elements that are subject to Zakat while disregarding the debit and credit transactions. The balance that had not have a year passed on it according to the statement was SAR 155,441.

**Item Second:** Advance Payments from Customers:

The Zakat Payer argued that a year has not passed on this item, as it was paid during the fiscal year.

### Appellant Defenses (ZATCA)

**Item First:** Accounts Payable for 2016:

ZATCA argued that it had added the accounts payable balance according to the financial statements after adding the lesser of the opening and closing balances, considering that a year had passed on the lower balance. This was based on the provisions of Paragraph (5) of Article (4) of the Implementing Regulations for Zakat Collection, Paragraph (3) of Article (20) of the same regulations, Fatwa No. (3077/2) of 1426 AH, and Fatwa No. (2384/2) of 1406 AH.

**Item Second:** Advance Payments from Customers:

ZATCA maintained the validity and soundness of its procedure and referred to its appeal statement submitted before this department.

## Committee's Response to Defenses.

**Item First:** Accounts Payable for 2016:

Upon careful consideration of dispute subject matter, examining all papers and documents contained in case file, and following up account activity, it was evidenced that a year had passed over the amount of (SAR 662.865). The Department was also satisfied with the validity of the appealed Decision reached by the Primary Department, and that the grounds adopted for issuing such Decision were sufficient to support the same. Therefore, the Department decided to reject Zakat Payer Appeal and uphold the Decision taken by the Primary Department in this regard.

**Item Second:** Advance Payments from Customers:

The Department, having examined the dispute and reviewed the Case file and the documents contained therein, and based on the Primary Department Decision, which accepted Zakat Payer objection, the Department decided to dismiss the Appeal filed in this regard.



## Decision

**First:** In form, accept the appeal filed by Zakat Payer/ ..... Company, C.R No. (.....), TIN No. (.....), against First Department for Determination of Income Tax Violations and Disputes In Dammam Decision No. (IZD-2020-167) issued in Case No. (Z-8171-2019) with regard to 2016 Zakat assessment.

**Second: On Merits:**

1. Dismiss Zakat Payer Appeal regarding Item (2016 Accounts Payable) and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Dammam in accordance with grounds and merits mentioned herein.
2. Disregard Zakat Payer Appeal with regard to Item (Advance Payments Provided by Customers) in accordance with grounds and merits mentioned herein.
3. Dismiss ZATCA Appeal with regard to Item Advance Payments Provided by Customers for the Year 2016 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Dammam in accordance with grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-280  
Case No.: Z-27696-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Prescription of Period for Making Amendments.**

### Abstract

Appellant (Zakat Payer/ ZATCA) challenged the Primary Department Decision No. (IZJ-2020-107) with regard to Zakat assessment for the period (2001-2008 AD). Upon reviewing both appeal requests presented by Zakat Payer and ZATCA, the Department found that ZATCA assessment was performed after expiration of legally prescribed period for making amendments to Zakat Payer declaration, which is five years from the deadline for submitting Zakat Payer declaration for each year. It is worth noting that these rules are established to ensure the stability of transactions and to avoid leaving Zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item:** Assessment after Prescription of Period:

The Zakat Payer argued that he submitted his returns within the legally-prescribed period, and ZATCA did not inquire about any of them until the date of issuing its assessment on 13/10/2016. This indicates that ZATCA amended the assessment five years after the date of the declaration without justification.





### Committee's Response to Defenses.

The Department found that ZATCA assessment was performed after expiration of the prescribed period for making amendments to Zakat Payer declaration, which is five years from the deadline for filing Zakat Payer declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from its legal obligation if Zakat Payer is already concerned with fulfilling such obligation but rather outlines a procedural issue with relation to ZATCA right to assess Zakat Payer after expiry of prescribed period. Therefore, the Department concluded that ZATCA action represented in making amendments was invalid. Thereupon, the Department decided to cancel Zakat assessment performed by ZATCA for the dispute years, calculate Zakat imposed on Zakat Payer for the dispute years based on Zakat Payer declaration, and reverse the Primary Department Decision reached with regard to Zakat Payer assessment.

### Decision

**First:** In form, accept the Appeal filed by Zakat Payer/ .....Company, C.R. No. ...., TIN No....., and the Appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes In Jeddah Decision No. (IZJ-2020-107), issued in Case No. (Z-85-2018) with relation to Zakat assessment for the period (2001- 2008 AD).

**Second: On Merits:**

Cancel ZATCA assessment, subject matter of this appeal, overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes In Jeddah in this regard, and confirm calculation of Zakat based on Zakat Payer declaration for these years, in accordance with grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-282  
Case No.: Z-28950-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Financial Statements - Short-Term Loans - Long-Term Loans**

### Abstract

The Appellant s (ZATCA/ Zakat Payer) filed this case to abolish Decision No. (IZJ-2020-118) delivered by the Primary Department regarding Zakat Assessment for the period 2008 to 2013 AD, Regarding ZATCA's appeal on the formal aspect, the Department reviewed ZATCA's appeal and found that it was related to examining the Zakat Payer's objection to the assessment for the year 2008 AD, in which a primary Decision had previously been issued. As for ZATCA's appeal regarding (the Department's Decision to amend the Defendant's Decision regarding items "3-4-6-9-10-11-13-14-15" according to the precedence of the dates of preparation of the financial statements by the chartered accountant offices) and item (the balance of short-term loans for the years 2011 and 2012), which is related to what ZATCA stated in its appeal regarding unclarity of the Primary Department's Decision, and item (adding investments to the Zakat base) and item (adding fixed assets to the Zakat base), ZATCA objects to the Primary Department's Decision regarding the item (approval of financial statements), and the Zakat Payer also objects to the Primary Department's Decision regarding this item, and given that the Department established regarding (its Decision to amend the Defendant's Decision in items "3-4-6-9-10-11-13-14-15" according to the precedence of the dates of preparation of the financial statements by the chartered accountant offices) and the item (approval of financial statements) that ZATCA's assessment was after the expiry of the period stipulated by the law. With regard to the item (balance of short-term loans for the years 2011 and 2012), the dispute was in the source of the information regarding this item. For the item (adding investments to the Zakat base), since it was found that the legally-prescribed period for ZATCA's assessment has passed, the Zakat Payer's declaration should be adopted. As for the item (adding fixed assets to the Zakat base for the years 2009 to 2013), and with regard to the years 2009 and 2010, this Department decided that the period prescribed for ZATCA's assessment has passed, while for the years 2011 to 2013, the Department has decided to dismiss ZATCA's appeal and to amend the Zakat Payer's assessment. Accordingly, the Department decided to dismiss ZATCA's appeal regarding the formal defense and regarding (the Primary Department's Decision to amend the Defendant's Decision regarding items 3, 4, 6, 9, 10, 11, 13, 14, and 15), and regarding the item (adding investments to the Zakat base for the years 2008 to 2010), and regarding this item (adding fixed assets to the base for the years 2009 to 2013). The Department has also dismissed ZATCA's appeal regarding the unclarity of the Primary Department's Decision regarding the balance of short-term loans for the years 2011 and 2012, and accepted the Zakat Payer's appeal regarding the item (approval of the financial statements issued by ..... Firm for the years 2009 and 2010), and dismissed the Zakat Payer's appeal regarding the item (approval of the financial statements issued by ..... Firm for the years 2011 to 2013).



## Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### Item: Financial Statements:

The Zakat Payer argued that the elements of the administrative Decision were not complete due to the absence of the ground based on which the Decision was made. This was ZATCA's claim that the audited financial statements by Charter Accountants Firm (A) were not genuine, in addition to the Department's acceptance of the statements prepared by (B) Firm for the years 2009 and 2010, in order of issuance, is evidence that the Department believes the financial statements are not indisputable, sound and accurate, and reflect the reality and truth of the company's financial position. Furthermore, external government parties, such as the Ministry of Finance, have proven that the financial statements from the firm are accurate, which was verified by matching the contract submitted to the Ministry with those contained in the financial statements, matching the statements received from the GOSI with those recorded as expenses for wages and salaries in the financial statements, matching the bank balances with those contained in the financial statements, and the financial statements prepared in accordance with the requirements of the Saudi Companies Law and the auditor and reviewer of the financial statements of the firm licensed under the Certified Public Accountants Law. Moreover, the Primary Department issued its Decision based on the precedence of financial statements' issuance dates, and this is incorrect pursuant to accounting bases and principles and applicable methods for preparing financial statements and is contrary to the principle of equality of legal positions since financial statements reflect financial positions at a particular time and show the balances available through out that period, or in other words, closing balances, which are then considered as opening balances of the upcoming fiscal year. So, it is clear that the discrepancy between financial statements emerged as a result of amending company results by either party involved in the estimating equation to obtain funding from banks without any accounting errors or concealment. Additionally, as a result of the Primary Department Decision, the company was requested to pay amounts without taking into consideration that (70%) of the company shares were acquired by new owners who had no relation to the years of dispute but were concerned with paying imposed Zakat.

### Committee's Response to Defenses.

Zakat Payer's request to have its accounts audited by more than one certified accountant for the same year without any reference in the subsequent financial statements to the reasons for adjustment of balances reflected in the previous financial statements, is considered evidence of its intention to come up with a predetermined financial position or financial performance that is not reflected in the actual economic transactions and figures reflected in commercial books. It is worth noting that preparing more than one set of financial statements for the same year with different financial data, is considered a valid reason for disregarding the same if the subsequent financial statements do not include objective reasons for amending the previous ones. Moreover, recognizing different amounts in various financial statements could be attributed to invalidity of financial statements' presentation or incompleteness of accounting books. Since ZATCA did not



disregard Zakat Payer financial statements, the Primary Department decided to consider financial statements based on precedence of their revision, and the grounds adopted by the Primary Department were justified based on the fact that the oldest financial statements included information reflecting Zakat Payer financial position and business results; therefore, the Department decided to reject Zakat Payer Appeal and uphold the Primary Department Decision.

### Decision

**First:** In from:

Accept in form the Appeal filed by the Taxpayer ..... Company, C.R. No.. ....., TIN No....., and the Appeal filed by ZATCA against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No. (IZJ-2020-118), issued in Case No. (Z-131-2018), in connection with Zakat assessment for the period (2008-2013 AD).

**Second: On Merits:**

1. Reject ZATCA Appeal regarding the preemptory defense related to dismissing the Case due to previous adjudication therein, and uphold the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned herein.
2. With regard to Item (Approval of financial statements issued by (...) Office for the Period 2009-2013 AD):
  - A. Accept Zakat Payer's Appeal regarding this item for 2009 and 2013, and overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.
  - B. Dismiss Zakat Payer's appeal regarding this item for years from 2011 to 2013, and uphold the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.
3. Reject ZATCA appeal regarding (Primary Department's Decision by amending Defendant's Decision regarding Items Nos. (3), (4), (6), (9), (10), (11), (13), (14) and (15) based on precedence of financial statement preparation dates by chartered accounting offices), and amend ZATCA assessment based on the financial statements recognized by the Primary Department and upheld by this Department for the years for which ZATCA assessment is not prescribed according to reasons and grounds stated herein.
4. Disregard Zakat Payer Appeal regarding ambiguity the Primary Department Decision with regard to short-term loans for the years 2011 AD and 2012 AD, in accordance with grounds and merits mentioned herein.
5. Dismiss ZATCA appeal regarding (Adding Investments to Zakat Base for Years from 2008 to 2010) item, rely on Zakat Payer's declaration and overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.
6. With regard to ZATCA Appeal on Item (Adding fixed assets to Zakat base for the period 2009-2013 AD):
  - A. Dismiss ZATCA appeal regarding this item for 2009 and 2010, and decide relying on Zakat Payer's declaration according to reasons and grounds stated herein.
  - B. Dismiss ZATCA appeal regarding this item for years from 2011 to 2013, and decide amending ZATCA assessment based on the financial statements recognized by the Primary Department and upheld by this Department for years from 2011 to 2013 according to reasons and grounds stated herein.



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

Decision No.: IR-2022-305  
Case No.: Z-26390-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Revenues Earned Outside the Kingdom - Calculating Zakat on Adjusted Profit**

### Abstract

Appellant (ZATCA/ Zakat Payer) filed its Appeal to request cancellation of the Primary Department Decision No. (IZD-2020-136) with regard to Zakat assessment for the period (2005-2007 AD). Zakat Payer Appeal was centered around ZATCA assessment for 2005 AD. With regard to Item (Revenues Generated Outside KSA) and Item (Calculating Zakat Based on Adjusted Profit for the years 2006 AD and 2007 AD), Zakat Payer filed its Appeal to challenge the Primary Department Decision with regard to these Items. The Department found that ZATCA assessment for the year 2005 AD was performed after expiration of the legally prescribed period for making amendments to Zakat Payer declaration. With reference to Item (Revenues Generated Outside KSA), Zakat Payer failed to provide the documents proving payment of Zakat imposed on such foreign investments. As for Item (Calculating Zakat Based on Adjusted Profit for the years 2006 AD and 2007 AD), ZATCA calculated Zakat base based on its conclusions concerning the net adjusted profit, which is inconsistent with Sharia rules. Therefore, the Department decided to cancel ZATCA assessment for the year 2005 AD, dismiss ZATCA Appeal with regard to Item (Calculating Zakat Based on Adjusted Profit for the years 2006 AD and 2007 AD), and dismiss Zakat Payer Appeal regarding Item (Revenues Generated Outside KSA).

### Documents:

- [Zakat Law promulgated by Royal Decree No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article \(4\) of Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

**Item:** Revenues realized outside the Kingdom:

The Zakat Payer argued that profits earned from business conducted outside the Kingdom of Saudi Arabia should not be subject to taxation according to the territorial principle. He stated that the request for exemption from profits earned from business conducted outside the Kingdom was based on actual revenues and costs for the years 2005 to 2007.



### Committee's Response to Defenses.

he Department found that Zakat Payer is a Saudi company operating in providing catering and maintenance services for residential complexes and maintaining and installing electrical and mechanical equipment, and generates revenues from the works provided outside KSA through this activity. It is established that Zakat is imposed on capital and realized revenues, and no provisions of applicable laws require exempting foreign investments from Zakat. Also, Zakat Payer failed to provide any supporting documents proving payment of Zakat imposed on such foreign investments. Therefore, the Department decided that Zakat shall be imposed on such disputed funds. This does not contradict with the grounds adopted by Zakat Payer with regard to taxes and neutral territorial zones, since the mentioned principle regulates provisions of Income Tax Law. Therefore, the Department decided to reject Zakat Payer Appeal and confirm the Primary Department Decision reached in this regard.

### Appellant Defenses (ZATCA)

**Item:** Calculating Zakat on Adjusted Profit:

ZATCA argued that it deducted fixed assets within the limits of ownership rights in accordance with Article (4) of Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. ZATCA action was also supported Fatwa No. (23408), since the net profit of the two years being assessed is determined only based on closing accounts at the end of the fiscal year, and it cannot be determined whether the purchase of fixed assets during the year was made based on net profits or not, which will not be achieved and only determined at the end of the fiscal year. Consequently, ZATCA maintained the validity and integrity of its action.

### Committee's Response to Defenses.

It was clear that ZATCA calculated Zakat base based on its conclusions concerning the net adjusted profit, which is inconsistent with Sharia rules, as Zakat Payer is obligated to pay Zakat based on the funds available at the time Zakat becomes due and payable. So, the Zakat amount concluded by ZATCA based on adjusted net profit to represent the Zakat base is far away from reality, as it is established to impose Zakat based on net profit as a component of Zakat base; therefore, Zakat base amount is calculated through offsetting positive and negative elements to determine the due Zakat amount, regardless of whether it is less/more than the net profit. Therefore, using adjusted net profit to calculate Zakat base is not valid because profits resulting from revenues may not exist at the end of the year if they are spent by Zakat Payer to purchase an asset deducted from the Zakat base. Therefore, the lesson here is adopting a general and fundamental principle that could be applied for calculating Zakat base amount by ZATCA when making Zakat assessments without using a method for extracting the adjusted profit when Zakat base is less than the adjusted net profit. Consequently, there is no legal basis that required imposing Zakat based on adjusted net profit as the Zakat base used to calculate due Zakat as requested by ZATCA from Zakat Payer. As a result, the Department decided to dismiss ZATCA Appeal and confirm the Primary Department Decision reached in this regard.





## Decision

**First:** In form, accept the Appeal submitted by Zakat Payer/ .....Company, C.R. No. ...., TIN No. ... , and the Appeal submitted by ZATCA, against **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No. (IZD-2020-136), issued in Case No. (Z-9110-2019) with relation to Zakat assessment for the period (2005-2007 AD).

**Second: On Merits:**

1. Cancel ZATCA assessment for the year 2005, overturn the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Dammam** reached in this regard, and confirm calculation of Zakat based on Zakat Payer declaration for this year, in accordance with grounds and merits mentioned herein.
2. Dismiss Zakat Payer Appeal regarding Item (Revenues Generated Outside KSA) and uphold the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Dammam**, in accordance with grounds and merits mentioned herein.
3. Dismiss ZATCA Appeal with regard to Item (Calculating Zakat Based on Adjusted Profit), and uphold the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Dammam**, in accordance with grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-313  
Case No.: Z-24044-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Audited Financial Statements**

### Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (ISZR-2020-86) delivered by the Primary Department regarding Zakat assessment of 2013 and 2014 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision, claiming that ZATCA has made the assessment based on financial statements that do not reflect the reality and nature of its activity. The Department, regarding ZATCA's Assessment, found that Zakat Payer has failed to provide evidence of the re-issuance of the financial statements and their revision by a licensed auditor. As such, the Department, hereby, ruled to dismiss Zakat payer's appeal.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

##### **Item:** Financial Statements:

The Zakat Payer argued that ZATCA had approved financial statements that did not reflect Company's true financial position. Some issues have been detected within the financial and administrative department, which necessitated a reassessment of the financial position and the adoption of revised trial balances that reflected the true financial position.

#### Arguments of the respondent (ZATCA)

##### **Item:** Financial Statements:

ZATCA argued that the assessment was based on the results of the financial statements found on Qawaem System. ZATCA's Decision was consistent with the provisions of Paragraph (8) of Article (21) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and also consistent with Article (13) of the same regulations.



### Committee's Response to Defenses.

Since the trial balances is merely internal drafts for the purpose of preparing the financial statements that do not amount to be used as evidence against the audited financial statements; and since Zakat Payer failed to provide evidence of the re-issuance of the financial statements and their revision by a licensed auditor; and since this Department found that the conclusion reached by the Primary Department was sound and valid; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

### Decision

**First:** Accept Zakat Payer's (..... Institution, C.R No. ...., TIN No. ....) appeal against Decision No. (ISZR-2020-86) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-4583-2019) in connection with Zakat Assessment of 2013 and 2014 AD, in form.

**Second: On Merits:**

Dismiss the Appeal filed by Zakat Payer and affirm the Decision taken by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax  
Violations and Disputes in Riyadh

Decision No.: IR-2022-321  
Case No.: Z-28715-2021

**Key words:**

**Zakat – Objection to Zakat Assessment – Plea of Limitation – Non-Deduction of Dividends – Accounts Payable – Contributions Under Implementation – Notes Payable – Investments – Partners’ Current Account – Other Accounts Payable**

**Abstract**

The Appellant (ZATCA/ Zakat Payer) filed this case to abolish Decision No. (ISZR-2020-150) delivered by the Primary Department regarding Zakat Assessment of 1426 to 1434 AH, as Zakat Payer’s appeal included its objection to the Primary Department’s Decision regarding the following: 1. Item (Limitation of Assessment of 1426 to 1434 AH); 2. Item (Addition of shareholders’ accounts payable to Zakat Base); 3. Item (Contributions under implementation); 4. Item (Notes payable); 5. Item (Investments); and 6. Item (Other accounts payable). Zakat Payer’s appeal also included its objection to ZATCA’s procedure regarding item (Partners’ current account). The Department found that: As for item (Limitation of Assessment of 1426 to 1434 AH); ZATCA has no right to make Assessment on years in question, as the basis for calculating Zakat is meet of the condition of absolute ownership, and with the distribution of profits, such condition is dropped accordingly. As for items (Addition of shareholders’ accounts payable to Zakat Base) and item (Other accounts payable); these accounts payable were included in the statement of financial position, which indicates that they represent a source of funding that must be added to Zakat Base whenever it completes a Zakat Year or is being used to finance deductible assets. As for item (Contributions under implementation); the projects under implementation are not for sale in their current state; hence, they are not considered trade offers. As for item (Notes payable); they represent a source of funding that must be added to the Zakat Base whenever it completes a Zakat Year. As for item (Investments); the real estates in question were not intended for trade, which indicates that Zakat Payer is entitled to deduct the same from its Zakat Base. As for item (Partners’ current account); it was not included in the contested items upon considering the dispute before the Primary Department. The Department decided to accept Zakat Payer’s appeal on items: 1. (Limitation of Assessment of 1426 to 1434 AH); 2. (Non-Deduction of dividends from Zakat Base); 3. (Contributions under implementation); and 4. (Investments in real estates); Dismiss Zakat Payer’s appeal on items: 1. (Addition of shareholders’ accounts payable to Zakat Base); 2. (Notes payable); and 3. (Partners’ current account); and Accept ZATCA’s appeal on item (Other accounts payable).

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First:** Prescription of Assessment:

The Zakat Payer argued that ZATCA is not entitled to amend the declaration five years after the final date for filing the declaration. Furthermore, the Zakat Payer's right to invoke the statute of limitations at this stage may not be disregarded, even if it was not raised initially..

#### **Item Second:** Not deducting distributed dividends from the Zakat base:

The Zakat Payer argued that the profits were distributed to the shareholders, which indicates that Zakat Payer does not own the funds; hence, they are no longer in Zakat Payer's possession, as contributions are credited to their owners and reflected as accounts payable to shareholders. Upon using funds to purchase real estate assets, such funds are credited to shareholders' accounts payable in "contributions under implementation" account for the same persons. In addition, all costs and expenses incurred on the real estate or land are recorded in shareholders' costs account, compared to contribution sale value and profits or loss of contribution, and then distributed to shareholders during the year; hence, these amounts are profits of shareholders that have already been paid and received from shareholders in the same year without completing Zakatable year. Accordingly, Zakat on such amounts falls on the shareholder himself, as they are no longer in Zakat Payer's possession. Moreover, the dividends have been recognized in the income statement as actual distributions by check. The payment of these amounts can be verified from the cash flow statement that shows cash flows from operating and investing activities and their uses, beginning with net profits after deducting dividends. Therefore, the certified public accountant who certified the financial statements and issued an unqualified report based on the accounting standards approved by the Saudi Organization for Certified Public Accountants (SOCPA) is further evidence of the distributions. On the other hand, had these distributions not actually been paid or settled, they would have appeared in the balance sheet as balances subject to distribution.

#### **Item Third:** Accounts Payable:

The Zakat Payer argued that the balances of these accounts are not among the funds subject to Zakat, as they are not fully owned, nor are they considered available or usable sources of funds subject to Zakat. If they are used for trade assets, then, according to Fatwa No. 22665 dated 04/15/1424 AH, they must have been covered by another Zakat base that has been subject to Zakat, and the result appears in net profits.

#### **Fourth Item Dividends Contributions in Progress:**

The Zakat Payer argued that this account represents the work in progress carried out by the company using investor funds, namely the contributions payables that have been subjected to Zakat and are closely related to it. In addition, the established practice is to deduct the debit balances within the partner's share if they are owned by one of the partners, and they are indeed so, as the account payable of the contribution is associated with amounts spent, whether for purchasing the land or works carried thereon in the construction stage. Accordingly, these balances must be deducted in exchange for subjecting the accounts payable to Zakat, which were subjected by ZATCA thereto, as it is consistent with the legal basis. It should also be noted that the matter that constrained Zakat Payer is related to three (3) projects within these contributions, as well as (...) projects established for the purpose of acquisition. In this case, the difference should be added to the Zakat base as per Sharia Provisions.

#### **Fifth: Notes Payable:**

The Zakat Payer claims that notes payable were used to pay part of a building project included in the financial statements of 1426 and 1427 AH in the amount of (SAR 27,600,000), and the account payable of the building project investors as a source of financing was in the amount of (SAR 17,303,500), and the difference to complete the purchase from notes payable is the credit balance of (.....) Islamic Bank, i.e., they are investments outside the Kingdom. This balance is



related to the debit balance of work in progress in the project that was purchased for rental and receipt of proceeds; hence, it is considered an acquisition asset that should be deducted from Zakat base. Moreover, the accounts payable of investors who finance the project were subject to Zakat within shareholders' accounts payable.

**With regard to Item (6), Investments:**

The Zakat Payer argued that the investments include purchasing two offices in Dubai for a total value of SAR 3,033,855 from ..... Company in Dubai, where an advance payment has been made and the remaining amount is to be paid in installments. These offices were purchased to be Company's headquarters in Dubai. In addition, ZATCA has subjected their equivalent to Zakat within the accounts payable and other accounts payables. Due to the crisis that occurred in Dubai in 2008, the payment was not made, which caused the offices to be withdrawn. Since this issue remains unresolved, and Zakat Payer was unable to take over the offices or the amounts paid, in addition to what relates to the investments in securities in Dubai outlined by subscription shares in (...) Bank, such investments are managed for the benefit of some investors whose credits have been subject to Zakat under assessment. In addition, the financial statements show that such shares were acquired for the purpose of realizing profit, and that the corresponding accounts payable have been subject to Zakat.

**Concerning Item (7): Partners' Current Account:**

The Zakat Payer argued that the partners' current accounts were subject to Zakat, using the rule of "the lesser of opening and closing balances". In this regard, even if the Zakat Payer did not object to this item, rights do not lapse with the passage of time, especially if they would result in the collection of Zakat on non-Zakatable assets. A detailed account movement based on books and records was attached, showing that the current accounts that had been in operation for a year were for the years 1428 AH, 1429 AH, and 1434 AH only.

**Appellant Defenses (ZATCA)**

**Item First: Prescription of Assessment:**

ZATCA argued that the item was not subject to objection before ZATCA or before the Primary Department, and therefore, it should be dismissed based on Article (186) of the Law of Civil Procedure.

**Item Second: Dividends Distributed to Investors:**

ZATCA argued that the Zakat Payer's activity is real estate management, and this item, according to the Zakat Payer's statement, represents the shareholders' share of the profits from contributions from Zakat-subject funds. Therefore, Zakat must be calculated on this item, as most shareholders are individuals, not legal entities registered with ZATCA and subject to Zakat separately. ZATCA based its procedure on Paragraph (2) of Article (1) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Paragraph (1) of Article (2) of the same regulations.

**Item Third: Accounts Payable:**

ZATCA argued that it added the item to the Zakat base because it was evident that a year had passed on it, and it represents the balances of funds received from shareholders managed by the company. It based its procedure on Fatwa No. (22665) of 1424 AH and Paragraph (5) of Article (4) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

**Fourth Item Dividends Contributions in Progress:**

ZATCA argued that it added the item to the Zakat base because it was evident that a year had passed on it, and it represents the balances of funds received from shareholders managed by the company. It based its procedure on Fatwa No. (22665) of 1424 AH and Paragraph (5) of Article (4) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

**Fifth: Notes Payable:**



ZATCA argued that it added the item to the Zakat base because it was evident that a year had passed since its date. It based its procedure on Fatwa No. (22665) of 1424 AH and Paragraph (5) of Article (4) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

With regard to Item (6), Investments:

ZATCA argued that it had requested the Zakat Payer to submit supporting documents, but he failed to do so. ZATCA affirms the validity and soundness of its procedure based on Paragraph (4-b) and Paragraph (4-c) of item (Second) of Article (4) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

**Concerning Item (7): Partners' Current Account:**

ZATCA argued that the item was not subject to objection before ZATCA or before the Primary Department, and therefore, it should be dismissed based on Article (186) of the Law of Civil Procedure.

**Committee's Response to Defenses.**

**Item First: Prescription of Assessment:**

The Department established that the Zakat and tax declarations for the years 1426 to 1430 were governed by the provisions of the Income Tax Law and the Implementing Regulations for Zakat Collection at that time, which included provisions governing the process and procedures of assessment adjustment, and given that these provisions explicitly stated that ZATCA's right to adjust the assessment is limited to five (5) years from the deadline for filing tax declaration, and since the matter is as stated, the Zakat Payer's declaration becomes final after the five-year period from the deadline for its submission, unless ZATCA exercises its right to make amendments during that period or proves the existence of intent of tax evasion by submitting an incomplete declaration within ten (10) years from the final date set for submission of declaration; and since the stability of the legal and financial positions is an essential goal confirmed by the Law, as it stipulates that ZATCA may not exceed the five-year period for Reassessment except in the case of a tax evasion, provided that it does not exceed ten (10) years to exercise such right; and since Reassessment was made in violation of the Law as stated above, with which the goal of stabilizing the financial and legal positions of Zakat Payers will not be achieved; Therefore, the Department satisfies to decide that ZATCA has no right to make the Zakat Assessment on years in question, to accept Zakat Payer's appeal, and reverse the appealed Decision on items objected by Zakat Payer for years in which this Department decided that ZATCA's Assessment was subject to statute of limitation.

**Item Second: Dividends Distributed to Investors:**

Since the basis for calculating Zakat is meet of the two conditions of the completion of Zakat Year and the absolute ownership; and by referring to the Case file and the documents and defenses contained therein, the Department found that the audited financial statements for years in question confirm that Zakat Payer has distributed the profits in question to shareholders; and since the subject of dispute is not related to documents; and since the profits in question were no longer under Zakat Payer's disposal, which results in the inadmissibility of obligating Zakat Payer to pay Zakat thereon; and since the aforementioned is not affected by ZATCA's rejection of the deduction of dividends from Zakat Base, claiming that the shareholders are natural persons and are not registered with ZATCA, and by extension, dividends are not subject to Zakat; and since the basis for calculating Zakat is meet of the condition of absolute ownership, and with the distribution of profits, such condition is dropped accordingly, which resulted in transferring those funds to shareholders; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

**Item Third: Accounts Payable:**

Since Zakat Payers are held accountable pursuant to their regular accounts and financial statements; and since these accounts payable were included in the statement of financial position,





which indicates that they represent a source of funding that must be added to Zakat Base whenever it completes a Zakat year or is being used to finance deductible assets; and since the completion of Zakat Year of these accounts payable is not disputed, thus, they considered a source of funding subjected to Zakat; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision. As for Zakat Payer's appeal stating that there are assets financed by those amounts that Zakat Payer was unable to sell thereof; and since this motion is a new subject that was not included in its objection initially submitted before ZATCA; Therefore, the Department decides to dismiss this motion.

**Fourth Item** Dividends Contributions in Progress:

Since the projects under implementation are not for sale in their current state; hence, they are not considered trade offers and should not be added to Zakat Base; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

**Fifth:** Notes Payable:

Since Zakat Payers are held accountable pursuant to their regular accounts and financial statements; and since these notes payable were included in the statement of financial position, which indicates that they represent a source of funding that must be added to Zakat Base whenever it completes a Zakat year or is being used to finance deductible assets; and since the completion of Zakat Year of these notes payable is not disputed, thus, they considered a source of funding subjected to Zakat; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision.

**With regard to Item (6), Investments:**

The Department found that the investments in question comprise of real estate and investments in securities. Since this Department found that the real estates in question were not intended for trade. Therefore, Zakat Payer is entitled to deduct such real estates from its Zakat base. The Department also found that, with regard to investments in securities, Zakat Payer failed to provide proof of payment of Zakat for those investments in the country of investment, nor the audited financial statements of the companies in which Zakat Payer invested in a way that Zakat can be calculated on its share and pay the same to ZATCA, which indicates that Zakat Payer is not entitled to deduct the same from its Zakat Base; Therefore, the Department satisfies to amend the appealed Decision by accepting Zakat Payer's appeal regarding the real estates and dismissing the same regarding investments in securities.

**Concerning Item (7): Partners' Current Account:**

The Department found that this item was not included in the contested items at the time of considering dispute before the Primary Department. Therefore, the Department considers this item as a new petition in accordance with Article (186) of the Law of Civil Procedure that stipulates: "New petitions shall not be accepted in an appeal and the court shall dismiss them on its own motion."; Therefore, Department satisfies to dismiss Zakat Payer's appeal on this item.





## Decision

**First:** Accept appeal in form filed by Zakat Payer (...), CR. No. (...), and the appeal filed by ZATCA against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-150) rendered in Case No. (Z-132-2018) regarding Zakat assessment for years from 1426 to 1434.

**Second: On Merits:**

1. Accept Zakat Payer's appeal on item (Limitation of Assessment of 1426 to 1434 AH) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
2. Accept Zakat Payer's appeal on item (Non-Deduction of dividends from Zakat Base) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
3. Dismiss Zakat Payer's appeal on item (Addition of shareholders' accounts payable to Zakat Base) and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
4. Accept Zakat Payer's appeal on item (Contributions under implementation) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
5. Dismiss Zakat Payer's appeal on item (Notes payable) and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
6. As for item (Investments):
  - A. Accept Zakat Payer's appeal regarding the real estates and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
  - B. Dismiss Zakat Payer's appeal regarding investments in securities and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
7. Dismiss Zakat Payer's appeal on item (Partners' current account) for the grounds stated herein.
8. Accept ZATCA's appeal on item (Other accounts payable) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-322  
Case No.: Z-27608-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Sales Difference – Offshore Procurement – Salary and Wage Differences – Contracts with Government Agencies**

### Abstract

Appellant (ZATCA/ Zakat Payer) filed its Appeal to request cancellation of the Primary Department Decision No. (IZJ-2020-108) with regard to Zakat assessment for the period (2009-2013 AD). as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Sale differences from accounts receivable of 2009); 2. Item (Offshore Procurement of 2010); 3. Item (Salary and wage differences not registered with GOSI of 2011 to 2013); 4. Item (Contracts with Government Agencies of 2011 to 2013); and 5. Item (Related parties of 2009 to 2013). The Department found that: As for item (Sale differences from accounts receivable of 2009); ZATCA's addition of the difference amount between the accounts receivable and sales to Zakat Base as deferred sales is not supported by any accounting principle or physical evidence. As for item (Offshore Procurement of 2010); the presumption of the existence of amounts that are not included in Zakat Payer's Declaration represents the differences of the offshore procurement according to Customs Declaration is an uncertain presumption in the light of the circumstances surrounding the way of calculating and classifying those differences for Zakat Payer upon submitting its Zakat Declaration, due to the addition of the offshore procurement as imports by Zakat Payer. As for item (Salary and wage differences not registered with GOSI of 2011 to 2013); all regular and necessary expenses related to Zakat Payer's activity, whether paid or due, may be deducted if they represent an actual expense supported by documents or other evidence. As for item (Contracts with Government Agencies of 2011 to 2013); Zakat Payer failed to submit documents supporting its claim or the purchase orders referred to in its appeal. As for item (Related parties of 2011 to 2013); the amounts stated in the audited financial statements differed from the amounts included in account statement submitted by Zakat Payer. The Department decided to accept Zakat Payer's appeal on items: 1. Item (Sale differences from accounts receivable of 2009); 2. Item (Offshore Procurement of 2010); 3. Item (Salary and wage differences not registered with GOSI of 2011 to 2013); accept ZATCA's appeal on item (Contracts with Government Agencies of 2011 to 2013); and dismiss Zakat Payer's appeal on item (Related parties of 2009 to 2013).

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First: Sales Difference:**

The Zakat Payer argued that ZATCA's procedure of considering the accounts receivable balance as equivalent to sales and then adding the difference to net profits is not entirely correct, as sales may be deferred or cash, and the accounts receivable account is an accumulative account that may contain balances from previous years and cannot be equivalent to the sales account, which only reflects deferred sales during the year.

#### **Item Second: External Purchases:**

The Zakat Payer argued that these differences are a result of the classification of internal purchases as imports, as the amount added to the accounts as external purchases exceeds the customs declaration by an amount of SAR 942,062. Furthermore, the operative part of Decision is deemed defective, where ZATCA based its Decision on the fact that the company under-declared the external purchases, and therefore the difference should be subject to estimated profits of (15.5%).

#### **Item Third: Differences of Salaries and Wages not registered with GOSI:**

The Zakat Payer argued that only the basic salary and housing allowance appear in GOSI certificate, while other wages are considered part of the wages subject to the Labor Law.

#### **Item Fourth: Related Parties:**

The Zakat Payer argued that these amounts were borne by the creditor company and represent establishment and miscellaneous expenses.

## Committee's Response to Defenses.

#### **Item First: Sales Difference:**

Since ZATCA's addition of the difference amount between the accounts receivable and sales to Zakat Base as deferred sales is not supported by any accounting principle or physical evidence; and since Zakat Payers are held accountable pursuant to their regular accounts and financial statements, the accounts receivable are implicitly included in the Zakat Base, as they are not deducted from the Zakat Base, which result in invalidity of ZATCA's procedure; and since the aforementioned is not affected by the statement of the Primary Department issuing the Decision in question of a mistake in the documents submitted, as the dispute between the parties is related to the basis of processing, not the supporting documents; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

#### **Item Second: External Purchases:**

It was found that Zakat Payer has submitted a statement of offshore procurement, internal procurement, and procurement expenses; and since the presumption of the existence of amounts that are not included in Zakat Payer's Declaration represents the differences of the offshore procurement according to Customs Declaration is an uncertain presumption in the light of the circumstances surrounding the way of calculating and classifying those differences for Zakat Payer upon submitting its Zakat Declaration, due to the addition of the offshore procurement as imports by Zakat Payer; and since all regular and necessary expenses required for carrying out the activity may be deducted if they represent an actual expense supported by documents or other evidence; and since Zakat Payer has submitted documents supporting its claim on the grounds for these differences, which represent expenses related to Zakat Payer's activity; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

#### **Item Third: Differences of Salaries and Wages not registered with GOSI:**



It was found that Zakat Payer has submitted the GOSI certificate for years in question with a settlement of the differences between salaries and wages charged to the accounts and the salaries and wages in accordance with GOSI certificate attached with the chartered accountant report; and since all regular and necessary expenses related to the activity, whether paid or due, may be deducted if they represent an actual expense supported by documents or other evidence; and since Zakat Payer has submitted documents supporting its claim on the grounds for these differences, which represent expenses related to Zakat Payer's activity; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

#### **Item Fourth: Related Parties:**

It was found that the amounts stated in the audited financial statements differed from the amounts included in account statement submitted by Zakat Payer; and since Zakat Payer failed provide evidence that can be relied upon to reverse amounts stated indicated in the audited financial statements; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed.

#### **Appellant Defenses (ZATCA)**

**Item:** Contracts with government agencies for the years 2011 to 2013:

ZATCA argued that government contracts are received by ZATCA through Government Agencies contracting with enterprises via a shared database, as the Primary Department stated in the grounds of its Decision the following: (Although Plaintiff has submitted a contract follow-up statement showing all contracts entered into with Government Agencies, it did not include the remaining revenues from service agreement and contracts or their numbers, nor the information on which the Assessment was made). ZATCA clarifies that the Primary Department should have requested Zakat Payer to provide a proof of absence of these contracts from the Government Agencies contracted with, as ZATCA stated that these contracts were entered into with the Ministry of Health. In addition, ZATCA clarifies that the Primary Department's Decision stating that ZATCA failed to provide clarification for these contracts, was incorrect, as the document submitted by ZATCA were essentially valid and sound. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure.

#### **Committee's Response to Defenses.**

**Item:** Contracts with government agencies for the years 2011 to 2013:

Since the dispute is a documentary dispute, and since the Zakat Payer did not submit the documents supporting his claim, nor did he submit the purchase orders he referred to in his appeal,

or account movements based on his accounting system, this Department finds ZATCA's procedure valid. Accordingly, this Department concludes to accept ZATCA's appeal and overturn the primary Decision.



## Decision

**First:** Accept in form the Appeal filed by the Taxpayer ..... Company, C.R. No.. ....., TIN No....., and the Appeal filed by ZATCA against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No. (IZJ-2020-108), issued in Case No. (Z-161-2018), in connection with Zakat assessment for the period (2009-2013 AD).

**Second: On Merits:**

1. Accept Zakat Payer's appeal on item (Sale differences from accounts receivable of 2009) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.
2. Accept Zakat Payer's appeal on item (Offshore Procurement of 2010) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.
3. Accept Zakat Payer's appeal on item (Salary and wage differences not registered with GOSI of 2011 to 2013) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.
4. Accept ZATCA's appeal on item (Contracts with Government Agencies of 2011 to 2013) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.
5. Dismiss Zakat Payer's appeal on item (Related parties of 2011 to 2013) and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.



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

Decision No.: IR-2022-324  
Case No.: ZW-30623-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Import Differences - Accounts Payable - Withholding Tax - retained earnings- Acceptance of Appeal**

### Abstract

The Appellant s (Zakat Payer/ ZATCA) filed this case to abolish Decision No. (ISZR-2020-154) delivered by the Primary Department regarding Zakat Assessment of 2007 to 2016 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Import Differences); 2. Item (Accounts Payable); 3. Item (Withholding Tax); and 4. Item (retained earnings). The Department found that: As for item (Import Differences); Zakat Payer failed to provide evidence supporting its claim regarding the differences in question. As for item (Accounts Payable); the amount of (SAR 1,835,636) has completed the Zakat Year regarding the year 2016 AD. Whereas the amounts claimed by the Zakat Payer are the result of the total account movement. The item(withholding tax) was not a disputed item before the Primary Department, and the Zakat Payer had not previously contested this item before the Primary Department. Regarding the item (retained earnings), it was found that a year had passed on an amount of SAR 262,282 for the year 2016 of the appealed amounts. Regarding the item (withholding tax), it was found that these amounts were not paid to the head office or an affiliated company, which indicates that the Primary Department's Decision was based on grounds inconsistent with the grounds relied upon by ZATCA. The Department decided to abolish ZATCA's Assessment; dismiss Zakat Payer's appeal on items (Import Differences) and (Withholding Tax); accept Zakat Payer's appeal on items (Accounts Payable) and (Deferred Profits); and accept ZATCA's appeal on item (Withholding Tax).

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)





## Parties' Defenses

### Defenses of Appellant (Taxpayer)

**Item First:** Import Differences for Years from 2009 to 2012:

The Zakat Payer argued that ZATCA added a total of SAR 19,855,868 to the Zakat base for the years in issue. The ground for the difference is the overlap of financial periods, as goods are cleared through customs at the end of December of the year, while materials are recognized within the purchases or costs for the following year upon handover and completion of the work. This is in addition to the discrepancy in the classification and overlap between domestic and foreign purchases, as explained in the certified public accountant's certificate and the related settlement. Furthermore, it was not clear if all purchases from abroad were not recorded in the declarations for the years under dispute.

**Item Second:** Accounts Payable for 2012 and 2016:

The Zakat Payer argued that ZATCA added the amount of this item to the Zakat base at an amount higher than the amount that had a year passed on it.

**Item Third:** Withholding Tax:

The Zakat Payer paid the amount of SAR 298,886 on 24/06/2018, and therefore requested the cancellation of the 5% fines, as per ZATCA's initiative.

**Fourth Item** Retained Earnings for 2010 and 2016:

The Zakat Payer argued that SAR 1,842,131 was added for 2016, representing the value of the settlements for prior years included in the audited financial statements. These amounts represent wage and bonus expenses for the previous year, 2015, which were disbursed in 2016 and deducted from retained earnings.

### Committee's Response to Defenses.

**Item First:** Import Differences for Years from 2009 to 2012:

Since the subject of dispute is related to documents, and since Zakat Payer failed to submit documents supporting its claim regarding the differences in dispute, and since the Department found that the conclusion reached by the Primary Department was sound and valid; Therefore, the Department decided to dismiss Zakat Payer Appeal.

**Item Second:** Accounts Payable for 2012 and 2016:

Upon reviewing the subject of dispute and examining the contents of the case file by the Department; and since accounts Payable are considered an element of the Zakat Base under the condition that they complete a Zakat year or are being used to finance deductible assets from the Zakat Base; and since the subject of dispute is related to documents on this item; and by reviewing the documents submitted, the Department found that the amount of (SAR 1,835,636) has completed the Zakat Year regarding the year 2016 AD; and since the amounts claimed by Zakat Payer are a result of the account's overall activity; Therefore, the Department satisfies to add the amount of (SAR 1,835,636) to the Zakat Base regarding year 2016 AD only from the amount in question.

**Item Third:** Withholding Tax:

Since Zakat Payer's appeal was not filed against the Primary Department's Decision, but rather was to dismiss the fines that has previously been paid to ZATCA's by leveraging its exemption initiative; and since this motion was not an item contested before the Primary Department; and since Zakat Payer had not previously objected to this item before the Primary Department, which this Department considered a new motion; Therefore, the Department satisfies to disregard this motion.

**Fourth Item** Retained Earnings for 2010 and 2016:





Upon reviewing the subject of dispute and examining the contents of the case file by the Department; and since retained earnings are added to the Zakat Base after deducting the used profits therefrom; and since the subject of dispute is related to documents; and by reviewing the documents submitted by Zakat Payer, it found that the amount of (SAR 262,282) has completed the Zakat Year regarding the year 2016 AD from amounts appealed against; Therefore, the Department satisfies to amend the appealed Decision by adding the amount of (SAR 262,282) to the Zakat Base regarding year 2016 AD only from the amount in question.

### Decision

**First:** In form, Accept the appeal filed by Zakat payer/ Company (...), C.R. No. (...), TIN (...), Accept the appeal in form by ZATCA against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISZR-2020-154), issued in case number (ZW-2126-2019), related to Zakat assessment for the years 2007 to 2016.

**Second: On Merits:**

1. Abolish ZATCA's Assessment of 2007 to 2012; and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh as to conclusions it had in this regard, for the grounds stated herein.
2. Dismiss Zakat Payer's appeal on item (Import Differences of 2013 to 2016) and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the grounds stated herein.
3. Accept Zakat Payer's appeal on item (Accounts Payable of 2016) and amend the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, by adding the amount of (SAR 1,835,636) to the Zakat Base of 2016 AD from the amount in question, for the grounds stated herein.
4. Disregard Zakat Payer's appeal on item (Withholding Tax) for the grounds stated herein.
5. Accept Zakat Payer's appeal on item (Deferred Profits of 2016) and amend the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, by adding the amount of (SAR 262,282) to the Zakat Base of 2016 AD from the amount in question, for the grounds stated herein.
6. Accept ZATCA's appeal on item (Withholding Tax), abolish the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case for consideration on its merits, for the grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-366  
Case No.: Z-31546-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Unapproved Rents - Bonuses - Salary Differences - Previous Years' Expenses - Carried Forward Dividends - Bad Debts - Import Differences**

### Abstract

The Appellant (Zakat Payer/ ZATCA) filed this case to abolish Decision No. (IZJ-2020-161) delivered by the Primary Department regarding Zakat Assessment of 2014 to 2016 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Unapproved Rents); 2. Item (Import Differences); 3. Item (Remunerations); 4. Item (Salary Differences); 5. Item (Previous Years Expenses) 6. Item (Deferred Dividends); and 7. Item (Material Error in Reserve of 2015); while ZATCA's appeal included its objection to the Primary Department's Decision regarding item (Import Differences). The Department found that: As for item (Unapproved Rents); Zakat Payer has submitted the documents supporting the incurrance of expenses, according to which the Department has deducted the rent expenses to the extent that has been proven by Zakat Payer through documents. Regarding the item "Import Differences," the Zakat Payer did not submit to this department a report from a certified public accountant detailing the disputed differences. Regarding the item "Bonuses," companies typically incur expenses for such small bonuses as incentives for their employees. Regarding the item "Salary Differences," the Zakat Payer submitted a report from a certified public accountant explaining the grounds for the disputed differences. Regarding the items "Previous Years' Expenses," "Carried Forward Dividends," and "Material Error in the 2015 Reserve," this Department did not decide upon these items, leaving the dispute unsettled with regard to this item. Regarding the item "Import Differences," the Department did not find any grounds for further clarification or comment before this Department. The Department decided to dismiss Zakat Payer's appeal on item (Import Differences) and accept the same on items (Unapproved Rents), (Remunerations), (Salary Differences), (Previous Years Expenses), (Deferred Dividends), (Material Error in Reserve of 2015), and (Bad Debts); and dismiss ZATCA's appeal on item (Import Differences).

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First:** Unapproved Rents:

The Zakat Payer argued that ZATCA added a total of SAR 19,855,868 to the Zakat base for the years in issue. The ground for the difference is the overlap of financial periods, as goods are cleared through customs at the end of December of the year, while materials are recognized within the purchases or costs for the following year upon handover and completion of the work. This is in addition to the discrepancy in the classification and overlap between domestic and foreign purchases, as explained in the certified public accountant's certificate and the related settlement. Furthermore, it was not clear if all purchases from abroad were not recorded in the declarations for the years under dispute.

#### **Item Second:** Import Differences:

The Zakat Payer argued that the grounds for the differences are incorrectly recorded fixed asset purchases, internal purchasing expenses, shipping costs, and price differences.

#### **Item Third:** Bonuses:

The Zakat Payer argued that bonuses are paid to employees in consideration of their efforts and are therefore contingent upon the income generated by them. These bonuses are deductible expenses. ZATCA's reliance on the lack of a schedule of penalties and bonuses from the Labor Office contradicts the Implementing Regulations, as they do not stipulate that bonuses paid must be accepted according to those recorded in the labor regulations.

#### **Fourth Item** Salary Differences:

The Zakat Payer argued that the resulting differences were due to the existence of allowances and bonuses not included in GOSI subscription, as the insurance law does not allow for the inclusion of all allowances paid to employees.

### Arguments of the respondent (ZATCA)

#### **Item First** Salary Differences:

ZATCA argued that it compared the basic salaries added to the accounts and recognized in the trial balances with the salaries reported in GOSI Certificate, and therefore, salaries added in excess of those recorded in GOSI Certificate were rejected.



## Committee's Response to Defenses.



### **Item First:** Unapproved Rents:

Upon reviewing the subject of dispute by the Department; and since the dispute is related to documents; and since Zakat Payer has submitted the documents supporting the expenses in the amount of (SAR 235,000) of 2014, the amount of (SAR 335,000) of 2015, and the amount of (SAR 755,000) of 2016; Therefore, the Department satisfies to accept Zakat Payer's appeal and amend the Primary Department's Decision by deducting the rent expenses to the extent that has been proven by Zakat Payer through documents, in the amount of (SAR 235,000) of 2014, the amount of (SAR 335,000) of 2015, and the amount of (SAR 755,000) of 2016.

### **Item Second:** Import Differences:

Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the case file by the Department; and since the dispute is related to documents; and since Zakat Payer has failed to provide this Department a report from a chartered accountant explaining the differences in question, and by extension, failed to establish its claim regarding the same; and since this Department found that the conclusion reached by the Primary Department was sound and valid; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision.

### **Item Third:** Bonuses:

Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the Case file by the Department; and since ZATCA argued that Zakat Payer has failed to provide the work regulations for penalties and remunerations approved by the Minister of Labor; the Department found that the amount in question is a small amount considering the volume of Zakat Payer's activity; and since these small remunerations are customarily incurred by companies to motivate their employees; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

### **Fourth Item** Salary Differences:

Upon reviewing the subject of dispute by the Department; and since the dispute is related to documents; and since Zakat Payer has submitted a report from a chartered accountant explaining the differences in question, and in conformity with the audited financial statements; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

**Fifth:** (Previous years' expenses), (carried forward dividends), (material error in the 2015 reserve), and (bad debts):

The Department found that Zakat Payer has objected to such items before the Primary Department. Since the Primary Department did not adjudicate such items, which caused the dispute unresolved on its merits. Since the Primary Department did not exhaust its jurisdiction over adjudicating subject matter of the dispute regarding such items. Therefore, this Department remands the Case, regarding (Previous Years Expenses, Deferred Dividends, Material Error in Reserve for 2015 and Bad Debts) items, to the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for consideration on merits.



## Decision

**First:** In form, Accept the appeal filed by Zakat payer/ Company (...), C.R. No. (...), TIN (...), and the Appeal filed by ZATCA against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No. (IZJ-2020-161), issued in Case No. (Z-9301-2019), in assessment with Zakat assessment for the period (2014-2016 AD).

**Second: On Merits:**

1. Accept Zakat Payer's appeal on item (Unapproved Rents) and amend the Primary Department's Decision by deducting the rent expenses to the extent that has been proven by Zakat Payer through documents, in the amount of (SAR 235,000) of 2014, the amount of (SAR 335,000) of 2015, and the amount of (SAR 755,000) of 2016, for the grounds stated herein.
2. Dismiss Zakat Payer's appeal on item (Import Differences) and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.
3. Accept Zakat Payer's appeal on item (Remunerations) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.
4. Accept Zakat Payer's appeal on item (Salary Differences) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.
5. Accept Zakat Payer's appeal on item (Previous Years Expenses) and remand the case to the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for consideration on its merits, for the grounds stated herein.
6. Accept Zakat Payer's appeal on item (Deferred Dividends) and remand the case to the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for consideration on its merits, for the grounds stated herein.
7. Accept Zakat Payer's appeal on item (Material Error in Reserve of 2015) and remand the case to the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for consideration on its merits, for the grounds stated herein.
8. Accept Zakat Payer's appeal on item (Bad Debts) and remand the case to the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for consideration on its merits, for the grounds stated herein.
9. Dismiss ZATCA's appeal on item (Import Differences) and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, for the grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-371  
Case No.: Z-28863-2020

### Key words:

**Zakat - Objection to Zakat Assessment- Foreign Purchases**

### Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (IZJ-2020-147) delivered by the Primary Department regarding Zakat Assessment of 2015 to 2017 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding item (Offshore Procurement). The Department found that Zakat Payer did not request a deduction of expenses of offshore procurement in a separate item of its Declaration, and that the difference between the amount stated in Zakat Payer's Declaration and the amount shown in Customs Declaration is approximately (5%) of its total offshore procurement. Therefore, The Department hereby ruled to accept the appeal and overturn the primary Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Taxpayer)

##### **Item:** External Purchases:

The Zakat Payer argued that the purchases were recognized at an amount greater than that contained in the customs declaration because the purchases included customs duties and expenses.

#### Arguments of the respondent (ZATCA)

##### **Item:** External Purchases:

ZATCA stated that after comparing the imports recorded in the Zakat Payer's books with those contained in the customs declarations, it was found that the imports declared in the Zakat Payer's declaration were greater than the imports recorded in the customs declaration. Accordingly, ZATCA added the difference to the adjusted net profit based on Circular No. (2030) of 1430 AH.



### Committee's Response to Defenses.

Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the case file by the Department, it found that Zakat Payer did not request a deduction of expenses of offshore procurement in a separate item of its Declaration, such as expenses of customs duties, clearance, and shipping; and since the difference between the amount stated in Zakat Payer's Declaration and the amount shown in Customs Declaration is approximately (5%) of its total offshore procurement, which leads this Department to the conclusion that these grounds exclude the possibility that this difference is due to undisclosed offshore procurement; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

### Decision

**First:** Accept appeal in form filed by Zakat Payer (... Company, C.R. No. (...), TIN (...), against First Department for Determination Zakat Violations and Disputes in Jeddah Decision No. (IZJ-2020-92) delivered in Case No. (Z-10157-2019) on tax assessment for the years 2015 AD and 2017 AD.

**Second: On Merits:**

Accept Zakat Payer's appeal on item (Offshore Procurement) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** for the grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-7  
Case No.: Z-31890-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Assessment After Expiry of Prescribed Period**

### Abstract

Appellant (ZATCA) requests overturning Primary Department's Decision No. (Z-7754-2019) regarding Zakat assessment for 2011. Having taken cognizance of Case file, since the statutory period for making assessment is five years from the deadline for filing declaration. Having taken cognizance of letters of amendments made by ZATCA to Zakat Payer's declaration, it turns out that ZATCA made assessment for Zakat Payer on 15/11/2018 AD. Since the date of filing Zakat declaration for 2011 expires on 30/04/2011 AD, it turns out that the assessment was made after expiry of five-year period from the date of filing Zakat Payer's declaration. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First:** Expiry of Five-year Period:

Regarding the statute of limitations, it relates to ZATCA proving that the Zakat Payer's declaration is invalid. This in itself is sufficient to entitle ZATCA to adjust the declaration based on Paragraph (8/C) of the Implementing Regulations for Zakat Collection issued in 1438 AH. The Primary Department also based its assurance in all items on its assurance in the "Import Differences" and "Contract Differences" items. ZATCA also proved the validity of the amendments to the items under appeal, as stated in ZATCA's amended assessment. Regarding the remaining items,

1. Zakat Assessment for the Years 2011 and 2012.
2. Depreciation Difference .
3. Overstated Social Insurance Expenses .
4. Import Difference .
5. allocation Component .
6. Advance Payments .
7. Finance Lease Obligations for 2011.
8. Projects Provision .
9. Accounts Payable .
10. Fixed Assets .
11. Deferred Finance Interest .
12. Previous Years' Expenses .
13. Advance Payments for the Purchase of Fixed Assets .
14. Loans Against Fixed Assets for 2012.
15. Rental Obligations for 2013.

The Department decided on years other than those in dispute. Moreover, the Department did not discuss those items with ZATCA's representative during the hearing. The Department also cited a single reason for all the items, which is (this Department is satisfied with the validity of the Plaintiff's statement, and thus it decides to accept the Plaintiff's objection). The documents that the Department relied on to be convinced of the Zakat Payer's statement were not mentioned, and the grounds for the conviction and reassurance regarding what the Zakat Payer submitted was not detailed, which makes the Department's Decision flawed with defective reasoning. The basis for constructing judicial rulings and their grounds is the established certainty, not suspicion and reassurance. ZATCA referred to its reply for more details about those items.



## Arguments of the respondent (ZATCA)

### **Item First:** Expiry of Five-year Period:

Regarding the lack of grounds for the primary department's Decision and its failure to provide grounds for its conclusion, the department provided grounds for not accepting ZATCA's adjustments to the two declarations because ZATCA had no right to do so after the expiry of the legal period specified as five years and due to the validity of the Zakat Payer's declaration, which entitled the department to not proceed to the substantive part of case as it had ruled that the Zakat Payer's declaration is acceptable with no need to adjustment. The Zakat Payer also claimed that ZATCA was not mindful that the department didn't have to proceed to deciding upon the mentioned items due to its conviction that ZATCA had no right to make the adjustments, and it rather delivered its Decision in view of the fact that ZATCA failed to provide documents supporting its claims.

## Committee's Response to Defenses.

The Department found that the assessment was made five years after the date the Zakat Payer submitted its Zakat declaration. This is not affected by ZATCA argument that it is entitled to reopen assessments after expiry of the statutory period due to misapplication of the law by Zakat Payer, as the exception permitted by the legislator is limited to material and computational errors, which involve arithmetic operations and numerical processing. However, the application of the law or changes in practice regarding its application are matters for which the legislator did not grant ZATCA the right to reassess Zakat Payer after expiry of five-year period. Since the principal rule is to accept Zakat Payer's declaration unless evidence to the contrary is presented. Zakat collection Decisions were based on setting a five-year deadline from the final date for submitting the Zakat Payer's Zakat declaration for each year. This period was established to ensure the stability of transactions and to avoid leaving the taxpayers' positions uncertain without a defined time limit.

## Decision

**First:** Accept appeal in form filed by Appellant (ZATCA) against **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No (IZD-2020-222) rendered in Case No. (Z-7754-2019) regarding tax assessment for 2011.

### **Second: On Merits:**

Dismiss ZATCA appeal and uphold the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Dammam** according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

**Decision No.: IR-2022-11  
Case No.: Z-33409-2020**

**Key words:**

**Zakat - Objection to the Estimated Zakat Assessment - Financial Statements - Expenses not Deducted - Credit balances**

**Abstract**

The Appellant (Zakat payer) is requesting the cancellation of Decision No.(IFR-2020-270), regarding Zakat assessment for the period from 2011 to 2017. After reviewing the Case file, and considering the specific point of Zakat assessment for 2013 and 2014, Zakat payer's appeal centers on the objection to the disregard of the audited financial statements and the assessment based on an estimated method. Upon careful consideration of the dispute, and given that the principle is to calculate Zakat based on Zakat payer's declaration prepared based on the audited financial statements with the provision of supporting documents when requested by ZATCA, and after reviewing the submissions of Zakat payer, it was plain that he has submitted audited financial statements for 2013 and 2014, certified by an accredited chartered accountant. Since ZATCA has not presented any evidence to challenge these audited financial statements or justify not considering their content, Therefore, The Department hereby ruled to accept the appeal and overturn the primary Decision.

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Taxpayer)

#### **Item First:** Estimated Assessment:

The Zakat Payer stated that with regard to the Zakat assessment for the years 2013 and 2014, he requests that the Zakat be calculated based on the audited documents and financial statements, as all data were submitted to ZATCA on time, and within the permitted period for response. The audited financial statements were also submitted pursuant to a review ticket registered under No. (...) dated 20/01/2020, but ZATCA ignored it and calculated the Zakat assessment on estimated basis without relying on the audited financial statements. The Primary Department did not pay attention to the Zakat Payer's submission and ZATCA made a mistake in the procedures for the estimated calculation as stipulated in Paragraph (8) of Article (13) of the Implementing Regulations for Zakat Collection, where the capital was calculated at an amount of SAR 4,500,000, while the capital since the establishment of the company amounted to SAR 217,000 as per the financial statements. The profit was also calculated on the basis of (15%) for each year based on Article (9) of Paragraph (13). However, the percentage mentioned in that article shall only be adopted if the information is available. Also, the other expenses have not been deducted. With regard to the years 2015 and 2016, the Primary Department did not decide on the objection to the item (adding participating creditors...) for those years. The Zakat Payer also requested to deduct gratuity expenses amounting to SAR 44,871 for the year 2015 AD, and an amount of SAR 23,052 for the year 2016 AD from the Zakat base, considering them a form of compensation that falls under salaries and wages for employees that is paid for extra work. The Zakat Payer is also required to deduct traffic expenses and violations amounting to SAR 14,200 for the year 2015 AD, and SAR 6,600 for the year 2016 AD from the Zakat base, being sovereign fees paid to the state according to traffic regulations, thus they are recognized as expenses for the company. The Zakat Payer also requested to deduct Zakat and charity amounting to SAR 210,445 for the year 2015 AD, and an amount of (60,344) for the year 2016 AD, from the Zakat base, as that charity was paid as Iftar meals to the mosques during the month of Ramadan, and water, juice, milk, and meals from restaurants to mosques, as well as alms for the poor and charitable organizations. The Zakat Payer also requested to deduct advertising and gift expenses amounting to SAR 17,569 for the year 2015, and SAR 8,858 for the year 2016 from the Zakat base.

### Arguments of the respondent (ZATCA)

#### **Item First:** Estimated Assessment:

ZATCA argues that Zakat payers who are required to keep accounts must comply with the provisions of Article (20.2) of the Implementing Regulations for Zakat Collection . In the event of non-compliance, ZATCA has the right to make an estimated assessment based on Article (13.5) and Article (20.3) of the same regulations. ZATCA refers to the argument expressed in the Decision of the Primary Department and its justifications.



### Committee's Response to Defenses.

The Department found that the Primary Department had decided to uphold ZATCA's Decision due to the failure of the Zakat Payer to submit anything to support his objection, and since there were no clear grounds for ZATCA's action that could allow for the submission of a grounded objection and supporting documents, and since the principle is to accept the Zakat Payer's declaration unless evidence indicates otherwise, and since ZATCA did not submit to this Department anything to support its action in assessing the Zakat Payer, this Department concludes that the Zakat Payer is entitled to calculate his Zakat base based on his declaration.

### Decision

**First:** In from, Accept the appeal filed by Zakat payer/ Company (...), CR. NO. (...), TIN No. (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No. (IFR-2020-270) issued in Case No. (Z-6729-2019) in connection with Zakat assessment for the period (2011-2017).

**Second: On Merits:**

1. Accept Zakat payer's appeal regarding the item (Zakat assessment for 2013 and 2014), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes In Riyadh, according to the merits and grounds stated herein.
2. Accept Zakat payer's appeal regarding the item (Zakat assessment for the period from 2015 to 2017), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes In Riyadh, according to the merits and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-12  
Case No.: Z-32425-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Rejection of written Objection - Technical failure in e-portal - Case Remand**

### Abstract

The Appellant (Zakat Payer) requests that the Primary Decision No. (ISR-2020-214), regarding the Zakat assessment for the year 2012 AD be canceled claiming that he couldn't submit his objection within the specified period for the e-portal of ZATCA having a technical glitch. The Department, having considered the dispute and examining the case file, found that the Zakat Payer has paid the undisputed Zakat differences within the period specified for objection, which shows that the Zakat Payer sought to submit the objection within the period specified for objection. The Zakat Payer attached a copy indicating the existence of a technical glitch in ZATCA's website. Therefore, the Department accepts the appeal and remands the Case.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

##### **Item First:** Technical Failure in e-portal:

The Zakat Payer claimed that it was unable to submit its objection within the statutory period. Additionally, ZATCA's staff refused to accept its written objection due to the website malfunction and declined to provide proof of the Zakat Payer's attendance within the statutory objection period. The Primary Department did not address the substantive defense related to the statute of limitations on the assessment.





## Arguments of the respondent (ZATCA)

### **Item First:** Technical Failure in e-portal:

ZATCA maintained the formal defense presented before the Primary Department, stating that the difference in days between the assessment date and the objection date exceeds sixty days. Consequently, the appealed Decision is considered protected and not subject to appeal due to the elapsed period, based on Paragraph (1) of Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Department Procedures. ZATCA, regarding the Zakat Payer's claim of sending amendment letters without attaching the assessment, notifies Zakat payers of amendments through letters and attaching the assessment on the e-portal. The Zakat Payer claims that ZATCA staff refused to accept its written objection, confirming its knowledge of the assessment, as one cannot object to an unknown matter. ZATCA, concerning the Zakat Payer's claim that ZATCA staff refused to accept its objection in writing, asserts that it has designated employees to serve all Zakat payers and assist them either in person or by phone, as per the directives outlined in His Excellency the Governor's Circular No. (45658) dated 12/07/1439 AH. Regarding the Zakat Payer's claim of encountering a technical issue while attempting to record its objection, upon reviewing the attached documents, it is evident that the objection was handwritten and does not indicate any technical malfunction. Even assuming such a malfunction existed, the Zakat Payer became aware of it on 22/01/2019, leaving approximately 18 days within the prescribed period for objection, as the amendment letter was issued on 10/12/2018. This signifies that the technical issue did not impact the lapse of the statutory objection period.

## Committee's Response to Defenses.

The Department found that the Zakat Payer attempted to submit the objection within the legally-prescribed period for objection, and that the Zakat Payer attached a copy indicating a technical glitch on ZATCA's website, and that the sum of the evidence provided by the Zakat Payer confirms his inability to submit the objection within the legally-prescribed period for grounds beyond his control, and that the Primary Department's Decision did not discuss the excuses presented by the Zakat Payer as grounds for his failure to object to the Zakat assessment within the legally-prescribed period.

## Decision

**First:** Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2020-214), issued in case number (Z-3637-2019), related to Zakat assessment for the year 2012.

### **Second: On Merits:**

Accept Zakat Payer's appeal, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-14  
Case No.: Z-25092-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Non-payment of Undisputed Amounts - Remand the Case**

### Abstract

The Appellant (Zakat Payer) requests that the Decision of the primary department No. (IZD-2020-90), regarding the Zakat assessment for the year 2014 AD be canceled, arguing that the primary department upheld ZATCA's rejection of his objection submitted within the specified period on grounds that he hadn't paid the undisputed amounts. The Department, having reviewed the case file, established that the Zakat Payer submitted to the Department documents indicating ZATCA's rejection of his objection due to the non-payment of the undisputed amount, and where this rejection, if proven, does not fall within the jurisdiction of ZATCA, but rather falls within the jurisdiction of the departments for resolution of tax violations and disputes based on the relevant laws and regulations. Therefore, the Department accepts the appeal and remands the Case.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Committee's Response to Defenses.

#### Defenses of Appellant (Zakat Payer)

#### **Item First:** Non-payment of Undisputed Amounts:

The Zakat Payer claimed that he was notified of the assessment for the year 2016, and that he tried to make the payment on due date, but he was unable to do so due to ZATCA's requirement to pay the undisputed amounts in order to admit the objection. But being unable to pay the undisputed amount for lack of liquidity, his accounts were frozen by the Saudi Central Bank. The Zakat Payer requested to pay the amount in installments, but ZATCA didn't accept that. As such, the Zakat Payer argued that the objection was submitted within the period prescribed by law but not accepted due to the requirement to pay the undisputed amounts.



## Committee's Response to Defenses.

The Zakat Payer submitted to the Department documents proving that ZATCA had rejected his objection due to non-payment of the undisputed amounts. However, the Department established that this rejection, if proven, does not fall within the jurisdiction of ZATCA but rather falls within the jurisdiction of the committees for settlement of tax disputes based on the relevant laws and regulations; and Since the submission on objections is a Zakat Payer's right regardless of whether the undisputed amounts were paid or not, and since the appealed Decision, having been reviewed, was found to have disregarded the documents submitted nor was the Zakat Payer allowed to plead his case in that regard. Therefore, the Department decides to reverse the Decision of primary Department as it didn't fulfill its jurisdiction as to the subject matter of the case making the dispute unsettled as regard to its subject matter.

## Decision

**First:** Accept in form the appeal submitted by the Zakat Payer .....Company... Commercial Registration ....., TIN No. .... against the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, No. (IZD-2020-90) delivered in case No. (Z-2202-2019), related to the Zakat assessment of the year 2014 AD.

**Second: On Merits:** Overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Dammam** and remand the Case for reconsideration on merits according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-16  
Case No.: Z-24167-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Import Difference Profits - Investment Deduction**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision No. (ISR-2020-72) regarding Zakat assessment for the period from 2013 to 2017, specifically concerning the item (importers), and the item (deduction of investments from Zakat base). Zakat payer's appeal centers on its objection to the adjustment resulting from the comparison of its Zakat declaration with the customs extract, arguing that the latter contains costs that should be excluded, and that the investments are intended for long-term use and should be deducted from Zakat base. However, after reviewing the audited financial statements for the period from 2013 to 2017, and given that the dispute is primarily based on documents, and since Zakat payer has not provided sufficient evidence to support its claim, Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

#### Item Second: Investments:

The Zakat Payer requested that the investments of the period from 2013 to 2017 be deducted, as these investments are classified in the audited financial statements as non-current assets. There is no transaction for the disposal of these investments that would require ZATCA to treat them as trade assets, and no part of them has been sold or disposed of. These investments are classified as acquisition assets that should be deducted from the Zakat base.



### Committee's Response to Defenses.



**Item First:** Import Difference Profits:

The Department has established that the data provided by Customs are material evidence from a neutral third party to verify the reality of foreign purchases. The Zakat Payer has not provided evidence that can be relied upon to disregard the data provided by Customs, nor did it provide evidence to support his claim.

**Item Second:** Investments:

The Department has established that the data provided by Customs are material evidence from a neutral third party to verify the reality of foreign purchases. The Zakat Payer has not provided evidence that can be relied upon to disregard the data provided by Customs, nor did it provide evidence to support his claim.

### Decision

**First:** In from, Accept the appeal filed by Zakat payer/ Company....., CR. NO. (...), TIN No. (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-72) issued in Case No. (Z-8186-2019) in connection with Zakat assessment for the period (2013-2017).

**Second: On Merits:**

1. Dismiss Zakat payer's appeal regarding the item (Importers), and uphold the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the merits and grounds stated herein.
2. Dismiss Zakat payer's appeal regarding the item (Deduction of investments from Zakat base), and uphold the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the merits and grounds stated herein.



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

Decision No.: IR-2022-17  
Case No.: Z-6810-2019

### Key words:

**Zakat – Objection to Zakat Assessment – Wage and Salary Differences – Short-Term and Long-Term Notes Payable – Investments**

### Abstract

The Appellant (Zakat Payer) challenges the Primary Decision No. (3) regarding wage and salary differences, short-term and long-term notes payable, and investments items. The Department found, regarding (Wage and Salary Differences) item, that the Zakat Payer did not provide evidence to support its claim, while it did not observe anything requiring correction or commentary based on the arguments presented regarding (Short-Term and Long-Term Notes Payable) item. Concerning (Investment in .....Company), the Department found that it is a foreign investment that has not been documented. While for the item of (Investment in .....Company), the Department found that it is a legal entity separate from the partners. Therefore, the Department ruled to accept the Zakat Payer's appeal regarding the investment in ... Company, reject the Zakat Payer's appeal regarding the items of wage and salary differences, short-term and long-term notes payable, and investment in (...) Company, and affirm the Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item First:** Salary and Wage Differences for the years 2007 and 2008:

The Zakat Payer stated that only the basic salary and housing allowance appear in GOSI certificate, while the other allowances are not covered by social insurance payments.

**Item Second:** Short-Term and Long-Term Notes Payable:

The Zakat Payer stated that debt precludes Zakat, and that Zakat is due on capital, profits, reserves, and the current account, but not on the Zakat Payer's debts.

**Item Third:** Investments:

The Zakat Payer stated that the investments in ..... Company are investments in securities recognized in the partners' current account and that company had paid Zakat on them. Furthermore, with regard to the shares of .....company, even though they are in the name of one of the partners, they are recorded in his current account, and the current account is added to the Zakat base, which requires that they be deducted from the base.



### Arguments of the respondent (ZATCA)

**Item First:** Salary and Wage Differences for the years 2007 and 2008:

ZATCA stated that it added the difference in salaries that exceeds the amount stated in GOSI Certificate to the net profit based on ZATCA's Circular No. (30/1) dated 05/03/1408 AH and ZATCA's Circular No. (8123/2) dated 27/12/1401 AH. The Department also supported ZATCA due to the existence of a discrepancy between the GOSI Certificate and what was submitted by the Zakat Payer.

**Item Second:** Short-Term and Long-Term Notes Payable:

ZATCA stated that it had added these securities to the base as part of the funds benefited from after a year had passed, in accordance with Sharia Fatwa No. (22665) dated 15/04/1424 AH, Fatwa No. (2384/2) dated 30/10/1406 AH, and Fatwa No. (3077/2) dated 08/11/1426 AH.

**Item Third:** Investments:

ZATCA stated that it had not made a final Decision regarding the investment in ..... Company. as it was a foreign investment that was not substantiated with documentation, based on Ministerial Decision No. (1005) dated 28/04/1428 AH. Concerning the investment in ..... Company, ZATCA, based on an extract showing that the stock portfolio was in the name of one of the partners, did not deduct this investment because the company is a separate legal entity from the partners. ZATCA requested that no new documents be accepted from the Zakat Payer that were not submitted during the audit and objection stages.

### Committee's Response to Defenses.

**Item First:** Salary and Wage Differences for the years 2007 and 2008:

The Zakat Payer did not provide this Department with any evidence to support his claim. Moreover, this Department found that the conclusion reached by the primary Decision was valid and that the grounds upon which the primary Decision was based were sufficient to uphold this Decision

**Item Second:** Short-Term and Long-Term Notes Payable:

The Department did not find any objections to the Decision that merited a response beyond those contained in those grounds. As such, and given that it was established that the contested Decision was consistent with the valid grounds upon which it was based and sufficient to support its ruling, where the Department that issued such Decision thoroughly examined the essence of the dispute and reached the conclusion stated in its ruling. Since the Department did not observe any requirement for correction or further comment based on the evidence provided by it.

**Item Third:** Investments:

The Department established that the Zakat Payer's appeal pertains to two types of investments. The Zakat Payer, regarding foreign investment in ... Company, did not provide evidence of the Zakat due on such investments in the investment country as required by the relevant regulations and given that the grounds cited by the Department that issued the appealed Decision are sufficient to affirm this Decision regarding the foreign investment in .....Company, this Department therefore dismisses the Zakat Payer's appeal and affirms the result reached in the appealed Decision. The Department, with respect to the Zakat Payer's investment in (B) Company, after examining the case file and carefully considering the matter in dispute, finds that the financing for these investments is included in the Zakat base under mandatory items. Consequently, if the deduction of these investments is not allowed, the corresponding funding sources must be excluded from the Zakat base to ensure a balanced budget.





## Decision

**First:** Accept the appeal in form submitted by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form against the Tax Appeal Department's Decision No. (1644) of 1438 AH.

**Second: On Merits:**

1. Dismiss the Zakat Payer's appeal concerning (Wage and Salary Differences) item and affirm the Tax Appeal Department's Decision, according to grounds and grounds stated herein.
2. Dismiss the Zakat Payer's appeal concerning (Short-Term and Long-Term Notes Payable) item and affirm the Tax Appeal Department's Decision, according to grounds and grounds stated herein.
3. Regarding (Investments) item:
  - A. Dismiss the Zakat Payer's appeal concerning investment in ..... Company and affirm the Tax Appeal Department's Decision, according to grounds and grounds stated herein.
  - B. Dismiss the Zakat Payer's appeal concerning investment in ... Company and affirm the Tax Appeal Department's Decision, according to grounds and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-26  
Case No.: Z-28984-2020

### Key words:

**Zakat - Objection to Zakat Assessment- Non-Receipt of Amendment Letter via Email**

### Abstract

The Appellant (Zakat payer) challenges the primary Decision No. (IZD-2020-179) regarding Zakat assessment for the years 2015 and 2016, where it is based on the claim that it did not receive the amendment letter via email from ZATCA and therefore could not file an objection. The Department, upon careful consideration of the dispute and after examining the case file, found that the Appellant confirmed in its appeal that it did not initially file an objection against ZATCA before filing the case before the Primary Department. Consequently, the primary Decision regarding this objection is deemed correct. The Zakat Payer's claim of not receiving the amendment letter via email does not undermine validity of the appealed Decision. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

#### **Item First:** Non-Receipt of Amendment Letter via Email:

The Zakat Payer stated that ZATCA originally rejects the objection after the legally-prescribed period, even if the website failure was repaired after the case was filed. This means that his filing an objection with ZATCA after filing the case violates custom, as ZATCA does not consider the grounds for the delay in filing the objection. These are administrative grounds that the Zakat Payer could not enter ZATCA's correspondence system. Despite the presence of the amendment letter in the correspondence system, the Zakat Payer did not reach it in his email.



### Committee's Response to Defenses.

The Zakat Payer emphasized in his appeal that he did not initially file the objection with ZATCA before filing the case with the Primary Department. This confirms the validity of the conclusion reached by the Primary Department regarding this objection. The Zakat Payer's claim of not receiving the amendment letter via email does not undermine validity of the appealed Decision. It is well-established in jurisprudence that filing a complaint with the issuing authority is binding before seeking judicial review, as outlined in Rules of Tax Dispute and Violation Department Procedures. The Department is obligated to First verify procedural compliance before addressing the substantive issues of the case. Since the Zakat Payer did not file an objection to ZATCA before initiating its claim before the Primary Department, which concludes that the Zakat Payer filed its case prematurely due to its failure to objection before the administrative authority.

### Decision

**First:** Accept, in form, the Appeal submitted by Zakat Payer/(..... Company), with Commercial Register No. (...), TIN (...), against the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** No. (IZD-2020-179), issued in case number (Z-10195-2019), related to Zakat assessment for the years 2015 and 2016 AD.

**Second: On Merits:**

The Zakat Payer's appeal is rejected and the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** is upheld, in accordance with the reasons and justifications stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-27  
Case No.: Z-29610-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Short-Term Loans - Long-Term Loans**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZJ-2020-145) regarding Zakat assessment for 2017. Zakat payer's appeal is based on its demand to treat short-term loans in the same manner as long-term loans. Upon careful consideration of the dispute, the Department notes that Zakat treatment of loans involves adding what has completed a lunar year to Zakat base or what has financed fixed assets. Since the disagreement lies in considering renewable short-term loans as long-term loans, and after analyzing the loans, it is clear that each loan was requested through a separate financing letter, and there is a guarantor for each loan. This indicates that each loan contract was independent of the others, and therefore, they are short-term loans that have not completed a lunar year. Accordingly, the appeal is accepted, and the primary Decision is overturned.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

##### Item First: Loans:

The Zakat Payer stated that the primary Decision was wrong when it determined that the loan was essentially a long-term loan. The Zakat Payer acknowledged that the loan was obtained and repaid after a short period not exceeding three months, and requested that it be deducted from the Zakat base as a short-term loan.

### Committee's Response to Defenses.

After analyzing the loans, the Department found that each loan was requested with a separate financing letter, and that each loan had a guarantor. This indicates that each loan contract was concluded independently of the others. Therefore, they are short-term loans that had not have a year passed on them. This establishes the Zakat Payer's right to deduct these loans from the Zakat base.



## Decision

**First:** In form, Accept the appeal filed by Zakat payer/ Company(...), CR. NO. (...), TIN No (...), against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No (IZJ-2020-145) issued in Case No. (Z-6956-2019) in connection with Zakat assessment for 2017.

**Second: On Merits:**

Accept Zakat Payer's appeal and overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-35  
Case No.: Z-29813-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Liquidation of Company According to the Bankruptcy Law - Remand the Case**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZD-2020-206) regarding Zakat assessment for 2018. Zakat payer's appeal centers on the fact that it was unable to submit its objection within the prescribed time due to circumstances related to the Company's liquidation proceedings in accordance with the bankruptcy law. Upon carefully considering the subject matter of dispute, the Department finds that, according to the facts of the case and its documents, liquidation proceedings have been initiated for the Appellant Company in accordance with the bankruptcy law. Furthermore, the documents submitted by the Company's Representative regarding the liquidation proceedings justify the Zakat payer's delay in submitting their objection to ZATCA. Therefore, the Department accepts the appeal and remands the Case.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item First:** Liquidation of Company According to the Bankruptcy Law:

The Zakat Payer stated that the company was under liquidation according to the bankruptcy law at the time of the assessment, and he was unable to determine its financial position or prepare its financial statements before the expiration of the period, which caused his objection to be dismissed in form due to the lapse of the regular period.



### Committee's Response to Defenses.

It was established that, according to the facts of the case and its documents, liquidation proceedings have been initiated for the Appellant Company in accordance with the bankruptcy law. Furthermore, the documents submitted by the Company's Representative regarding the liquidation proceedings justify Zakat payer's delay in submitting their objection to ZATCA, due to the fact that initiation date of liquidation proceedings for the Company was .../.../..., corresponding to ..../.../... AD, which is the same year in which the assessment Decision was issued. Therefore, the delay of the Company's Representative (Bankruptcy Trustee) in submitting an objection is justified, as it is his duty to conduct an assessment of the debtor's assets, collect funds and rights on behalf of the debtor, and verify the debts owed by the debtor, including Zakat due according to ZATCA's assessment and the need to submit a report accepting such assessment or a grounded objection on behalf of the debtor.

### Decision

**First:** Accept in form the appeal filed by Zakat payer/ Company..., CR. NO. (...), TIN No (...) against **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No (IZD-2020-206) issued regarding Case No. (Z-2474-2020) in connection with Zakat assessment for 2018.

**Second: On Merits:**

Accept Zakat Payer's appeal, overturn Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Dammam** and remand the Case for reconsideration on merits according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-135  
Case No.: Z-73576-2021

### Key words:

**Zakat - Objection to Zakat Assessment - Cancellation of Commercial Registration**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1322) regarding Zakat assessment for 1438 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. The Department hereby ruled to accept the appeal and cancel the primary Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

##### **First:** Cancellation of Commercial Registration:

The Zakat Payer stated that ZATCA's assessment was based on a cancelled commercial registration in 1436 AH of a company that discontinued its activity on 1426 AH. Accordingly, ZATCA has made the assessment on funds not subject to Zakat. Furthermore, the non-renewal of the commercial registration confirms, as per the Ministry of Commerce, that the business activity had been officially terminated.

#### Arguments of the respondent (ZATCA)

##### **First:** Cancellation of Commercial Registration:

ZATCA affirmed its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection before Primary Department within the statutory period. Therefore, ZATCA Decision becomes unappealable by expiry of statutory period for appeal in accordance with Article (2) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure.



### Committee's Response to Defenses.



It was established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years, it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its grounding, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements.

### Decision

**First:** Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No. (IFR-2021-1322) issued in Case No. (Z-52197-2021) in connection with Zakat assessment for 1438 AH.

**Second: On Merits:**

Overtake Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh and cancel ZATCA's disputed assessment, according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-139  
Case No.: Z-74254-2021

### Key words:

**Zakat - Objection to Zakat Assessment - Expiry of the legally-prescribed Period - Failure to Notify the Zakat Payer of the Assessment at its Correct Address.**

### Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2021-963) regarding the Zakat assessment for the year 2015 AD, where it lies that the establishment had no legal status during the assessment year in question. The Appellate Department found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a Zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, The Department hereby ruled to accept the appeal and dismiss the primary Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**First:** Failure to Notify the Zakat Payer of the Assessment at the Correct Address:

Zakat Payer claimed that it did not file an objection within the statutory period because it was not notified of the assessment at the correct address. In addition, Zakat Payer closed all records for the enterprise and converted it into branches of another company, so Zakat Payer is no longer holds commercial records or licenses for assessment period and has no domicile at that time. Moreover, ZATCA procedure outlined in levying Zakat on both the company and the enterprise simultaneously constitutes a double payment of Zakat.



### Arguments of the respondent (ZATCA)

**First:** Failure to Notify the Zakat Payer of the Assessment at the Correct Address:

ZATCA affirmed its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection before Primary Department within the statutory period. Therefore, ZATCA Decision becomes unappealable by expiry of statutory period for appeal in accordance with Articles (2) and (3.1) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure.

### Committee's Response to Defenses.

The Department found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a Zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in grounding, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met.

### Decision

**First:** Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No (IZJ-2021-963) rendered in Case No. (Z-42117-2021) regarding tax assessment for 2015.

**Second: On Merits:**

The Zakat Payer's appeal is accepted, the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** is annulled, and ZATCA's assessment in the case is canceled, in accordance with the reasons and justifications stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax  
Violations and Disputes in Riyadh

Decision No.: IR-2022-146  
Case No.: Z-32881-2020

**Key words:**

**Zakat - Objection to Zakat Assessment - Current Account - Trade Payables - Retained Earnings**

**Abstract**

The Appellant (Zakat payer) has filed this appeal to request the cancellation of Primary Department Decision No (ISR-2020-228) regarding Zakat assessment for 2016. Regarding the item (current account), Zakat payer's appeal centers on objecting to the inclusion of this item in Zakat base. Zakat payer argues that the full amount on which Zakat was assessed has not completed one whole lunar year. However, the Department has established that the item (current account) represents Zakat payer's claims against other parties (debtors), and this item does not constitute one of the components of Zakat payer's current account. Therefore, it is not included in the equation for calculating Zakat base. Regarding the item (trade accounts payable), Zakat payer's appeal centers on objecting to the inclusion of this item in Zakat base due to the fact that one whole lunar year has not passed on this item. The Department has established that the item trade accounts payable is classified, according to accounting principles, as short-term liabilities that are usually settled within the following year. Regarding the item (retained earnings), Zakat payer's appeal centers on objecting to the inclusion of this item in Zakat base. It claims that this is merely a correction of accounting errors from previous years. The Department has found that, regarding the item retained earnings, the audited financial statements for the beginning of the year show a reduction in the balance due to the correction of these errors, by the exact amount Zakat payer is disputing. Additionally, this correction was offset by a reduction in assets excluded from Zakat base, as per the financial statements for the disputed year. Therefore, The Department, hereby, ruled to accept the appeal and amend the primary Decision with respect to the item (current account), and overturn the primary Decision with respect to the item (trade accounts payable) and the item (retained earnings).

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

#### **Item First:** Current Account:

Zakat payer stated that the balance of the owner's current account (additional capital) should be deducted. This is because this amount was adjusted for the mentioned years due to errors in the financial statements for the period from 2014 to 2016. The previous management had revalued the assets and recorded them in the books in exchange for inflating the retained earnings and the partner's current account in 2014. In addition, the current account balance has been mistakenly inflated. The Zakat Payer attached a detailed statement of the owner's current account, which are balances owed by the owner's relatives, who do not engage in any direct activity with the company. Therefore, their balances are owed to the owner, not the Company. Furthermore, the credit transactions in the owner's current account are for personal expenses for the owner and his family (i.e., account reconciliation). Furthermore, the increase in the credit current account is intended to finance operational activities, not to finance deductible assets (acquisition assets) or their source from equity.

#### **Item Second:** Accounts Payable:

The Zakat Payer requested that the accounts payable be deducted, as these are balances owed to certain suppliers, which are due within a short period and did not have a year passed on them.

#### **Item Third:** Retained earnings:

The Zakat Payer stated that the retained earnings amounts represent adjustments for prior years that were closed to correct the entity's financial position and accumulated due to a previous accounting error that was rectified in 2016. At the beginning of 2014, when preparing the financial statements, the old entity's management registered an entry after asset revaluation, which resulted in an overstatement of both the fixed assets and retained earnings items. Consequently, the entry made to the opening balances (in excess) for 2014 was erroneously carried forward to 2016. Accordingly, the opening balance entries, amounting to SAR 79,255,798, were recognized, which stemmed from an overstatement of fixed assets and projects under construction. Accordingly, the Appellant demands that the retained earnings be deducted from the Zakat base.



## Arguments of the respondent (ZATCA)

### **Item First:** Current Account:

ZATCA maintained its argument before the primary department regarding the item (owner's current account), stating that the amount added to the base was after adding the lesser of the opening and closing balances according to the financial statements, based on Sharia Fatwa No. (22665) dated 15/04/1424 AH, and Article (4.2(First)) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Furthermore, the Zakat Payer did not provide evidence that a year had not passed on these balances, and accordingly, his objection was dismissed based on Article (20.3) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

### **Item Second:** Trade Payables:

ZATCA stated that the balances of the item were added due to the passage of a year, in accordance with Article (4/First/5) of the Implementing Regulations for Zakat Collection issued in 1438 AH.

### **Item Third:** Retained earnings:

ZATCA stated that the Zakat Payer had previously been requested, during the examination stage, to submit profit distribution documents. He was contacted multiple times, but did not respond. Consequently, the retained earnings were added at the beginning of the period due to the failure to provide the documents, in accordance with Paragraph (8) of Article (4), item (First) of the Implementing Regulations for Zakat Collection issued in 1438 AH. The Zakat Payer also did not provide supporting documents for his claim. Accordingly, his objection was dismissed based on Paragraph (3) of Article (20) of the same regulation. Accordingly, ZATCA maintains the validity and integrity of its procedure.

## Committee's Response to Defenses.

### **Item First:** Current Account:

The Department found that the document generated from customer's accounts shows that the account balance at the beginning of year was SAR 41,829,745, while the debit transactions amounted to SAR 23,993,695. Given that payments from the current account are made from the opening balance, the remaining opening balance after deducting debit transactions is SAR 17,836,050, which completed a full lunar year. Therefore, this amount shall be added to Zakat base, excluding the remaining amount added by ZATCA. As for what Zakat payer referred to as the 'second statement,' it has been found that it represents Zakat payer's claims against other parties (debtors). This item is not considered one of the components of Zakat payer's current account and, therefore, does not enter into the equation for calculating Zakat base. Zakat payer's claim that these amounts belong to the Owner of the Enterprise and not to the Enterprise itself does not affect this conclusion, as the accounts of Zakat payer show that the amounts referred to in the second statement represent Enterprise's equity against other parties. Therefore, this Department has decided to amend the Primary Department's Decision by determining that only the amount of SAR 17,836,050, which has completed a full lunar year from the current account, shall be added to Zakat base, excluding the rest of the amount added by ZATCA from this account.

### **Item Second:** Trade Payables:

The Department found that the opening balance of the accounts comprising this item amounted to SAR 24,609,144, while the debit transaction amounted to SAR 33,123,330, which indicates that the entire opening balance has been paid, in addition to paying amounts ensued throughout the year. Since such accounts are classified as short-term liabilities that are usually paid throughout the next year. Since ZATCA has not provided any evidence that contradicts the analysis provided by Zakat Payer. Therefore, the Department accepts Zakat Payer's appeal regarding this item.





**Item Third: Retained earnings:**

The Department found that the opening balance of retained earnings, as per the audited financial statements, has been decreased by correcting errors by the same amount claimed by Zakat Payer. Since this correction has been accompanied by decreasing assets deducted from Zakat base, which were affected by error correction, as per the financial statements for the year in question. Therefore, this Department accepts Zakat Payer's appeal.

**Decision**

**First:** Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (...), TIN No (...) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2020-228) issued regarding Case No. (Z-5404-2020) in connection with Zakat assessment for 2016.

**Second: On Merits:**

1. Accept Zakat payer's appeal regarding the item (current account), and amend the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, to specify the addition of SAR 17,836,050, which is the amount from the current account that has completed a full lunar year, based on the grounds and merits mentioned herein.
2. Accept the appeal filed by Zakat payer regarding the item (trade accounts payable), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on the grounds and merits mentioned herein.
3. Accept the appeal filed by Taxpayer regarding the item (retained earnings), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on the grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-149  
Case No.: Z-30529-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Disregarding Regular Accounts - Assessment according to the Financial statements - Case Remanded**

### Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IZJ-2020-129) regarding the Zakat assessment for the years 1434 AH and 1435 AH. Zakat Payer's appeal is based on the claim that Primary Department's Decision neglected the grounds for his objection, which centered on disregarding his statutory accounts and assessing Zakat based on an estimated method. The Department found that Zakat Payer is seeking to have the assessment based on the financial statements he submitted to ZATCA, which is sufficient grounds for objecting to ZATCA's assessment without the need to specify and repeat this for each item in dispute. Therefore, the Department accepts the appeal and remands the Case.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**First:** Disregarding Regular Accounts and Making the Assessment according to Estimated Method:

Zakat Payer claimed that the regulations on which the Department based its Decision has been repealed by the provisions of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH. The latter Regulation does not stipulate that an objection must be substantiated, nor does it condition the acceptance of an objection on procedural grounds upon it being substantiated. Even if the provisions requiring substantiation were accepted, the Regulation did not prescribe a penalty of non-acceptance of the objection on procedural grounds if it was submitted without substantiation. Moreover, the provision requiring substantiation in the repealed regulation did not specify a particular form for substantiation. Therefore, it is sufficient for the objector to state that the assessment is excessive. It is evident to the Department that if the assessment is substantial and objected to, this alone shall be sufficient as grounds for the objection, as the burden of providing evidence remains with the objector.



### Committee's Response to Defenses.

The Department found that the Zakat Payer was requesting that the assessment be made in accordance with the financial statements he had submitted to ZATCA. This was sufficient ground to object to ZATCA's assessment without the need to clarify and repeat this for each of the contested items.

### Decision

**First:** Accept, in form, the Appeal submitted by Zakat Payer, ..... Establishment, Commercial Register (...), TIN (...), against Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, Decision No. (IZJ-2020-129), issued in Case No. (Z-4972-2019) related to Zakat assessment for the years 1434 AH and 1435 AH.

**Second: On Merits:**

Accept Zakat Payer's appeal, and annul Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, and return the case to the Department for substantive review, in accordance with the reasons and considerations outlined in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax  
Violations and Disputes in Riyadh

Decision No.: IR-2022-151  
Case No.: Z-53629-2021

**Key words:**

**Zakat - Accounts - Non-Deduction of Investment-Supporting Loans - Subjection of Sukuk to Zakat - Addition of Retained Earnings to Zakat Base - No Reduction of Adjusted Profit by Losses - Non-Deduction of Deferred Capital Expenses - Zakat Calculation on the Company's Foreign Investments**

**Abstract**

The Appellant (ZATCA/ Zakat Payer) challenges the primary Decision No. (ISR-2021-163) regarding the Zakat assessment for the years 2014 to 2016, where ZATCA, regarding (Non-Deduction of Investment-Supporting Loans), argues that these loans were not deducted from the Zakat base because they are considered income-generating funds, similar to receivables and debts which are not deducted from the Zakat base. The Department confirmed the correctness of ZATCA's conclusion, finding the reasons provided sufficient to affirm the Decision. ZATCA contends, regarding (Addition of Retained Earnings to the Zakat Base instead of Deduction of Adjusted Carried-Forward Losses), the primary Decision to cancel ZATCA's adjustment related to this issue for the year 2014 was unclear. It was found that the assessment did not include the addition of retained earnings to the Zakat base for 2014. Upon reviewing both parties' perspectives on the disagreement for 2014, it was noted that there was no dispute over the deduction of carried-forward losses for that year, but rather over the amount of those losses that were deducted. Therefore, the primary Decision to reverse ZATCA's adjustment concerning the addition of retained earnings to the Zakat base for 2014, and its report on deducting the adjusted carried-forward losses from the Zakat base for 2014 did not align with the objections raised by the Zakat Payer and ZATCA's responses. Regarding the Zakat Payer's appeal on the issue of (Non-Deduction of Investment-Supporting Loans for the years 2014 to 2016), the appeal challenges the non-deduction of the full amount of these loans, arguing that only 65% was deducted because the remaining portion was considered an investment rather than a loan to prevent double taxation of Zakat. Furthermore, the Zakat Payer's appeal, concerning (Subjection of Sukuk to Zakat for the years 2014 to 2016) item, lies in objection to include this item to the Zakat base, asserting that sukuk did not finance tangible assets and should not be subject to Zakat, even if a complete full year has passed. This implies acceptance of some times while others are dismissed.

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

**Item First:** Levying Zakat on Sukuk for Years from 2014 to 2016:

Zakat Payer stated that these sukuk do not constitute loans and should not be subject to Zakat, even if a full Zakat year, particularly since they did not finance any additions to property assets. This is evident from Company's financial statements, which show that Company's investments and the supporting loans for the investment were not financed by these sukuk. Therefore, they were not used to finance capital assets. Furthermore, the addition of these sukuk to Zakat base for years in question contradicts the legal and regulatory provisions that state that debt prevents Zakat and is justified since such debts are used to finance working capital. If these sukuk are to be considered as loans, the Company believes that the relevant fatwas, which confirm that Zakat is the responsibility of the lender rather than the borrower, should be applied, provided that the borrower is solvent and not procrastinating, and as long as the sukuk were used in trade bids. Accordingly, the obligation to pay Zakat on that wealth shall be the responsibility of the lender, and it is not permissible to impose Zakat on the same wealth twice.

**Item Second:** Adding Retained Earnings to Zakat Base instead of Calculating and Deducting Adjusted Deferred Losses from Zakat Base for Years from 2014 to 2016:

Zakat Payer stated that the Department upheld Zakat Payer's procedure of allowing deduction of deferred losses for 2014 from Zakat base but did not specify the amount. Accordingly, Zakat Payer confirms that the value of such losses amounts to SAR 528,467,119 and reserves the right to file an appeal against the Department's Decision as a precaution in case the value of the deferred losses differs from the amount stated above due to depreciation variance, since the Department had mentioned in clause (Fourth) of its Decision that the deferred losses approved by ZATCA amounted to SAR 528,310,274 after excluding the effect of depreciation variance. Regarding 2015 and 2016, Zakat Payer does not agree with ZATCA procedure outlined in adding retained earnings based on Company's audited financial statements without taking into consideration Company's adjusted deferred losses from previous years as per its assessments. In addition, Zakat Payer argues that levying Zakat on Company's retained earnings does not comply with sharia provisions, as such retained earnings outline Company's share of profits that have not been received or collected. Therefore, how can the passage of a full Zakat year be calculated on funds that the Company has not received? The Zakat Payer also emphasizes that the adjusted deferred losses from previous years were approved by ZATCA based on its revised assessment in light of the results of the primary Decision for years from 2011 to 2013.

**Third:** Non-reduction of adjusted profit by deferred losses when determining Zakat base, where the base is the adjusted profit for years from 2014 to 2016:

Zakat Payer stated that according to the declarations submitted to ZATCA, the net adjusted profit is higher than the Zakat base (negative Zakat base). Therefore, Zakat was calculated based on the net adjusted profit. Given that there are adjusted deferred losses from previous years, as mentioned in the previous item, the adjusted profit was reduced by such losses in accordance with Circular No. 122/1 for 1414 AH. In addition, Zakat Payer requests that Zakat is calculated based on the Zakat base, rather than the adjusted profit in accordance with fatwas and sharia provisions. The Department also acknowledged the existence of accumulated losses not less than SAR 528,310,247 according to ZATCA's statement. Accordingly, Zakat Payer asserts that the Department erred, as based on its calculations, there is no Zakat base since the base is negative. Therefore, the Company deemed it appropriate to reduce its profits by the accumulated losses, thereby calculating Zakat based on the Zakat base, rather than the adjusted profit. Furthermore, specifically for 2014, there is no Zakat base for the Company that could be subject to Zakat. The Company had profits amounting to SAR 54,644,132 according to its calculations, which cannot be subject to Zakat as long as the Company has accumulated losses exceeding such profits. The



Company also requests amending Zakat assessment by reducing adjusted profit through the deduction of accumulated losses for years from 2014 to 2016. Regarding (Disallowing Deduction of Deferred Capital Expenses from Zakat Base for Years from 2014 to 2016), Zakat Payer argues that such deferred expenses are considered long-term capital expenditures that can be deducted from the Zakat base, as these payments were made by the Company and thus exited from its possession before a full Zakat year passed. Regarding the Department's stance that such payments are included in the financial statements, Zakat Payer insists that since such expenses have exited Company's possession, they should not be subject to Zakat.

**Fourth Item** Disallowing Deduction of Deferred Capital Expenses from Zakat Base for Years from 2014 to 2016:

Zakat Payer argues that such deferred expenses are considered long-term capital expenditures that can be deducted from the Zakat base, as these payments were made by the Company and thus exited from its possession before a full Zakat year passed. Regarding the Primary Department's stance that such payments are included in the financial statements, Zakat Payer insists that since such expenses have exited Company's possession, they should not be subject to Zakat as long as they are supported by the financial statements.

**Fifth:** Calculating Zakat on Company's Foreign Investments for Years from 2014 to 2016:

Zakat Payer claims that ZATCA calculated Zakat on Zakat Payer's investments in (... Company based company, while deducting those foreign investments from the Zakat base. The Zakat Payer asserts that these long-term investments should be deducted from the Zakat base, regardless of whether the profits of these investments have already been subject to Zakat as the intention behind this investment is to retain it as capital assets for generating returns. Consequently, this investment has been classified as non-current assets in the company's audited financial statements. Zakat for such investments is only due on their returns, not the principal. Furthermore, the Zakat Payer objects to the Zakat base for the foreign company, as ZATCA failed to deduct deferred expenses from the Zakat base of the UAE-based company (...Co.) for the period 2014-2016 AD)

### Committee's Response to Defenses.

**Item First:** Levying Zakat on Sukuk for Years from 2014 to 2016:

The sukuk in question were issued in 2014, and thus had not been held for a full Zakat year during that year. Furthermore, ZATCA did not establish a direct correlation between such sukuk and specific assets deducted from the base that would justify their addition to the Zakat base before the completion of the full Zakat year. Therefore, it turned out that Zakat Payer is entitled not to have these amounts added to the Zakat base for 2014. As for the years 2015 and 2016, since there is no dispute regarding the completion of the full year for the amounts in question for the years under appeal, and in application of the relevant fatwas on this matter, the amounts of these sukuk are to be added to the Zakat Payer's Zakat base. Therefore, this Department concludes that the Zakat Payer's appeal for the year 2014 is accepted, while the appeal for the years 2015 and 2016 is dismissed.

**Item Second:** Adding Retained Earnings to Zakat Base instead of Calculating and Deducting Adjusted Deferred Losses from Zakat Base for Years from 2014 to 2016:

It turned out that the Department had annulled ZATCA procedure outlined in adding retained earnings to the Zakat base instead of calculating adjusted deferred losses from the Zakat base for 2014 only. Upon further examination of both parties' positions on the dispute for 2014, it turned out that there was no disagreement regarding the deduction of deferred losses for 2014. Rather, the dispute was over the amount of the deferred losses deducted for that year. Therefore, the primary Decision to annul ZATCA procedure related to adding retained earnings to the Zakat base for 2014 and to deduct the adjusted deferred losses from Zakat base for 2014 does not align with Zakat Payer's objection or ZATCA answer, demonstrating that the Decision addressed an





issue that was not in dispute. As such, this Department annuls the primary Decision regarding the addition of retained earnings to Zakat base for 2014 and remands the case back to the Primary Department to reconsider this item on merits in light of ZATCA procedure and Zakat Payer's principal objection in this regard. As for the years 2015 and 2016, ZATCA's applied procedure for all Zakat payers is the deduction of adjusted losses according to ZATCA's assessments. It was found from the Zakat Payer's appeal that there were carried-forward losses, in accordance with ZATCA's assessments, which were not offset by the Zakat Payer's profits for the two years in question. The Zakat Payer presented an analysis of these amounts in its appeal, while ZATCA did not provide any evidence that could justify deviating from the Zakat Payer's analysis of these amounts. Therefore, it is evident that the Zakat Payer's position is valid. ZATCA's arguments in its response in its response that the remaining profits must be deposited in a special account that the Zakat Payer cannot access in order to be considered for Zakat is irrelevant to the issue at hand. The dispute was not over the principle of subjecting retained earnings to Zakat; rather, the Zakat Payer argued that there were carried-forward losses according to ZATCA's assessment for the year 2013, which had not been offset by profits in subsequent years. Consequently, this Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision regarding this item.

**Item Third:** Non-reduction of adjusted profit by deferred losses when determining Zakat base, where the base is the adjusted profit for years from 2014 to 2016:

The Committee decided that Zakat Payer is entitled to determine the Zakat base by accounting for both positive and negative elements. Since the principal rule for calculating Zakat base and identifying amount due requires the existence of Zakatable wealth in the possession of Zakat Payer. Since the calculation of net Zakat base requires taking accumulated losses into account and derecognizing fixed assets, regardless of how such assets were financed, to come up with Zakat assessment. This should be done without being impacted by whether the net Zakat base is lower than the adjusted profit. Therefore, the Department concluded in this regard to uphold Zakat Payer's position in calculating Zakat based on net Zakat base, without considering adjusted profit, which does not necessarily reflect the existence of Zakatable wealth, and with which the obligation to pay Zakat revolves in the liability of Zakat Payer.

**Fourth Item** Disallowing Deduction of Deferred Capital Expenses from Zakat Base for Years from 2014 to 2016:

Since the deferred capital expenditures are amounts paid by Zakat Payer for future goods or services that are not subject to Zakat and do not outline a financial debt on a third party that would result in a financial inflow to Zakat Payer.

**Fifth:** Calculating Zakat on Company's Foreign Investments for Years from 2014 to 2016:

Since it turned out from Zakat Payer's appeal that ZATCA calculated Zakat on the foreign company, while deducting such investment from its Zakat base. ZATCA did not deduct deferred capital expenditures from Zakat base of the foreign company. Therefore, this Department concludes that ZATCA procedure is correct and valid. However, Zakat Payer is entitled to deduct the deferred capital expenditures from Zakat base of its foreign company for the same reasons accepted when calculating its own Zakat base.





### Arguments of the respondent (ZATCA)

**Item First:** Adding Retained Earnings to Zakat Base instead of Calculating and Deducting Adjusted Deferred Losses from Zakat Base for 2014:

ZATCA stated that having reviewed the assessment, it turned out that the retained earnings were not added to the Zakat base for 2014 initially. Accordingly, ZATCA could not determine the basis on which the cancellation Decision issued by the Department was made. Therefore, ZATCA insists on the validity and correctness of its procedures.

### Committee's Response to Defenses.

**Item First:** Adding Retained Earnings to Zakat Base instead of Calculating and Deducting Adjusted Deferred Losses from Zakat Base for 2014:

It turned out that the Department had canceled ZATCA procedure outlined in adding retained earnings to the Zakat base instead of calculating adjusted deferred losses from the Zakat base for 2014 only. Upon further examination of both parties' positions on the dispute over this item for 2014, it turned out that there was no disagreement regarding the deduction of deferred losses for 2014. Rather, the dispute was over the amount of deferred losses deducted for that year. Therefore, the primary Decision to annul ZATCA procedure related to adding retained earnings to the Zakat base for 2014 and to deduct the adjusted deferred losses from Zakat base for 2014 does not align with Zakat Payer's objection or ZATCA answer, demonstrating that the Decision addressed an issue that was not in dispute. Therefore, this Department annuls the primary Decision regarding (Adding Retained Earnings to Zakat Base for 2014) item and remands the case to the Primary Department to reconsider this item on merits in light of ZATCA procedure and Zakat Payer principal objection in this regard.



## Decision

**First:** Accept the appeal filed by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form Accept the appeal in form by ZATCA against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2021-163), issued in case number (Z-10140-2019), related to Zakat assessment for the years 2014 to 2016.

**Second: On Merits:**

1. The Zakat Payer's appeal regarding (Non-Deduction of Investment-Supporting Loans for the years 2014 and 2016) item, is dismissed and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is affirmed, in accordance with the reasons and justifications stated herein.
2. Concerning the item of (Subjection of Sukuk to Zakat for the years 2014 to 2016 item):
  - A. The Zakat Payer's appeal regarding this item for the year 2014 is accepted and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.
  - B. The Zakat Payer's appeal regarding this item for the years 2015 and 2016 is dismissed and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is affirmed, in accordance with the reasons and justifications stated herein.
3. Regarding the Zakat Payer's appeal on the item of (Addition of retained earnings to the Zakat base instead of calculating and deducting adjusted carried-forward losses from the Zakat base for the years 2014 to 2016) and ZATCA's appeal on the same item for the year 2014:
  - A. Cancel the primary Decision regarding this item for the Zakat assessment of the year 2014 and to remand the case to the Department for reconsideration of this item in merits in light of ZATCA's procedure and the Zakat Payer's original objection, in accordance with the reasons and justifications stated herein.
  - B. Accept the Zakat Payer's appeal regarding this item of (Addition of retained earnings to the Zakat base instead of calculating and deducting adjusted carried-forward losses from the Zakat base for the years 2015 to 2016) and overturn the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
4. The Zakat Payer's appeal regarding (No reduction of adjusted profit by carried-forward losses when determining the Zakat base, where the base is the adjusted profit for the years 2014 and 2016) item, is accepted and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.
5. The Zakat Payer's appeal regarding (Non-Deduction of deferred capital from the Zakat base for the years 2014 and 2016) item, is accepted and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.
6. The Zakat Payer's appeal regarding the item of calculating Zakat on the Zakat Payer's share in the foreign company (... Co.), while affirming the Zakat Payer's right to deduct its share of deferred capital expenses from the Zakat base for the years 2014 to 2016, in accordance with the reasons and justifications stated herein.
7. ZATCA's appeal regarding (Non-Deduction of Investment-Supporting Loans for the years 2014 and 2016) item, is dismissed and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is affirmed, in accordance with the reasons and justifications stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

**Decision No.: IR-2022-200  
Case No.: ZW-72364-2021**

**Key words:**

**Zakat – Objection to Zakat Assessment - Ministry of Finance’s Loan - Derecognizing Amounts Related to Capital Works-in-Progress (CWIP) - Accumulated Losses - Amounts Payable by Some Founders**

**Abstract**

Appellant (ZATCA) requests overturning Primary Committee’s Decision No. (IZJ-2021-883) regarding Zakat assessment for years from 1427 to 1433. Zakat Payer’s appeal involves the following: Regarding (Company’s Objection for years from 1427 to 1430) item, Zakat Payer claims that Primary Department did not consider its objection on the ground that Appellate Committee rendered a Decision regarding such years. Regarding (Ministry of Finance Loan for 1433) item, (Derecognizing Amounts Related to CWIP for years from 1431 to 1433) item and (Accumulated Losses) item, Zakat Payer objects to Primary Department’s Decision that upheld ZATCA procedure outlined in adding the two items to Zakat base. As for ZATCA appeal and request for dismissing the Case in form and regarding (Amounts Payable by Some Founders for years from 1431 to 1433) item, the Committee found that payments made to some founders outline amounts paid to some landlords in return for lost revenues due to cessation of their activities and operations. In addition, these amounts are to be recovered by deduction from their dividend payout ratio. Therefore, the Department accepts Zakat Payer’s appeal regarding (Ministry of Finance Loan) item and (Derecognizing Amounts Related to CWIP) item, dismisses it regarding (Accumulated Losses) item, inadmissibility of (Company’s Objection for years from 1427 to 1430) item and dismisses ZATCA appeal.

**Documents:**

- [Paragraph \(1\) of Article \(76\) of the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

**Item First:** Company's Objection for Years from 1427 to 1430:

Zakat Payer argued that the Primary Department dismissed its objection on the ground that the Appellate Committee rendered a Decision in this regard. In addition, Zakat Payer states that it submitted a petition to the Board of Grievances "BoG" against Decision No. (2473) of 1439 for reconsideration of grievance. Therefore, Zakat Payer requests considering such grievance according to Company's petition.

**Item Second:** Ministry of Finance Loan for 1437:

Zakat Payer argued that the amount of loan used in financing long-term assets is SAR 868,326,168. In addition, the remaining amount of loan included in Zakat base amounting to SAR 669,218,139 was not used in financing long-term assets and did not complete a full Zakat year.

**Item Third:** Derecognizing Amounts Related to CWIP for Years from 1431 to 1433:

In addition, Zakat Payer claims that CWIP balance outlines expenses incurred by the Company in developing lands, construction works and others.

**Item Fourth:** Accumulated Losses:

Zakat Payer requests deducting deferred losses according to Company's financial statements, rather than ZATCA assessment.

### Committee's Response to Defenses.

**Item First:** Company's Objection for Years from 1427 to 1430:

Since the Department found that Appellate Committee's Decision No. (1603) for 1437 was rendered and upheld by BoG ruling in Administrative Case No. (12837) for 1437, which became final. Therefore, the Department found that the Case cannot be reconsidered regarding this item, as it has already been adjudicated in accordance with Paragraph (1) of Article (76) of the Law of Civil Procedure.

**Item Second:** Ministry of Finance Loan for 1437:

Having taken cognizance of the subject matter of appeal, and since it is noted that the addition of the Ministry of Finance loan to the appealed item was not due to the passage of a full Zakat year. The loan was obtained during the year in accordance with loan agreement. Since ZATCA did not provide a direct relation between that loan and any asset deducted from Zakat base, which could serve as a ground for disregarding Zakat Payer's declaration. Furthermore, the Department that rendered the Decision grounded its Decision to dismiss Zakat Payer's objection on Zakat Payer's failure to provide the supporting documents, without clarifying the missing documents or what could have been requested from Zakat Payer. Since the principal rule is to accept Zakat Payer's declaration unless evidence suggests otherwise, and since ZATCA did not, in its documents submitted to either Primary Department or in response to Zakat Payer's appeal, what elaborates how it came up with amounts different from those declared by Zakat Payer. Therefore, this Department accepts Zakat Payer's appeal and annuls the primary Decision in this regard.

**Item Third:** Derecognizing Amounts Related to CWIP for Years from 1431 to 1433:

Having taken cognizance of the subject matter of dispute, the Department found that the audited financial statements are presumed to be accurate, and that this Department finds no evidence to contradict what has been elaborated in such statements. Since Zakat assessment for Zakat Payers based on their official accounts requires observing principle of budget balance, and that rejecting deduction of a specific capital asset requires either not adding its financing or that ZATCA



calculates Zakat using the direct method, which includes only Zakatable assets. Since ZATCA did not follow any of these alternatives when it rejected deducting item in question, Zakat Payer's statement is presumed to be correct. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision in this regard.

**Item Fourth: Accumulated Losses:**

Having taken cognizance of subject matter of the dispute, the Department found that Zakat Payer requests to be accounted based on the financial statements, while ZATCA made the assessment based on its revised assessments. Having taken cognizance of ZATCA amendments to accounting profit for each year in question, the Department found that the amendments included addition of depreciation variances, as well as adding provisions for each year in question, in addition to adding profits from the sale of property and equipment for 1431. Since the depreciation variances and formed provisions are temporary variances between the accounting profit and adjusted profit for Zakat purposes, which Zakat Payer is entitled to request for their deduction from its Zakat base when realized or paid, in accordance with Zakat accounting principles. Therefore, ZATCA procedure of adding depreciation variances and formed provisions to losses is valid. As for adding profit of property and equipment sale for 1431: Since this procedure resulted in increased loss amount and did not result in decreased loss, it does not affect Zakat Payer's objection to ZATCA procedure. Since Zakat Payer's objection was regarding the increased Zakat base compared to data included in Zakat Payer's declaration. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

### Arguments of the respondent (ZATCA)

**Item First: Lapse of Time-Limit:**

ZATCA argued for inadmissibility of the Case in form in accordance with Article (2) and Article (3) of Tax Dispute and Violation Committee Procedures, as the interval between Zakat Payer's objection before ZATCA and its grievance before the Primary Department is more than 120 days. Thereupon, by lapse of time-limit, the appealed Decision becomes unappealable by lapse of time-limit. However, the Primary Department did not discuss this plea in the details of its Decision, subject matter of appeal, nor did it discuss grounds for accepting the Case in form. Therefore, the Decision is considered marred by a defect in form.

**Item Second: Amounts Payable by Some Founders for Years from 1431 to 1433:**

ZATCA stated that, according to notes to the financial statements, these amounts were paid to some landlords in return for lost revenues due to the cessation of their business activities and operations. In addition, these amounts will be recovered from their dividend payout ratios according to Company's articles of association. Therefore, such amounts are considered loans and are subject to Zakat in accordance with Fatwa No. (2/3077) dated 08/11/1426 AH pertaining to Zakat on payables and receivables. As for Primary Department's conclusion that these amounts do not outline outstanding debts owed by founders but are considered advance dividends that should be accounted for under equity due to treating founders as owners rather than third parties, ZATCA replies by stating that the classification of this item in the financial statements is advance payments from some shareholders, and it is not a deductible item. In addition, Primary Department's assumption that these amounts outline advance dividend payout ratio is unfounded and groundless. Moreover, dividend payout ratios are only allowed to be deducted upon the occurrence of actual payment.



## Committee's Response to Defenses.

### Item First: Lapse of Time-Limit:

Since the Department found from Case file that the dispute, subject matter of appeal, was before effectiveness of such Procedures. Therefore, this Department dismisses ZATCA appeal in this regard.

### Item Second: Amounts Payable by Some Founders for Years from 1431 to 1433:

Having taken cognizance of the subject matter of the dispute, Case file, documents and arguments included therein, the Department found that Note No. (5) to the financial statements shows that advance payments to some founders outline amounts paid to some landlords in return for lost revenues due to cessation of their activities and operations. In addition, these amounts are to be recovered by deduction from their dividend payout ratio. Thereupon, the Department concludes that ZATCA position is correct. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision in this regard.

## Decision

**First:** Accept appeal filed by Zakat Payer (... Company), C.R No. (...), TIN (...) and appeal filed by ZATCA, against First Department for Determination of Income Tax Violations and Disputes Jeddah Decision No. (IZJ-2021-883) rendered in Case No. (ZW-22993-2020) regarding Zakat assessment for years from 1427 to 1433.

### Second: On Merits:

1. Inadmissibility of hearing Zakat Payer's Appeal regarding (Company's Objection for years from 1427 to 1430) item due to *res judicata* rule and uphold the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.
2. Accept Zakat Payer's appeal regarding (Ministry of Finance Loan for 1433) item and overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.
3. Accept Zakat Payer's appeal regarding (Derecognizing Amounts Related to CWIP for years from 1431 to 1433) item and overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.
4. Dismiss Zakat Payer's appeal regarding (Accumulated Losses) item and uphold the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.
5. Dismiss ZATCA appeal regarding (Amounts Payable by Some Founders for Years from 1431 to 1433) item and uphold the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** according to reasons and grounds stated herein.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.





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

Decision No.: IR-2022-207  
Case No.: Z-33813-2021

### Key words:

**Zakat - Objection to Zakat Assessment - Other Capital Contributions - Investments - Investment Losses - Short-Term Loans**

### Abstract

Appellant (Zakat Payer) filed this appeal seeking cancelation of Primary Department's Decision No. (IZD-2020-232), regarding Zakat assessment of 2014, with regard to (Investment) item, since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure of not deducting this item from Zakat base and claims that it must be deducted as long-term investments. Since Zakat Payer submitted his audited financial statements proving correction of the error in the disputed year regarding not including investments in financial statements in the disputed year, and the item (other capital contributions), since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure of adding full amount of this item to Zakat base, and claims that amounts that a year has passed thereon must be deducted. Having reviewed Zakat Payer's financial statements in the disputed year, the Department did not find the amount that ZATCA claimed it represents the total capital contributions amounting to SAR (24,772,596). In the light of the foregoing, it was not possible to extract the same from any other sum disclosed in the financial statements, and the item (investment losses and short-term loans), since Zakat Payer's appeal lies in objection to ZATCA's procedure of adding these two items in Zakat base and the Department's failure to address his objection to these two items. Therefore, the Department found that Primary Department did not settle the dispute over these items, which would render the dispute related to these two items unsettled on their merits, and would enable Zakat Payer to litigate in two degrees. Therefore, the Department accepted the appeal regarding the item (Investments) and the item (Other Capital Contributions) and return the case regarding the items (Investment Losses) and (Short-Term Loans).

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)





## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

#### **Item First:** Other Capital Contributions:

Zakat Payer argued that the fixed assets were financed from profits, cash flows and current account, but the capital contributions were used in Company's operating activities. In addition, only the current account completed a full Zakat year and was used in financing fixed assets in the amount of SAR 4,708,447.

#### **Item Second:** Short-term Loans:

Zakat Payer argued that a Zakat year has not passed on this item and therefore Zakat is not due on this item.

#### **Item Third:** Investment Losses:

Zakat Payer argued that the financial statements for 2015 were adjusted, and the error in Note No. (25) was corrected in the financial statements for the following year under the name "Other Expenses and Losses", as it appeared in the comparative year 2014 in a total amount of SAR 3,139,305. Accordingly, such amounts should be allowed for deduction from Zakat base.

#### **Fourth Item** Investments:

Zakat Payer argued that such investments are long-term and should be deducted from Zakat base. Therefore, Zakat Payer requests overturning the primary Decision, subject matter of appeal.

### Arguments of the respondent (ZATCA)

#### **Item First:** Other Capital Contributions:

ZATCA argued that the capital contributions financed fixed assets. Accordingly, the consideration for financing fixed assets is the amount added to Zakat base to correspond the deducted assets that were financed from such contributions from Zakat base in accordance with Article (4), (First) of the Implementing Regulations for the Collection of Zakat. Moreover, ZATCA states that its Decision aligns with provisions of the Implementing Regulations for the Collection of Zakat and has exercised its authority conferred thereunder.

#### **Item Second:** Investment Losses:

ZATCA argued that the financial statements did not recognize any investment losses in the statement of income, and Zakat Payer did not reissue the adjusted financial statements despite of Zakat Payer's argument that there was an error in violation of Article (1) of the Law of Commercial Books and Paragraphs (698) and (699) of Presentation and Disclosure Standard approved by the Saudi Organization for Chartered and Professional Accountants (SOCPA). Since Zakat Payer acknowledged the error and did not correct it, which indicates Zakat Payer's failure to comply with the aforementioned legal provisions.

## Committee's Response to Defenses.

#### **Item First:** Other Capital Contributions:

Having taken cognizance of the subject matter of dispute and documents included in Case file, since Zakat Payer argued before the Primary Department failure to know the source of that item and reasons for its addition. Since ZATCA had no response to Zakat Payer's argument other than the statement that it found that capital contributions had been used to finance fixed assets. Since ZATCA did not provide evidence that there is a direct relation between that increase and any fixed asset obtained throughout the year in question. Having reviewed Zakat Payer's financial statements for the year in question, the Department did not find that the amount claimed by ZATCA outlines the total capital contributions amounting to SAR 24,772,596. In light of the



foregoing, and it was not possible to extract it from any other total amount disclosed in the financial statements, rendering ZATCA procedure unreasoned in such manner that allows Zakat Payer to submit a reasoned objection thereto. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision regarding this item.

**Item Second: Short-term Loans:**

This Department found that the Primary Department did not adjudicate the dispute regarding this item, rendering the litigation related to this item unresolved on its merits, and to enable Zakat Payer to litigate on two degrees. Therefore, the Department remands this Case regarding (Short-Term Loans) item to the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for reconsideration in light of Zakat Payer's objection in this regard.

**Item Third: Investment Losses:**

This Department found that the Primary Department did not adjudicate the dispute regarding this item, rendering the litigation related to this item unresolved on its merits, and to enable Zakat Payer to litigate on two degrees. Therefore, the Department remands this Case regarding (Investment Losses) item to the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for reconsideration in light of Zakat Payer's objection in this regard.

**Fourth Item Investments:**

Having taken cognizance of the subject matter of dispute and documents included in Case file, and since Zakat Payer submitted its audited financial statements that prove correcting error in the year in question outlined in not recording investments in the financial statements for the year in question. Since ZATCA did not file objections against the financial statements submitted by Zakat Payer. Thereupon, Zakat Payer is entitled to deduct investments from its Zakat base. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision regarding this item.

### Decision

**First:** Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) TIN No. (.....), against the **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No. (IZD-2020-232) delivered in Case No. (Z-10151-2019) in connection with Zakat assessment for 2018.

**Second: On Merits:**

1. Accept Zakat Payer's appeal regarding the item (Investments), and overturn the First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision according to reasons and grounds stated in this Decision.
2. Accept the appeal filed by Zakat Payer regarding the item (Other Capital Contributions) and overturn Decision taken by the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, in accordance with reasons and grounds mentioned therein.
3. Return the case to the **First Department for Determination of Income Tax Violations and Disputes In Dammam** to consider the item (Investment Losses) on merits, according to reasons and grounds mentioned therein.
4. Return the case to the **First Department for Determination of Income Tax Violations and Disputes In Dammam** to consider the item (Short-Term Loans) on merits, according to reasons and grounds mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-216  
Case No.: Z-29556-2020

### Key words:

**Zakat - Objection to Zakat Assessment- Field Inspection Work - Headquarters Fire - Loss of Documents**

### Abstract

Appellant (Zakat Payer) filed this appeal seeking cancellation of the Primary Department's Decision No. (IFR-2020-96), regarding Zakat assessment subject of the case of 2013, since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure regarding calculating Zakat according to items in favor of ZATCA and neglecting the items in favor of Zakat Payer. The Department has proven ZATCA relied in its assessment on Zakat Payer's financial statements audited by a chartered accountant, which indicates soundness of Zakat Payer's position. This is not affected by what ZATCA indicated in the field inspection report regarding absence of regular documents and books. Zakat Payer submitted to this Department a document proving the loss of these documents as a result of a fire at the company headquarters. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item:** Zakat Assessment for 2013:

The Zakat Payer argued that the company confirmed in the field inspection reports that there were no regular documents and records. This was due to a fire at the company's factory. A statement from the General Directorate of Civil Defense was attached, stating that the data on electronic devices was recovered by professionals and submitted to ZATCA's inspection official. The Zakat Payer also argued that calculating Zakat only on the elements that weigh in favor of ZATCA and disregarding otherwise is against Sharia provisions and the Implementing Regulations for Zakat Collection. Rather, the items that in favor of the Zakat Payer should be deducted as well especially since the financial information has been sourced from a single financial statement. The Zakat Payer requested that Zakat be recalculated based on all items in the financial statements on which ZATCA relied.



## Arguments of the respondent (ZATCA)

### Item: Zakat Assessment for 2013:

ZATCA stated that during the field inspection phase, Zakat Payer reported that there was no accounting system for 2010 to 2015 AD, and then it became clear to ZATCA through the data available to it that financial statements of 2010 to 2015 were issued, other than those submitted to ZATCA during the field inspection phase, issued by ..... Office. Through these financial statements, it is found that there was a fundamental difference in values of the assets, liabilities and results of Company's business contained in these financial statements submitted at the time of field inspection. The last paragraph of notification explaining results of field inspection indicates that ZATCA verified the company's responsibility for issuing these statements. Accordingly, ZATCA believes that Zakat dues should be calculated on the company in the light of existence of financial statements that differ from those submitted to ZATCA by Zakat Payer. Having reviewed Note No. (21) of the financial statements reissued in 2015 by ..... Office, it is evident that the comparative year (Opening Year of 2015, i.e. 2014 Balances) has been amended due to exclusion of an activity that does not pertain to the company. Therefore, since the Primary Department has established that financial statements of disputed years are incorrect, and since multiplicity of Zakat Payer's financial statements naturally leads to dissatisfaction and reliance on the said financial statements, since it is not known which statement is more correct than the other, which indicating the validity of ZATCA's procedure for carrying out estimated assessment on Zakat Payer and relying on data available thereto based on the provisions of Article 13.8 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. If this Department sees the necessity of assessing based on financial statements, ZATCA requests that the Decision include what indicates that it shall carry out assessment based on financial statements without this conflicting with the principle of prescription.

## Committee's Response to Defenses.

It is established to this Department that ZATCA relied in its assessment on Zakat Payer's financial statements audited by a chartered accountant. It is also established to the Department that ZATCA took positive items in Zakat base from those financial statements and refrained from taking the effect of negative items on Zakat base. It is practically inconceivable, according to the nature of Zakat Payer's activity and capital, to carry out business of that company without the existence of operational assets, and since ZATCA relied on those financial statements and there was no evidence of any challenge to those audited financial statements, which establishes soundness of Zakat Payer's position. This is not affected by what ZATCA indicated in the field inspection report regarding absence of regular documents and books. Zakat Payer submitted to this Department a document proving the loss of these documents as a result of a fire at the company headquarters. The Department did not find any negligence or intentionality on the part of Zakat Payer to destroy these documents, which makes it clear that Zakat Payer is entitled to be held accountable for Zakat in accordance with the financial statements on which ZATCA relied in its assessment. Therefore, the Department concludes to accept Zakat Payer's appeal and overturn the Primary Department's Decision regarding Zakat Payer's objection.



## Decision

**First:** Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No (IFR-2020-96) rendered in Case No. (Z-6884-2019) regarding tax assessment for 2013.

**Second: On Merits:**

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

**Decision No.: IR-2022-238  
Case No.: ZI-59099-2021**

**Key words:**

**Zakat - Objection to Zakat Assessment - Making Revised Assessments - Investments in Real Estate and Lands under Development - Foreign Investments - Domestic Investments**

**Abstract**

Appellant (ZATCA) requested cancellation of the Primary Decision No. (IZD-2021-428) on Zakat assessment for the period (2006-2017 AD) with regard to Item (Reopening Assessments), Item (Investments in Real Estate and Lands Under Development), Item (Foreign Investments), and Item (Domestic Investments). With regard to Item (Reopening Assessments), the Department found that this matter did not result in releasing Zakat Payer from its legal obligation if it was actually concerned with fulfilling such obligation, but rather represented a procedural matter related to ZATCA right to reopen Zakat assessments after expiration of the legally prescribed period. As for Item (Investments in Real Estate and Lands Under Development), these lands in their current condition were not offered for sale due to the difficulty of developing the same, and also the company was unable to develop, dispose, and sell such lands. Regarding Item (Foreign Investments), the Department did not observe matters that deserve correction or commentary in light of documents provided by ZATCA to the Department. Concerning Item (Domestic Investments), it was evidenced that ZATCA accepted to deduct such domestic investments. Therefore, the Department decided to disregard the Case in terms of Item (Domestic Investments) and reject all other items.

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)





## Parties' Defenses

### Appellant Defenses (ZATCA)

**Item First:** Making Revised Assessments for Years from 2006 to 2013:

ZATCA indicated that the Primary Department decided to cancel collection of Zakat due by Zakat Payer without a legal basis. However, the Primary Department Decision disregarded Zakat collection entitlement declared by Zakat Payer in its declaration. Moreover, Zakat Payer did not submit Zakat declarations for years from 2006 to 2009. Therefore, ZATCA procedure shall be deemed valid in accordance with Paragraph (8.b) of Article (21) of the Implementing Regulations for the Collection of Zakat. Regarding years from 2010 to 2013, Zakat Payer delayed in filing declarations to ZATCA behind the deadline. Therefore, ZATCA procedure shall be deemed valid in accordance with Paragraph (8.c) of Article (21) of the Implementing Regulations for the Collection of Zakat.

**Item Second:** Investments in Real Estate and Lands under Development for Years from 2006 to 2017:

ZATCA stated that Zakat Payer failed to provide any supporting documents for the reasons for failure of the projects that Zakat Payer requests to be deducted. Therefore, Zakat Payer's objection was dismissed in accordance with (Third) of Fatwa No. (2384/2) dated 1406 AH, Fatwa No. (22644) dated 1424 AH and (Second) of Paragraph (2) of Article (4) of the Implementing Regulations for the Collection of Zakat.

**Item Third:** Foreign Investments for Years from 2006 to 2017:

ZATCA excluded investments in foreign companies from deduction, as such investments are not actual investments, and Zakat Payer failed to provide the relevant approved audited financial statements and also failed to file declarations proving Zakat application, so they were not deducted in accordance with Paragraph (4.b) of (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat.

**Fourth Item Domestic Investments:**

ZATCA stated that such investments were by nature current investments that shall not be deducted from Zakat base, as they did not outline direct investments in companies for the purpose of ownership (property assets). In addition, the acquisition period is not the only criterion for considering investments performed for the purpose of ownership (acquisition). Accordingly, Zakat Payer's objection was dismissed in accordance with Paragraph (4.b) of (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat.

### Defenses of Appellee (Zakat Payer)

**Item First:** Making Revised Assessments for Years from 2006 to 2013:

Zakat Payer stated that ZATCA waived the right to collect Zakat, and the legislator has specified a period for making assessments for companies and collecting Zakat when issuing related regulations. Zakat Payer also declared that ZATCA statements regarding failure to file declarations are completely incorrect, as such declarations were filed at the prescribed date and certificates were obtained from ZATCA branch in Dammam.

**Item Second:** Investments in Real Estate and Lands under Development for Years from 2006 to 2017:

ZATCA wrongfully dismissed the item despite of its statement that Zakat Payer provided the documents along with the objection, and that the item involved purchasing and developing lands with the intention of leasing or acquisition for a long period and then selling the same according to market conditions, which indicates that the company's intention was acquisition rather than trading.



**Item Third: Foreign Investments:**

Zakat Payer stated that ZATCA statements regarding failure to provide the audited financial statements were incorrect, as such statements were provided on 16/03/2020 AD, but ZATCA ignored the e-mail sent in this regard.

**Committee's Response to Defenses.****Item First: Making Revised Assessments for Years from 2006 to 2013:**

The Department found that Zakat Payer provided Zakat certificates to ZATCA branch in Dammam, which confirmed that Zakat Payer has submitted declarations for the years in question. The Department found that ZATCA assessment for years from 2006 to 2013 was performed after expiry of the statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payers' positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized, which was proven in ZATCA position against Zakat Payer's objection. Since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with fulfilling such obligation, it rather represents a procedural issue with relation to ZATCA right to make revised assessments after the expiry of the statutory period. Therefore, the Department concluded that ZATCA procedure of making amendments was invalid. Accordingly, the Department decided to annul ZATCA assessment for years from 2006 to 2013, and dismiss ZATCA appeal regarding the appealed items for years from 2006 to 2013, subject matter of appeal.

**Item Second: Investments in Real Estate and Lands under Development for Years from 2014 to 2017:**

The Department found that Zakat Payer provided the supporting documents for suspension and failure of projects and lands in question. Since ZATCA failed to provide any evidence or proof of the intention to sell such lands in their current situation and there was no indication of such intention, such uncompleted land development and projects should not have been considered trade bids, and therefore, it was decided to exclude the same from the Zakat base of Zakat Payer, since such lands in their current situation were not offered for sale as a result of the difficulty of developing them and Company's failure to develop, dispose and sell the same later. Therefore, ZATCA appeal was not filed based on an actual and valid basis. Thereupon, the Department decided to dismiss ZATCA appeal and uphold the primary Decision.

**Item Third: Foreign Investments:**

The Department found that Zakat Payer submitted the audited financial statements related to these companies to the Primary Department. Since the Department did not find any grounds for reconsideration or objection based on the arguments raised before this Department. Since the Department found that the conclusion reached by the Primary Department is valid. Therefore, the Department dismisses ZATCA appeal and upholds the primary Decision based on its grounds.

**Fourth Item Domestic Investments:**

The Department, having taken cognizance of the appealed Decision, found that the dispute is limited to foreign investments. Since it turned out that ZATCA allowed deduction of such domestic investments. Therefore, the Department decided to overlook ZATCA appeal regarding domestic investments.



## Decision

**First:** In form, accept the Appeal filed by ZATCA against **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No. (IZD-2021-428) issued in Case No (Z-15567-2020) in connection with Zakat assessment for the period (2006-2017).

**Second: On Merits:**

1. Dismiss ZATCA Appeal with regard to appealed items for the period (2006-2013 AD), cancel ZATCA Decision concerning Zakat assessment for the period (2006-2013 AD), and uphold the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Dammam** with regard to Item (Reopening Assessments for the Period 2006-2013 AD), based on the grounds and merits mentioned herein.
2. Dismiss ZATCA Appeal regarding Item (Investments in Real Estate and Lands Under Development for the Period 2017-2014 AD), and uphold the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Dammam** in accordance with grounds and merits mentioned herein.
3. Dismiss ZATCA Appeal regarding Item (Foreign Investments for the Period 2014-2017 AD), and uphold the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Dammam** in accordance with grounds and merits mentioned herein.
4. Disregard ZATCA Appeal regarding Item (Domestic Investments) according to the grounds and reasons mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-246  
Case No.: Z-25587-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Intangible Assets**

### Abstract

Appellant (Zakat Payer) filed this Appeal to request cancellation of the Primary Department Decision No. (ISZR-2020-136) on Zakat assessment for the period (2009-2014 AD). With regard to Item (Intangible Assets), Zakat Payer filed this Appeal to challenge endorsement of ZATCA action represented in non-deduction of that item from Zakat base, since the audited financial statements constituted an evidence for the intangible asset. As such, the Department decided to accept the Appeal Zakat payer's appeal.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

##### Item: Intangible Assets:

Zakat Payer stated that such assets were financed through capitalizing a part of programming staff costs. Zakat Payer also argued that the unavailability of files was particularly related to (the source files) that include developed websites and software codes, which constitute the intangible assets in question, while the accounting documents were attached, as if they were considered expenses and were not sent, there would not be any variances, other than that the Company declared bankruptcy on paper since 2011 AD.

#### Arguments of the respondent (ZATCA)

##### Item: Intangible Assets:

ZATCA affirmed the validity and correctness of its procedure and insisted on the position it had presented before the Primary Department. In accordance with Paragraph (1) of Article (5) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat of 1438 AH, ZATCA requested providing the supporting documents related to the item, subject matter of appeal. However, Zakat Payer did not provide an answer to this request, and accordingly, ZATCA made the assessment based on the information available in the financial statements.



### Committee's Response to Defenses.



Having taken cognizance of Zakat Payer's appeal and examined documents included in Case file, it turns out from the facts of appealed Decision and the statement of appeal that the dispute involves claim that ZATCA disallowed deduction of the intangible asset item due to unavailability of the supporting documents for the source of such assets. However, Zakat Payer asserted that such assets existed as a result of the method of capitalizing programmers' expenses and other expenses incurred by Zakat Payer to develop such assets, as Zakat Payer attached a sample of accounting documents, including invoices, payment vouchers and a copy of ARQAMI application license, an accounting and administrative program. Since Zakat Payer is held accountable for Zakat based on its audited financial statements that include (Intangible Assets) item. Since such audited financial statements are considered as an evidence on the existence of such intangible assets. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision regarding this item.

### Decision

**First:** In form, accept the Appeal filed by Zakat Payer / ..... Company , CR. No. (...), TIN No (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No (ISZR-2020-136) issued in Case No. (Z-5400-2020) in connection with Zakat assessment for the period (2009 -2014 AD).

**Second: On Merits:** Accept the Appeal filed by Zakat Payer regarding Item (Intangible Assets) and reverse the Decision taken by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-249  
Case No.: Z-26288-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Making Zakat Reassessment**

### Abstract

Appellant (Zakat Payer) filed this Appeal to request cancellation of the Primary Department Decision No. (ISZR-2020-116) on 2017 Zakat assessment. Zakat Payer Appeal was made in objection to the Primary Department endorsement of ZATCA action related to Zakat assessment. The Department was satisfied that ZATCA assessment was based on financial statements held in the Qawaem Program, noting that such financial statements were audited by a chartered accountant. Also, Zakat Payer argued that the items contained in such statements were just unsupported assumptions devoid of credible proof and failed to present the amended audited financial statements to back up its arguments. Accordingly, the Departments decided to reject the Appeal and uphold the Decision taken by the Primary Department. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item:** Making Zakat Reassessment:

Zakat Payer stated that the balance sheet preparation errors were due to ignorance of the necessary requirements. In addition, Zakat Payer challenged ZATCA Decision to make revised Zakat assessment based on the financial statements as a result of variances emerging as a result of its procedure.



### Arguments of the respondent (ZATCA)

#### **Item: Making Zakat Reassessment:**

ZATCA maintained its position presented before the Primary Department and stated that Zakat Payer was among Zakat Payers who file estimated declarations and is accounted accordingly. Later, ZATCA found that there were Zakat Payer's financial statements held in Qawaem System, so ZATCA amended the declaration based on data and information contained therein, which were completely different from Zakat Payer's actual obligations. Accordingly, ZATCA amended the estimated declaration by recognizing accounts based on the balance sheet data in accordance with provisions of Paragraph (8.c) of Article (21) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH.

### Committee's Response to Defenses.

The Department, having taken cognizance of documents included in Case file, found that ZATCA assessment was made based on the financial statements that were uploaded to QAWAEM System, which are financial statements audited by a chartered accountant. In addition, Zakat Payer's arguments for invalidity of some items contained in such financial statements are considered unsubstantiated due to Zakat Payer's failure to provide adjusted audited financial statements that support its arguments. Since such audited financial statements included data that would affect Zakat assessment, which confirmed the validity of ZATCA action concerning reopening assessments. This did not conflict with Zakat Payer claim that the new information was incorrect and exaggerated, since Zakat Payer failed to submit any evidence proving correction of those statements after its claims concerning the errors contained therein, despite the passage of several years during which several financial statements have been issued. Therefore, the Department decided to dismiss Zakat Payer Appeal and uphold the Primary Department Decision in this regard.

### Decision

**First:** In form, accept the Appeal filed by Zakat Payer/ (...) Institution, C.R. (...), TIN No. (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-116) issued in Case No. (Z-3243-2019) in connection with Zakat assessment for 2017.

**Second: On Merits:**

Dismiss appeal filed by Zakat Payer and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-261  
Case No.: Z-19110-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Making Zakat Reassessment**

### Abstract

Appellant (Zakat Payer) requests annulling Primary Decision No. (ISZR-2020-47). Zakat Payer's appeal involves objection to the primary Decision that upheld ZATCA procedure outlined in making revised assessment. It turned out that the facts mentioned in the primary Decision that Zakat Payer acknowledged what was mentioned in the examination report and that the examination report claimed to be invalid in terms of procedural side by Zakat Payer had no effect on the substantive aspects of the assessment, whether in terms of assessment validity or total amounts included in the assessment. Therefore, the Department decides to dismiss Zakat Payer Appeal and uphold the Primary Department Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

#### **Item:** Making Zakat Reassessment:

Zakat Payer contended that the inspection was conducted beyond Enterprise's official working hours, at 7 PM, in violation of Article (61) of Income Tax Law, which stipulates that the inspection of Zakat Payer's books and records shall be during working hours. Paragraph (2) of Article (59) of the Regulations clarifies that working hours refer to Zakat Payer's working hours. In addition, Zakat Payer asserts that the cases of reassessment and inspection stipulated in the Law do not apply to Zakat Payer, as declarations were filed in accordance with the requirements stipulated by the Law. Furthermore, the Enterprise engages in marketing activities for third parties outside the Kingdom, and therefore, the source of income is derived from such marketing activities for third parties outside the Kingdom, which are excluded from Zakat base as specified in Article (6) of Income Tax Law. Having reviewed the amended assessment issued by ZATCA, it turns out that the assessment was arbitrary and failed to consider the percentage charged for marketing services to third parties or the volume of expenses. Moreover, the assessment does not align with the provided documents.





### Committee's Response to Defenses.

It turns out from the facts mentioned in the primary Decision that Zakat Payer acknowledged what was mentioned in the examination report and that the examination report claimed to be invalid in terms of procedural side by Zakat Payer had no effect on the substantive aspects of the assessment, whether in terms of assessment validity or total amounts included in the assessment. In addition, Zakat Payer's appeal involves the income source in accordance with the applicable tax law and its implementing regulations and Zakat Payer is subject to the provisions of the Implementing Regulations for the Collection of Zakat, which take into consideration the funds that entered Zakat Payer account and do not take into account the income source when calculating Zakat base. Furthermore, Zakat Payer failed to provide any evidence that could be relied upon when determining claimed profit rate. The Department was satisfied with the validity of the primary Decision. Therefore, this Department dismisses Zakat Payer's appeal and upholds the primary Decision.

### Decision

**First:** In form, accept the Appeal filed by Zakat Payer / .....Institution , CR. No. (...), TIN No (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-47) issued in Case No. (Z-2249-2020) on with Zakat assessment for the year 1438 AH.

**Second: On Merits:**

Dismiss the Appeal filed by Zakat Payer and affirm the Decision taken by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-263  
Case No.: Z-26747-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Deducting Long-Term Investments – Credit Interest**

### Abstract

Appellant (Zakat Payer) filed its appeal to claim cancellation of the Primary Department Decision No. (IFR-2020-52) on 2014 Zakat assessment. With regard to Item (Deduction of Long-Term Investments From Zakat Base), it is established that all assets are possessed for the purpose of acquisition, not trading, unless they are intended for both profit and trading, and it was not clear whether the disputed land was offered for sale in the year of dispute. As for Item (Adding Credit Interest to Zakat Base), this item constituted a part of Zakat base as an obligation. Since interests are usually deducted when calculating Zakat profits, failure to add debts resulting from unpaid obligations shall be considered double deduction of Zakat from Zakat base. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item First:** Deducting Long-Term Investments from Zakat Base for 2014:

Zakat Payer contended that the value of investments outlines the cost of a project established on a plot of land located in a certain neighborhood. When purchasing such plot, it was planned to establish a project for the purpose of renting units and benefiting from resulting returns on the long term. The project consisted of (54) villas, (1) club, and (1) concert hall. Due to changes affecting real estate market in general and the residential sector in particular, the progress of such project was interrupted, and the Company was unable to complete the project due to lack of liquidity provided by partners and failure to obtain the additional financing required to complete the project. Since previous financing was obtained using project land as a guarantee (noting that such land was mortgaged) and the due obligations were not paid, the Bank had to dispose of the land. Therefore, the Company had to find alternatives to avoid losses through selling the project at a public auction or any other means deemed fit by the Bank to fulfill Company's obligations. In 2016 AD, a purchaser (... Company) offered to purchase the project and fulfill bank obligations



and project contractor obligations, and such sale was recognized in the company financial statements in the amount of (SAR 131,700.600), paid in full. As of project beginning in 2013, the Company intended to acquire, invest in and develop that land, construct residential units therein, and rent the same. Also, no part of the project was sold during 2014 AD and 2015 AD, and the land area was decreased in 2014 AD as a result of depriving an area of (676 square meters) for the benefit of Royal Commission for Riyadh City, not as a result of sale.

**Item Second:** Adding Credit Interest to Zakat Base:

Zakat Payer stated that the interests did not finance any investment, as the land of project was purchased for an amount of SAR 60,000,000 that outlines the full amount of loan without the interest due as shown in the statement of cashflow for 2013. Accordingly, such interests did not enter into the financing of investment in the purchase of project land, as it is considered an expense and a burden on Zakat Payer and is not considered fund that is benefited from or can be disposed of.

### Committee's Response to Defenses.

**Item First:** Deducting Long-Term Investments:

The Department, having taken cognizance of Zakat Payer's appeal and documents included in Case file, found that, since the principal rule for real estate is that they are not for trading unless intended for profit and trading. Since it turned out that the said land was offered for sale in the year in question. Since Zakat Payer has proved that the reason for the decrease in the area of land in 2014 was not the result of a sale transaction on that land, but rather due to the decrease in its value. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary.

**Item Second:** Adding Credit Interest to Zakat Base:

The Department, having taken cognizance of Zakat Payer's appeal and documents included in Case file, found that since the item in question outlines an element of Zakat base as one of the obligations. Since the interest is deducted when calculating Zakatable profit. Therefore, the failure to add the debt arising from the unpaid obligations is considered double deduction. Since Zakat Payer has failed to provide proof of payment of such obligations before completing a full Zakat year. Therefore, the Department dismisses Zakat Payer's appeal and upholds the primary Decision.

### Decision

**First:** In form, accept Appeal filed by Zakat Payer/ Company ..., CR. NO. (...), TIN No (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No (IFR-2020-52) issued in Case No. (Z-8376-2019) in connection with 2014 tax assessment.

**Second: On Merits:**

1. Accept Zakat Payer Appeal with regard to Item (Deduction of Long-Term Investments for the Year 2014 AD) and overturn the Decision rendered by First Department for Determination of Income Tax Violations and Disputes In Riyadh according to grounds and merits mentioned herein.
2. Accept Zakat Payer Appeal with regard to Item (Adding Credit Interest to Zakat Base), and overturn the Decision reached by First Department for Determination of Income Tax Violations and Disputes In Riyadh according to grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

**Decision No.: IR-2022-325  
Case No.: Z-16232-2020**

**Key words:**

**Zakat – Objection to Zakat Assessment – Travel Ticket Provision – Adding Saudi Shareholders' Current Account to Zakat Base in the Saudi Side's Share – Late Payment Fine – Supplier Balances – Adding Bills Payable to Zakat Base for Ended Zakat Period – Adding SIDF Loan – Filing Consolidated Zakat Declaration**

**Abstract**

Appellant (Zakat Payer/ ZATCA) requests annulling Primary Decision No. (IZD-2020-37) regarding Zakat assessment for years from 2008 to 2012 in connection with (Travel Ticket Provision) item, (Adding Saudi Shareholders' Current Account to Zakat Base in the Saudi Side's Share), (Withholding Tax) item, (Late Payment Fine) item, (Supplier Balances) item, and (Adding Bills Payable to Zakat Base for Ended Zakat Period) item. Regarding (Adding Saudi Shareholders' Current Account to Zakat Base in the Saudi Side's Share) item, this Department found that the conclusion reached by the Primary Department was valid, as this Department did not find any ground for reconsideration or objection in light of Zakat Payer's arguments raised before this Department. Regarding (Withholding Tax) item, ZATCA failed to provide evidence supporting its claim that Zakat Payer paid such amounts to the non-resident party. As for item (Late Payment Fine); the fine is associated with item (Withholding Tax); and since this Department has accepted Zakat Payer's appeal regarding the same, the fine is dismissed accordingly. Regarding (Supplier Balances) item, the Department found no grounds for reconsideration or objection based on ZATCA arguments raised before this Department. Regarding (Adding Bills Payable to Zakat Base for Ended Zakat Period) item, the Department did not find any ground for correction or objection in light of ZATCA arguments raised before this Department. As for item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share of 2011 and 2012) ; As for the year 2011: the Department satisfies to the invalidity of ZATCA's procedure regarding the same. As for the year 2012; since the Assessment was made over a short period that has not completed the Zakat Year; the Department satisfies to the invalidity of ZATCA's procedure regarding the same. As for item (Addition of SIDF Loan in the amount of "SAR 54,275,000" to Zakat Base); the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. As for item (Submission of a Unified Zakat Declaration); the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. Therefore, the Department annuls ZATCA assessment Decision, and accepts Zakat Payer's appeal regarding (Travel Ticket Provision) item, (Withholding Tax) item, (Late Payment Fine) item and (Addition ... Fund Loan) item. Regarding (Adding Saudi Shareholders' Current Account to Zakat Base of Saudi Side's Share) item, dismiss Zakat Payer's appeal regarding this item for 2011, overlook Zakat Payer's appeal regarding this item for the ended period, dismiss ZATCA appeal regarding (Supplier Balance) item, (Adding Bills Payable to Zakat Base for Ended Period) item, (Adding Saudi Shareholders' Current Account to Zakat Base in



Saudi Side's Share) item and (Filing Consolidated Zakat Declaration) item, and accept ZATCA appeal regarding (Adding SIDF Loan) item.

#### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

#### Parties' Defenses

##### Defenses of Appellant (Zakat Payer)

**Item First:** Travel Ticket Provision for 2011:

Zakat Payer argued that they are actual expenses that outline travel tickets for Company's employees and are considered part of their salaries and benefits, not an expense charged as formed provisions, as they are charged directly to their relevant year pursuant to the accounting accrual principle.

**Item Second:** Travel Ticket Provisions for Years 2009 to 2012:

Zakat Payer argued that according to Paragraph (9) of (First) of Article (4) of the Implementing Regulations for the Collection of Zakat, the opening balance is collected after deducting amount used throughout the year, while the balance used is higher than the opening balance; hence, this item has not completed a full Zakat year.

**Item Third:** Withholding Taxes:

Zakat Payer claims that the sources of amounts subject to withholding tax were not explained before the Department's convention, as Zakat Payer did not pay amounts that are subjected to Article (68) of Income Tax Law regarding the withholding tax during 2009 and 2010. Accordingly, Zakat Payer did not receive any explanation for the sources of such amounts and the method of calculating and subjecting such amounts to the withholding tax, noting that the assessment was issued without reasons, which is a violation of Paragraph (7) of Article (59) of the Implementing Regulations of Income Tax Law. Therefore, the assessment has failed to satisfy all the requirements stipulated in the Implementing Regulations for making assessment. As a result, it is considered formally rejected due to the incompleteness of the details and causes of assessment.

**Fourth Item** Late Payment Fine:

Zakat Payer argued that the dispute is an actual technical dispute between the parties regarding the appeal. Accordingly, no late payment fine should be levied.

**Fifth:** Adding Saudi Shareholders' Current Accounts to Zakat Base in Saudi Side's Share for 2011:

Zakat Payer argued that the Primary Department did not take into consideration the Saudi side's share, which amounts to (87.5%), and its Decision was not applied to the remaining years or considered the opening balance.



## Committee's Response to Defenses.

### **Item First:** Travel Ticket Provision for 2011:

Since the dispute involves ZATCA addressing expense of the outstanding travel ticket as a non-deductible provision. Having taken cognizance of documents included in Case file, including ZATCA assessment to the year in question, the Department found that ZATCA added that amount to the adjusted net profit to realize the adjusted net profit for Zakat and tax purposes. Since the travel tickets in question are among expenses required from employer, which makes such expenses among those related to practicing business activity, and by extension, entitles Zakat Payer to deduct thereof to realize the profit that is subject to Zakat. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision as to conclusions it had in this regard.

### **Item Second:** Travel Ticket Provisions for Years 2009 to 2012:

The Department found that the dispute between Zakat Payer and ZATCA involves balances of such provisions in Zakat Payer's statement of financial position. Since it turned out from account movement that the balance used throughout the years in question is higher than the opening balance, which indicates that the opening balance had been used in full; hence, it did not complete a full Zakat year, as the balance used throughout the year is higher than the opening balance. Since ZATCA instructions stated that the balance of provisions is subject to Zakat whenever they completed a full Zakat year. Since it is not proven that such balances did not complete a full Zakat year. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision as to conclusions it had in this regard.

### **Item Third:** Withholding Taxes:

The Department found that the service was between the foreign supplier and another company (...), which is a partner in the Company. Since ZATCA did not provide evidence supporting its claim that Zakat Payer paid such amounts to the non-resident party, which indicates that ZATCA procedure for imposing a withholding tax on amounts in question was invalid. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision as to conclusions it had in this regard.

### **Fourth Item** Late Payment Fine:

Since the fine in question is related to (Withholding Tax) item. Since the Department accepted Zakat Payer's appeal regarding this item. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision as to conclusions it had in this regard.

### **Fifth:** Adding Saudi Shareholders' Current Accounts to Zakat Base in Saudi Side's Share for 2011:

The Department found regarding 2011 that the financial statements for 2010 (which outline the opening balances for 2011) indicated that the shareholders' entire funding was from the Saudi shareholders, while the statement of cash flow for 2011 showed that there were additions to the opening balance without any withdrawal. Since the Department found that the appealed Decision has ruled in favor of Zakat Payer of amounts that completed a full Zakat Year, which was requested by Zakat Payer before the Primary Department. Since this Department found that the conclusion reached by the Primary Department was valid. Since this Department did not find any ground for reconsideration or objection in light of Zakat Payer's arguments raised before this Department. Therefore, the Department dismisses Zakat Payer's appeal and upholds the primary Decision as to conclusions it had in this regard. As for the period ending on 04/07/2012; since the Primary Department's Decision that it upheld Zakat Payer claim by dismissing the addition of Saudi partners' current account to Zakat Base for the period ending on 04/07/2012; Therefore, the Department satisfies to disregard Zakat Payer's appeal on item in question.





### Arguments of the respondent (ZATCA)

**Item First:** Adding Saudi Shareholders' Current Account to Zakat Base for the Period Ended on 04/07/2012:

ZATCA stated that it added this item in accordance with Paragraph (5) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH, and that it had not reviewed the documents on which the Primary Department based its Decision to amend ZATCA assessment.

**Item Second:** Adding SIDF loan in the amount of (SAR 54,275,000 to Zakat base for 2011 instead of the amount of SAR 122,840,000:

ZATCA stated that it added this item in accordance with Paragraph (5) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH, and that it had not reviewed the documents on which the Primary Department based its Decision to amend ZATCA assessment.

### Committee's Response to Defenses.

**Item First:** Adding Saudi Shareholders' Current Account to Zakat Base for the Period Ended on 04/07/2012:

The Department found regarding 2011 that ZATCA failed to prove the existence of a direct connection between the increase in shareholders' current account and the deducted assets in particular. Therefore, the Department concludes that ZATCA procedure is invalid regarding this item. As for the year 2012; since the Assessment was made over a short period that has not completed the Zakat Year; the Department satisfies to the invalidity of ZATCA's procedure regarding the same, dismiss ZATCA's appeal, and uphold the appealed Decision.

**Item Second:** Adding SIDF loan in the amount of (SAR 54,275,000 to Zakat base for 2011 instead of the amount of SAR 122,840,000:

The Department found regarding (Adding SIDF Loan in the Amount of SAR 54,275,000 to Zakat Base of 2011) item that the name of the item in the appealed Decision is (Adding SIDF Loan to Zakat Base for the Period Ended on 04/07/2012), while the conclusion reached by the Primary Department referred to 2011 in the grounds and operative part of its Decision, which result in non-resolution of dispute on its merits. Since the Primary Department did not extinguish its jurisdiction over the subject of dispute. Therefore, this Department remands the Case to the **First Department for Determination of Income Tax Violations and Disputes In Dammam** to consider this item.





## Decision

**First:** In form, Accept the appeal filed by Zakat payer/ Company (...), C.R. No. (...), TIN (...), and the appeal filed by ZATCA against **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No. (IZD-2020-37) rendered in Case No. (Z-180-2018) regarding Zakat assessment for years from 2008 to 2012.

**Second: On Merits:**

1. Abolish ZATCA's Assessment of 2008 to 2010, and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** as to conclusions it had in this regard, for the grounds stated herein.
2. Accept Zakat Payer's appeal on item (Travel Ticket Allowance of 2011), and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
3. Accept Zakat Payer's appeal on item (Travel Ticket Allowance of 2011 and 2012), and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
4. As for item (Addition of Saudi partners' current account to Zakat Base of 2011 and for the period ending on 04/07/2012):
  - A. Dismiss Zakat Payer's appeal on this item for the year 2011, and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
  - B. Disregard Zakat Payer's appeal on this item for the period ending on 04/07/2012, for the grounds stated herein.
5. Accept Zakat Payer's appeal on item (Withholding Tax), and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
6. Accept Zakat Payer's appeal on item (Late Payment Fine), and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
7. Dismiss ZATCA's appeal on item (Vendor Balances of 2011 and for the period ending on 04/07/2012), and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
8. Dismiss ZATCA's appeal on item (Addition of notes payable to Zakat Base for the period ending on 04/07/2012), and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
9. Dismiss ZATCA's appeal on item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share of 2011 and for the period ending on 04/07/2012), and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.
10. Accept ZATCA's appeal on item (Addition of SIDF loan in the amount of "SAR 54,275,000" to Zakat Base of 2011 instead of the amount of "SAR 122,840,000"), abolish the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, and remand the case for reconsideration, for the grounds stated herein.
11. Dismiss ZATCA's appeal on item (Submission of a Unified Zakat Declaration with the Parent Company ...), and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam** for the grounds stated herein.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.



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

Decision No.: IR-2022-372  
Case No.: Z-29101-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Suppliers and Related Parties**

### Abstract

The Appellant (Zakat Payer/ ZATCA) filed this case to abolish Decision No. (IZJ-2020-149) delivered by the Primary Department regarding Zakat Assessment of 2015 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding item (Vendors and Relevant Parties), while ZATCA's appeal included its objection to the Primary Department's Decision regarding items (Import Differences), (Additional Capital), and (Retained Profits). The Department found that: As for item (Vendors and Relevant Parties); the amount of (SAR 39,719) of vendors and the amount of (SAR 380,238) of relevant parties, have completed the Zakat Year. As for items (Import Differences), (Additional Capital), and (Retained Profits); the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. The Department decided to accept Zakat Payer's appeal on item (Vendors and Relevant Parties) and dismiss ZATCA's appeal on items (Import Differences), (Additional Capital), and (Retained Profits).

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item:** Suppliers and Related Parties:

Zakat Payer argued that the balance of (SAR 783,096) has been paid in full throughout 2015 and that the closing balance has not completed a full Zakat year.



### Arguments of the respondent (ZATCA)

#### Item: Suppliers and Related Parties:

ZATCA stated that it compared the balance of (Suppliers and Related Parties) item at the beginning or end of period and added, whichever is less, to Zakat base, considering that this balance has completed a full Zakat year, with the financial statements and their notes, due to Zakat Payer's failure to submit the movement of such items in order to determine the balance that completed a full Zakat year in accordance with Paragraph(5) of Article (4) of the Implementing Regulations for the Collection of Zakat.

### Committee's Response to Defenses.

The Department, having taken cognizance of Zakat Payer's appeal, Case file by the Department, and documents provided by Zakat Payer, including the statements generated from the accounting system that contain the detailed movement of balances of suppliers and relevant parties, found that Zakat Payer provided chartered accountant's report confirming that the amount paid during the year to suppliers is SAR 743,377 and the amount paid to the related parties is SAR 1,325,997. Since the basis for levying Zakat on an amount is the completion of a full Zakat year or its use in financing a deductible asset form Zakat base. Since this Department found, according to the documents provided by Zakat Payer, that the amount of SAR 39,719 of suppliers and the amount of SAR 380,238 of related parties, have completed a full Zakat year. Therefore, the Department accepts Zakat Payer's appeal and overturns the primary Decision as to conclusions it had in this regard.

### Decision

**First:** Accept the appeal filed by Zakat Payer (...) Enterprise, C.R. No. (...), TIN (...), in form and the appeal filed by ZATCA against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No. (IZJ-2020-149) rendered in Case No. (Z-8901-2019) regarding Zakat assessment for 2015.

#### **Second: On Merits:**

1. Accept Zakat Payer's appeal on item (Vendors and Relevant Parties) and reverse the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, for the grounds stated herein.
2. Dismiss ZATCA's appeal on item (Import Differences) and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, for the grounds stated herein.
3. Dismiss ZATCA's appeal on item (Additional Capital) and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, for the grounds stated herein.
4. Dismiss ZATCA's appeal on item (Retained Profits) and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, for the grounds stated herein.



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

**Decision No.: IR-2022-53  
Case No.: Z-13290-2020**

**Key words:**

**Zakat - Objection to Zakat Assessment - Land and Buildings - Travel Tickets - Depreciation of Buildings for Assessment Years - Zakat Assessment - Withholding Tax - Leaves**

**Abstract**

Appellant 's claim, against both (ZATCA/Zakat payer), seeks to cancel Primary Committee Decision No. (IZD-2020-18) regarding Zakat assessment for the years 2010 to 2015. Zakat payer's appeal pertains to the items (Land and Buildings), (Travel Tickets), (Building Depreciation), (Zakat Assessment), and (Withholding Tax). It was established by the committee that ZATCA's assessment was made after the statutory period for amending Zakat payer's declaration had expired, which is set at five years from the final due date for submitting Zakat declaration for the years 2010 and 2011. ZATCA's appeal concerning (Leaves) item is based on the argument that the leave balance is a provision contingent upon the employee taking their annual leave, indicating that these amounts are reserved regardless of whether they are labeled as provisions or accrued expenses. As a result, ZATCA's appeal is rejected, and Primary Committee's Decision is upheld, while Zakat payer's appeal is accepted, and Primary Committee's Decision is overturned.

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

**Item First:** Lands and Buildings for Years from 2010 to 2015:

Zakat Payer argued that the lands and buildings were registered in the name of the father of Enterprise's owner, who is deceased, and that the land and buildings were sold to his son under a primary sale contract, and were recorded under owner's current account.

**Item Second:** Travel Tickets for Assessment Years from 2010 to 2015:

Zakat payer argued that travel tickets are considered an obligation under the contract with the employee, and it is also certain to occur and is known in amount, thus it shall not be considered a provision.

**Item Third:** Depreciation of Buildings for Assessment Years:

Zakat Payer argued requesting to deduct value of hotel land and buildings, and then calculate the depreciation expense accordingly.

**Fourth Item** Zakat Assessment for 2010:

Zakat Payer argued objecting to Primary Department's reliance on the Ministerial Resolution related to tax in the context of a Zakat objection.

**Fifth:** Withholding Tax:

Zakat Payer argued requesting to cancel the fine arising from the withholding tax due to failure to exhaust all stages of litigation at the time of issuance.

### Committee's Response to Defenses.

**Item First:** Lands and Buildings for Years from 2010 to 2015:

Since the Department decided to accept Zakat Payer's declaration for the contested items for 2010 and 2011. Therefore, this requires accepting Zakat Payer's appeal regarding such item for 2010 and 2011. As for the years 2012 to 2015, upon reviewing the dispute, the Department finds that land financing is included in the base as part of the deductible items. Therefore, if the deduction for land and buildings is not accepted, the corresponding financing shall be excluded from the base to maintain budget balance. This has not been followed by ZATCA. Consequently, the Department decides to accept Zakat payer's appeal and overturn Primary Department's Decision regarding this matter.

**Item Second:** Travel Tickets for Assessment Years from 2010 to 2015:

Since the Department decided to accept Zakat Payer's declaration regarding the contested items for 2010 and 2011, this requires accepting Zakat Payer's appeal regarding this item for 2010 and 2011. As for the years 2012 to 2015, the amounts in dispute do not fit the accounting definition of provisions, which are liabilities of the establishment with uncertain amount or timing of payment, or both. Regarding the disputed amounts, these actually represent ordinary and necessary expenses related to the activity. Zakat payer is entitled to deduct these expenses from their profit to determine the profit subject to Zakat. These deduction expenses are considered legitimate and shall not be returned to the net profit. Therefore, this Department has decided to accept Zakat payer's appeal and overturn Primary department's Decision on this item.

**Item Third: Depreciation of Buildings for Assessment Years:**

Since the Department decided to accept Zakat Payer's declaration regarding the contested items for 2010 and 2011, this requires accepting Zakat Payer's appeal regarding this item for 2010 and 2011. As for the years from 2012 to 2015, and where the Department accepted Zakat payer's appeal regarding deduction of land and buildings from his base, which entails Zakat payer's entitlement to deduct the depreciation expense of buildings to reach the profit subject to Zakat. Accordingly, this Department concluded to accept Zakat payer's appeal and cancel Primary Department's Decision in its conclusion regarding this item.

**Fourth Item Zakat Assessment for 2010:**

Since Department decided to accept Zakat Payer's declaration regarding the contested items for 2010 and 2011, this requires accepting Zakat Payer's appeal regarding Zakat assessment for 2010, and accepting Zakat Payer's declaration and canceling ZATCA assessment.

**Fifth: Withholding Tax:**

The Department found that Zakat Payer filed the primary objection to ZATCA within the statutory period. Since ZATCA did not provide evidence that could justify disregarding Zakat Payer's objection within the statutory period. Therefore, this Department annuls the primary Decision and remands the Case to the Primary Department for consideration on merits.

**Arguments of the respondent (ZATCA)****Item: Leaves for Years from 2010 to 2015:**

ZATCA argued that leave balance is classified as a provision contingent upon the employee taking their annual leave. This requires that such amounts are reserved regardless of whether they are labeled as provisions or accrued expenses.

**Committee's Response to Defenses.****Item: Leaves for Years from 2010 to 2015:**

Since the Department decided to accept Zakat Payer's declaration regarding the contested items for 2010 and 2011, this requires dismissing ZATCA appeal regarding this item for 2010 and 2011. As for the years 2012 to 2015, the amounts in dispute do not fit the accounting definition of provisions, which represent liabilities with uncertain amounts or timing of payment, or both. The disputed amounts actually represent ordinary and necessary expenses for Zakat payer's activity. Zakat payer is entitled to deduct these expenses from their profit to determine the profit subject to Zakat. These expenses are deductible and shall not be returned to the net profit. Consequently, this Department concludes to reject ZATCA's appeal and uphold Primary Department's Decision regarding this item.





## Decision

**First:** Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), and the appeal filed by ZATCA against **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No. (IZD-2020-18) rendered in Case No. (Z-38-2018) related to Zakat assessment for years from 2010 to 2015.

**Second: On Merits:**

1. Accept Zakat payer's appeal regarding the item (land and buildings for the years 2010 to 2015) and overturn Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, in accordance with the reasons and considerations outlined in this Decision.
2. Accept Zakat payer's appeal regarding the item (travel tickets for assessment years 2010 to 2015) and overturn Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, in accordance with the reasons and considerations outlined in this Decision.
3. Accept Zakat payer's appeal regarding the item (depreciation of buildings for the assessment years) and overturn Decision of **First Department for Determination of Income Tax Violations and Disputes In Dammam**, in accordance with the reasons and considerations outlined in this Decision.
4. Accept Zakat payer's appeal regarding the item (Zakat assessment for 2010) and overturn Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, cancel ZATCA's assessment, and accept Zakat payer's declaration for that year, in accordance with the reasons and considerations outlined in this Decision.
5. Accept Zakat payer's appeal regarding the item (withholding tax), cancel Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, and refer the case back to the Department for consideration of this item on merits, in accordance with the reasons and considerations outlined in this Decision.
6. Reject ZATCA's appeal regarding the item (leaves for the years 2010 to 2015) and uphold Decision of the **First Department for Determination of Income Tax Violations and Disputes In Dammam**, in accordance with the reasons and considerations outlined in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





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

Decision No.: IR-2022-165  
Case No.: Z-32902-2020

### Key words:

**Zakat - Objection to Zakat Assessment**

### Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2020-230) regarding Zakat assessment for 1440. Zakat Payer's appeal involves failure to file an objection within the statutory period for a reason attributed to confusion resulting from receiving rejection and acceptance letters from ZATCA at the same time. The Department found that two letters were sent to Zakat Payer, one of which indicates accepting Zakat Payer's objection without specifying assessment year, while the other letter did not include an explicit statement of acceptance or rejection. Due to this apparent ambiguity and the circumstances surrounding notification sent to Zakat Payer, which justify Zakat Payer's belief that ZATCA had accepted the objection, the Department concludes that such belief is reasonable based on facts of the Case. Therefore, the Department concludes that Zakat Payer is entitled to file the Case upon becoming aware of ZATCA rejection of its objection. Therefore, the Department accepts Zakat Payer's appeal and remands the Case for reconsideration on merits.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item First:** Objection to Zakat Assessment for 1440:

Zakat Payer stated that ZATCA sent objection acceptance letter and objection rejection letter on the same date. In addition, the reason for delay in filing objection to ZATCA was due to receiving a letter of acceptance, which made Zakat Payer to believe that it included both objections.

#### Arguments of the respondent (ZATCA)

**Item First:** Objection to Zakat Assessment for 1440:

ZATCA stated that primary Decision shall be conclusive due to the fact that the claimed amount exceeds SAR 50,000 in accordance with Paragraph (1) of Article (42) of Tax Dispute and Violation Committee Procedures.



### Committee's Response to Defenses.



**Item First:** Objection to Zakat Assessment for 1440:

Having taken cognizance of Zakat Payer's appeal, documents included in Case file and ZATCA letters regarding response to Zakat Payer's objection, the Department found that two letters were sent to Zakat Payer, one of which indicates accepting Zakat Payer's objection without specifying assessment year, while the other letter did not include an explicit statement of acceptance or rejection. Due to this apparent ambiguity and the circumstances surrounding notification sent to Zakat Payer, which justify Zakat Payer's belief that ZATCA had accepted the objection, the Department concludes that such belief is reasonable based on facts of the Case. Thereupon, the Department concludes that Zakat Payer is entitled to file the Case upon becoming aware of ZATCA rejection of its objection. Therefore, this Department overturns the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** and remands the Case for reconsideration on merits.

### Decision

**First:** Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No (IZJ-2020-230) rendered in Case No. (Z-12631-2020) regarding tax assessment for 1440 AH.

**Second: On Merits:**

Overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** and remand the Case for reconsideration on merits according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-169  
Case No.: Z-26867-2020

### Key words:

**Zakat - Objection to Estimate Zakat Assessment**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2020-43) regarding Zakat assessment for 1435 AH. Zakat payer's appeal centers on the argument that the disputed estimated assessment amounts do not fully represent the realized revenues during Zakat year. However, the Department has found that Zakat payer has not provided any evidence to support its claim, nor has it presented evidence that could be relied upon to overturn ZATCA's findings in calculating Zakat based on the profit percentage of the total revenue, as per its assessment which was objected to by Zakat payer. Since the Department did not observe any matters that deserve correction or commentary based on the documents provided by ZATCA, the Department concludes that the Primary Department's Decision is valid. Therefore, The Department hereby ruled to accept the appeal and uphold the primary Decision.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item First:** Objection to Zakat Assessment for 1435:

Zakat Payer stated that the profit margin percentage stated in the Decision lacks a clear and explicit mandatory provision for determining the exact 15% rate. The percentage actually ranges between 10% and 15%, and there are also certain expenses that have not been taken into account. Therefore, Zakat Payer requests overturning primary Decision, subject matter of appeal, for the aforementioned reasons.



### Arguments of the respondent (ZATCA)

**Item First:** Objection to Zakat Assessment for 1435:

ZATCA argued by reiterating its previous position presented before the Primary Department. Moreover, Zakat Payer's arguments do not differ from such arguments previously submitted, to which ZATCA has already answered at that time. In addition, ZATCA insists on the primary Decision as it aligns with provisions of Paragraph (6.a-b) of Article (13) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH, and Paragraph (3) of Article (20) of the same Regulations. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on validity and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

### Committee's Response to Defenses.

**Item First:** Objection to Zakat Assessment for 1435:

Having taken cognizance of the subject matter of dispute and documents included in Case file, and given that Zakat Payer argues that the amounts on which Zakat was calculated in Enterprise's account do not outline Enterprise's revenues. Since this Department asked Zakat Payer to provide a detailed explanation of the nature of such amounts that do not constitute Enterprise's revenues. Since Zakat Payer failed to provide any evidence to support the claim, nor has it provided evidence that could be relied upon to overturn ZATCA findings in calculating Zakat based on the profit rate out of total revenues, as per ZATCA assessment which was challenged by Zakat Payer. Since the Department did not find any ground for reconsideration or objection based on the arguments raised by ZATCA. Therefore, the Department concludes that the Primary Department's Decision is valid. Thereupon, this Department dismisses Zakat Payer's appeal and upholds the primary Decision.

### Decision

**First:** In form, Accept the appeal filed by Zakat payer (.....), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes In Riyadh Decision No. (IFR-2020-43) issued in Case No. (Z-8716-2019) in connection with Zakat assessment for 1435 AH.

**Second: On Merits:**

Dismiss the appeal filed by Zakat payer and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the grounds and merits mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-170  
Case No.: Z-30500-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Salaries and Remunerations of Board Members**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISZR-2020-189) regarding Zakat assessment for the period from 2008 to 2015. With respect to the item (salaries and bonuses of board members), Zakat payer's appeal is based on the argument that this item should be deducted as it is supported by documentation and is necessary for the operation of the business that generates taxable income. The Department has found that, for the period from 2008 to 2012, ZATCA's assessment was made after the prescribed period for making amendments to Zakat payer's declaration. Therefore, the Department concludes that ZATCA's action in making these amendments was invalid. For the period from 2013 to 2016, the Department found that ZATCA did not present any evidence to challenge the documentation provided by Zakat payer to support its claim. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

### Documents:

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

#### **Item First:** Salaries and Remunerations of Board Members:

Zakat Payer requests deducting all salaries and wages from Zakat base since they are expenses that have been paid and are no longer in its liability. In addition, the reason for failure to provide General Organization for Social Insurance (GOSI) certificate, upon which the Primary Department based its dismissal Decision, is that the Social Insurance Law has a specific age limit for registration. Therefore, the registration of board members was excluded due to exceeding this age limit. Furthermore, a portion of the disallowed amounts for deduction is due to exceeding the maximum allowable salary for registration. Moreover, there is evidence of the payment of salaries to board members in the form of contracts, payrolls and bank transfers. Therefore, Zakat Payer requests the Department to overturn the primary Decision for the aforementioned reasons.



### Arguments of the respondent (ZATCA)

#### **Item First:** Salaries and Remunerations of Board Members:

ZATCA stated that it did not allow this item for deduction because Zakat Payer did not provide evidence of the social security registration of board members for the years in question in accordance with Paragraph (2) of Article (5) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat. In addition, Zakat Payer did not provide a GOSI certificate to the Primary Department as proof of registration for salaries and remunerations. As such, ZATCA requests the Department to dismiss any new petitions that are not submitted by Zakat Payer within examination and objection phase. Therefore, ZATCA insists on validity and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding primary Decision for the aforementioned reasons.

### Committee's Response to Defenses.

#### **Item First:** Salaries and Remunerations of Board Members:

Having taken cognizance of the subject matter of dispute and documents included in Case file, the Department found that ZATCA assessment was made after the expiry of statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer's financial positions in case of absence of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to make revised assessments after the expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments was invalid. Thereupon, the Department accepts Zakat Payer's appeal and overturns the primary Decision.

### Decision

**First:** Accept in form the appeal filed by Zakat payer/ (.....Enterprise), C.R. No. (...), TIN (...), against Second Department for the Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-189) issued in Case No. (Z-10801-2019), in connection with Zakat assessment for the period from 2008 to 2015.

#### **Second: On Merits:**

Accept Zakat payer's appeal regarding the item (Salaries and Bonuses of Board Members), and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the grounds and merits mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-179  
Case No.: Z-30968-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Disallowing Deduction of Land Value**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISZR-2020-200), in connection with Zakat assessment for 2018. Regarding Zakat payer's appeal concerning the item (land deduction for 2018), Zakat payer's appeal centers on its objection to the Primary Department's Decision to uphold ZATCA's action of including these lands in Zakat base. After examining the Case file, it is evident that since the deduction of the disputed lands from Zakat payer's base is not accepted, the corresponding financing must be excluded in accordance with the principle of budgetary balance. Moreover, ZATCA has not proven that these lands are intended for commerce, and has not excluded the financing corresponding to this deduction. Therefore, The Department hereby ruled to accept the appeal and overturn the primary Decision with respect to the item (land deduction for 2018).

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item First:** Disallowing Deduction of Land Value:

Zakat Payer stated that the lands are used for business purposes and are generating income. In addition, Zakat Payer attached the sales contract and a detailed account statement for related parties, which shows that the value of land has been added to the current account. Therefore, Zakat Payer requests that the value of land is deducted from Zakat base or shareholder' current account is reduced by the same amount.





### Arguments of the respondent (ZATCA)

**Item First:** Disallowing Deduction of Land Value:

ZATCA stated that Zakat Payer provided a relinquishment deed for (55) vacant land plots owned by one of the shareholders (Company Manager) in favor of the Company. However, it is unclear whether the land deeds are in Company's name or shareholder's name. Zakat Payer has not provided evidence that the lands have a relation to Company's business activity of selling clothes and shoes. ZATCA emphasizes that to deduct the value of fixed assets, they must be used in the business activity in accordance with Paragraph (1) of (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat. As for shareholders' current account, they have been added to Zakat base in accordance with Paragraph (2) of (First) of Article (4) of the Implementing Regulations for the Collection of Zakat.

### Committee's Response to Defenses.

**Item First:** Disallowing Deduction of Land Value:

The Department found that ZATCA assessment for 1433 was made after the expiry of statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer's financial positions in case of absence of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to make revised assessments after the expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments was invalid. Thereupon, the Department accepts Zakat Payer's appeal and overturns the primary Decision.

### Decision

**First:** In form, Accept the Appeal filed by Zakat payer/ Company (....), C.R No. (....), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-200) issued in Case No. (Z-5089-2020) in connection with Zakat assessment for 2018.

**Second: On Merits:**

Accept Zakat payer's appeal regarding the item (land deduction for 2018), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, according to merits and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-182  
Case No.: Z-33325-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Estimate Assessment Exceeding Collected Revenues**

### Abstract

The Appellant (Zakat payer) is requesting to cancel Primary Department's Decision No. (ISR-2020-233) in connection with Zakat assessment for 1439 AH. Zakat payer's appeal centers on its objection to Primary Department's Decision to uphold ZATCA's action in imposing an estimated assessment on Zakat payer at a rate exceeding the revenues realized during the disputed year. The Department has established, and Zakat payer has proven through the documents it submitted, that its profit margin does not exceed 2%, and ZATCA has not presented any evidence to contradict Zakat payer's documents which clearly show Zakat payer's profit from its activities. Since this Department did not find any requirement for correction or further response based ZATCA submissions before this Department. As such, the Department decided to accept the Appeal Zakat payer's appeal.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

**Item First:** Estimate Assessment Exceeding Collected Revenues:

Zakat Payer stated that the primary assessment made by ZATCA for the amount of SAR 97,312 was challenged, and the objection was dismissed. Furthermore, the assessment amount was increased to SAR 148,151. Zakat Payer was unaware of calculation method and basis used for increasing amount after the objection. Therefore, Zakat Payer has filed an appeal before the Department seeking justice from the unfair estimate Zakat assessment, as it is a wholesale enterprise with an actual profit margin that does not exceed (2%) and may sometimes reach (1%) or less. Zakat Payer has documents and invoices to prove this. Therefore, Zakat Payer requests overturning the primary Decision, subject matter of appeal, for the aforementioned reasons.



### Arguments of the respondent (ZATCA)

**Item First:** Estimate Assessment Exceeding Collected Revenues:

ZATCA stated that its procedure was made in accordance with Paragraphs (5, 6 and 8) of Article (13) of the Implementing Regulations for the Collection of Zakat.

### Committee's Response to Defenses.



**Item First:** Estimate Assessment Exceeding Collected Revenues:

Having taken cognizance of the subject matter of dispute and documents included in Case file, the Department found that Zakat Payer has proven through the provided documents that Zakat Payer's profit margin does not exceed 2%. Since ZATCA has not provided any evidence to contradict Zakat Payer's documents which clearly show Zakat Payer's profit from its business activities. Since this Department did not find any requirement for correction or further response based on ZATCA submissions before this Department, as such, this Department has decided to accept Zakat payer's appeal and amend the primary Decision by determining an estimated assessment based on a profit margin that does not exceed 2%.

### Decision

**First:** In form, Accept the Appeal filed by Zakat payer (..... Enterprise), C.R No., TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-233) issued in Case No. (Z-3185-2020), in connection with Zakat assessment for 1439 AH.

**Second: On Merits:** Accept Zakat payer's appeal, and amend the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh by determining an estimated assessment based on a profit margin that does not exceed 2%, based on the grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax  
Violations and Disputes in Riyadh

Decision No.: IR-2022-187  
Case No.: Z-66127-2021

**Key words:**

**Zakat - Objection to Estimate Zakat Assessment - Diplomatic Organization**

**Abstract**

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISR-2021-446), regarding Zakat assessment for 2015. Zakat Payer's appeal centers on its objection to being considered a person subject to Zakat, given that the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Furthermore, the Department has established that the Saudi Arabian Government's waiver of its share did not involve any amendments to the rights acquired by Zakat payer pursuant to that agreement. Department also has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that. As such, the Department decided to accept the Appeal Zakat payer's appeal.

**Documents:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**Defenses of Appellant (Zakat Payer)**

**Item First: Diplomatic Organization:**

Zakat Payer stated that it is not a company registered in Saudi Arabia but rather a diplomatic organization affiliated with the League of Arab States, as stated in the establishment agreement and headquarters agreement signed by and between (...) and the Saudi Arabian Government. These agreements grant exemption to the establishment's funds from all types of taxes (direct and indirect), customs duties, and other fees. As such, Zakat payer requests to overturn the appealed primary Decision for the aforementioned reasons.



### Arguments of the respondent (ZATCA)

#### **Item First:** Diplomatic Organization:

ZATCA stated that it has estimated and imposed Zakat on the share of (...) Company, in the establishment (...), according to the financial statements amounting to (SAR 36,66). ZATCA procedure was based on Ministerial Letter No. (2740/4) dated 28/08/1403 AH, which stipulates the obligation of Zakat on companies in which government agencies have shares, and based on Fatwa No. (22665) dated 15/04/1424 AH, and Ministerial Letter No. (12385/1) dated 02/09/1425 AH. Regarding Zakat Payer's claim that the Company is responsible for filing declarations and paying dues and that this would result in double taxation, ZATCA affirms that Zakat Payer is a legal entity that is separate from the Company due to the difference in financial liability. ZATCA had, in fact, accepted the deduction of the investment in the Company from Zakat Payer's Zakat base.

### Committee's Response to Defenses.



#### **Item First:** Diplomatic Organization:

The Department has reviewed Zakat Payer's establishment agreement, which stated in Article (4) that Zakat Payer's headquarters is in Riyadh. In addition, Article (16) of the same agreement, pertaining to privileges and immunities, stated that Zakat Payer has a number of privileges, including exemption of Zakat Payer's funds, shares and properties from all types of taxes (direct or indirect). Moreover, the same agreement stipulated all provisions of (...) League's privileges and immunities agreement shall apply On Zakat payer, and the preamble of the agreement establishing (...) Institution (Zakat payer) stipulated approval of the Arab member states of the agreement and its amendments. Upon reviewing several double taxation avoidance agreements concluded between the Saudi Arabian Government and other countries, the Department has found that these agreements mention Zakat as part of the taxes imposed in KSA and refer to it in the same context as income tax. This indicates the legislator's intention to consider Zakat as a direct tax in relation to the exemptions granted to international entities, unless otherwise specified. Furthermore, considering that the establishment agreement of the institution (...) is a diplomatic agreement, and KSA was a sovereign member and signatory thereto, committed to its provisions, and since KSA hosts this headquarters, it is evident that the establishment agreement encompasses all provisions related to the institution's relationship with the host state (KSA). Given that this agreement was approved by KSA after fulfilling all legal procedures, the waiver of the Saudi Arabian Government 's share to (...) Company does not affect the validity and correctness of the provisions contained therein, which gave rise to rights for Zakat payer. This is because the Government's waiver of this share did not include any amendments to the rights acquired by Zakat payer pursuant to that agreement. Since this Department has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that, and considering the legislator's approach in referring to Zakat in the context of direct taxes in tax treaties concluded with other countries, it is therefore determined that Zakat payer is not subject to Zakat or tax. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.



### Decision

**First:** In form, Accept the appeal filed by Zakat payer (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-446) issued in Case No. (Z-20359-2020) in connection with Zakat assessment for 2015.

**Second: On Merits:**

Accept Zakat payer's appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds and merits mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-173  
Case No.: Z-23472-2020

### Key words:

**Zakat - Objection to Zakat Assessment**

### Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (Z-10043-2019) regarding Zakat assessment for 2015 and 2016. Zakat Payer's appeal involves objection to dismissing its Case in form by Primary Department. Zakat Payer claims filing objection within the statutory period by hand, but ZATCA rejected such objection. Having taken cognizance of ZATCA letter, the Department found that ZATCA asked for additional information from Zakat Payer after making assessment, instead of rejecting objection on procedural grounds due to expiry of statutory period. This creates a presumption that Zakat Payer, in fact, filed the objection by hand within the statutory period. Therefore, the Department accepts the appeal and remands the Case.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses:

#### Defenses of Appellant (Zakat Payer)

#### **Item First:** Objection to Zakat Assessment:

Zakat Payer stated that the Decision relied solely on the interpretation of the facts and their alignment with provision of Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures, without considering other reasons. Zakat Payer asserts that the objection was filed by hand within the statutory period to ZATCA Decision, but ZATCA refused to receive such objection because it lacked attachments. Thereupon, ZATCA asked Zakat Payer to obtain a detailed statement of the number, durations and amounts of loans from all banks from which Zakat Payer had borrowed, and Zakat Payer was willing to comply. After completing ZATCA request, which took considerable time due to the long-term process of obtaining such information from the banks, the objection was filed on .././... After review, ZATCA, through an official letter, asked Zakat Payer to provide certain documents related to the objection. The letter referred to the objection, its date, and content (with ZATCA letter attached), but did not mention or imply a rejection of the objection. This, the Zakat Payer asserts, is clear evidence that the objection period was interrupted and that ZATCA implicitly accepted the objection and began examining its substance. As ZATCA did not explicitly reject the objection before





requesting additional information, it lost the right to rely on such a defense. Accordingly, Zakat Payer requests annulling primary Decision for the aforementioned reasons.

### Arguments of the respondent (ZATCA)

#### **Item First:** Objection to Zakat Assessment:

ZATCA requested the Department to ensure that Zakat Payer has paid or provided the financial guarantee stipulated in Paragraph (3.d) of Article (23) of the Implementing Regulations for the Collection of Zakat. In addition, ZATCA reiterates its previous position stated in the answer submitted to the Primary Department, arguing that Zakat Payer's claims are unsubstantiated, asserting that there is no evidence that ZATCA refused to receive Zakat Payer's objection. Therefore, ZATCA insists on validity and correctness of its procedure and requests upholding primary Decision for the aforementioned reasons.

### Committee's Response to Defenses.

#### **Item First:** Objection to Zakat Assessment:

On Merits: Having taken cognizance of Case file, the Department found that Zakat Payer's appeal involves claim that there is no ground for dismissing its Case in form by the Primary Department, as Zakat Payer claims that the objection was filed within the statutory period by hand, but it was rejected by ZATCA. On the other hand, ZATCA insists on validity and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding primary Decision. Having taken cognizance of subject matter of the dispute and documents included in Case file, the Department found that Zakat Payer claimed to have submitted an objection by hand to ZATCA within the statutory period. However, ZATCA did not accept the objection due to the lack of its attachments. Since Zakat Payer has provided evidence on correspondences between Zakat Payer and ZATCA regarding the completion of some documents related to its objection, including ZATCA letter dated .. /../..., wherein ZATCA asked Zakat Payer to complete the supporting documents for its objection. Since ZATCA asked Zakat Payer, after its assessment, to provide additional information, instead of rejecting objection on procedural grounds due to expiry of statutory period. This creates a presumption that Zakat Payer, in fact, filed the objection by hand within the statutory period. Since these circumstances surround objection filing before ZATCA, this Department accepts Zakat Payer's appeal against Primary Department's Decision that dismissed its Case in form. Therefore, the Department remands the Case to Primary Department for reconsideration on merits.

### Decision

**First:** Accept the appeal in form filed by Zakat Payer (... Company), C.R. No. (...), TIN (...), against **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No. (IZJ-70-2020) rendered in Case No. (Z-10043-2019) regarding Zakat assessment for 2015 and 2016.

**Second: On Merits:** Accept Zakat Payer's appeal, overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** and remand the Case for reconsideration on merits according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



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

Decision No.: IR-2022-1120  
Case No.: Z-72245-2021

### Key words:

**Zakat - Objection to Zakat Assessment**

### Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZD-2021-1097), regarding Zakat assessment for 1433 AH. Zakat payer's appeal is based on the argument that it did not file its objection with ZATCA within the prescribed period due to a reason it attributes to the timing of the reassessment coinciding with the illness of his communications and text messaging officer. The Department has ascertained that ZATCA's assessment for 1433 AH was after the expiration of the period stipulated by the law for making amendments to Zakat payer's declaration. As such, the Department decided to accept the Appeal Zakat payer's appeal.

### Documents:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

##### **Item First:** Objection to Zakat Assessment:

Zakat Payer stated failure to file an objection within the statutory period due to a reason beyond its control, which is a fire at the Head Office on 10/10/1432 AH, including Accounting Department at that time. In addition, Zakat Payer claims failure to file an objection to reassessment within the statutory period due to illness of liaison officer who is responsible for SMS when the assessment was received.

#### Arguments of the respondent (ZATCA)

##### **Item First:** Objection to Zakat Assessment:

ZATCA stated that Zakat Payer did not object to ZATCA Decision within the statutory period, rendering ZATCA Decision final and unappealable in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures in addition, Zakat Payer did not file an objection before the Primary Department within the statutory period, rendering ZATCA Decision final and unappealable in accordance with Paragraph (2) of Article (3) of Tax Dispute and Violation Committee Procedures.



## Committee's Response to Defenses.



### **Item First:** Objection to Zakat Assessment:

The Department found that ZATCA assessment for 1433 was made after the expiry of statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer's financial positions in case of absence of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to make revised assessments after the expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments was invalid. Thereupon, the Department accepts Zakat Payer's appeal and overturns the primary Decision.

## Decision

**First:** In form, Accept the appeal filed by Zakat payer (.....), C.R. No. (...), TIN (...), against **First Department for Determination of Income Tax Violations and Disputes In Dammam** Decision No. (Z-45860-2021) issued in Case No. (IZD-2021-1097) in connection with Zakat assessment for 1433 AH.

**Second: On Merits:** Accept Zakat Payer's appeal and overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Dammam** according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations  
and Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-176  
Case No. Z-24350-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Share of Change in Fair Value Reserve – Unrealized Income from Long-Term Advances to Sister and Subsidiary Companies – Long-Term Advances from Sister and Subsidiary Companies – Investments in Investment Funds and Investments in Sukuk**

**Abstract**

Zakat Payer filed this case moving for annulling of ZATCA Decision regarding Zakat assessment for years from 2016 to 2018. Zakat Payer's objection involves ZATCA procedure regarding (Share of Change in Fair Value Reserve) item related to adding share of change in fair value reserve, (Unrealized Income from Long-Term Advances to Sister and Subsidiary Companies) item where unrealized interest income from loans to related entities was included, (Long-Term Advances to Sister and Subsidiary Companies) where deduction of such advances was disallowed, and (Investments in Investment Funds and Sukuk) where long-term investments in funds and sukuk were not deducted. The Department found, regarding (Share of Change in Fair Value Reserve) item, that results of investment reassessment based on fair value as reflected in the financial statements must be considered. Regarding (Unrealized Income from Long-Term Advances to Sister and Subsidiary Companies), since Plaintiff submitted the required statements, no account movement details were provided. Regarding (Long-Term Advances from Sister and Subsidiary Companies) item, it turned out that ZATCA had allowed deduction in proportion to the investment ratio in the subsidiaries. Regarding (Long-Term Advances from Sister and Subsidiary Companies), Zakat Payer did not provide the supporting documents for the statement of claim. Therefore, the Department annuls the primary Decision regarding (Share of Change in Fair Value Reserve) item and dismisses Zakat Payer's other objections.

**Instruments:**

- [Paragraph \(First.7\), \(f\) and \(4.a\) of Article \(4\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)



## Parties' Defenses

### The Plaintiff's defenses

**Item First:** Share of Change in Fair Value Reserve for 2016:

Zakat Payer stated that ZATCA added the amount of SAR 4,564,194 that outlines the share of change in fair value reserve to Zakat base for 2016. In addition, ZATCA did not accept the request for correcting material error in adding share of change in fair value reserve.

**Item Second:** Unrealized Income from Long-Term Advances to Sister and Subsidiary Companies for 2017 and 2018:

Zakat Payer stated that ZATCA added unrealized interest income from loans to related parties, and that such amounts should be added to the adjusted profit and not considered part of the long-term loans extended to related parties.

**Item Third:** Long-Term Advances to Sister and Subsidiary Companies for 2016 to 2018:

Zakat Payer stated that ZATCA deducted the long-term advances to the subsidiary companies amounting to SAR 71,299,062 for 2016, SAR 58,064,622 for the year 2017, and SAR 62,142,716 for 2018.

**Fourth Item** Investments in Investment Funds and Sukuk for Years from 2016 to 2018:

Zakat Payer stated that ZATCA did not deduct the long-term investments in investment funds and sukuk, despite the fact that these investments were classified as long-term assets in the audited financial statements.

### Defendant's Defenses

**Item First:** Share of Change in Fair Value Reserve for 2016:

ZATCA stated that it deducted only the unrealized investment profits from Zakat base, while the value of share of change in fair value reserve was added based on Plaintiff's declaration.

**Item Second:** Unrealized Income from Long-Term Advances to Sister and Subsidiary Companies for 2017 and 2018:

ZATCA stated that it faced difficulty in tracing the impact of interest expenses upon receipt of the payment in the subsequent years. The profit was not reduced by the realized and unrealized interest from the advances to subsidiaries included in the statement of income, as the unrealized interest on long-term advances was treated in accordance with the provisions of the Implementing Regulations for the Collection of Zakat.

**Item Third:** Long-Term Advances to Sister and Subsidiary Companies for 2016 to 2018:

ZATCA stated that it deducted the long-term advances after calculating such advances based on Company's contribution in the capital of subsidiary companies.

**Fourth Item** Investments in Investment Funds and Sukuk for Years from 2016 to 2018:

ZATCA stated that due to the nature of investment funds, which are speculative funds that seek profit through buying and selling of shares, since investment in sukuk is not acceptable.



## Committee's Response to Defenses.



### **Item First:** Share of Change in Fair Value Reserve for 2016:

As such, the Department, having taken cognizance of Case file, found that the dispute is document-based. Having reviewed the financial statements provided by Plaintiff, it turns out from the account-related notes that the figures were inconsistent. Moreover, although Plaintiff submitted the required statements, Plaintiff failed to provide a breakdown of the account movement. Therefore, the Department dismisses Plaintiff's objection regarding this item.

### **Item Second:** Unrealized Income from Long-Term Advances to Sister and Subsidiary Companies for 2017 and 2018:

As such, the Department, having taken cognizance of Case file, found that the dispute is document-based. Having reviewed the financial statements provided by Plaintiff, it turns out from the account-related notes that the figures were inconsistent. Moreover, although Plaintiff submitted the required statements, Plaintiff failed to provide a breakdown of the account movement. Therefore, the Department dismisses Plaintiff's objection regarding this item.

### **Item Third:** Long-Term Advances to Sister and Subsidiary Companies for 2016 to 2018:

As such, the Department, having taken cognizance of Case file, found that Defendant deducted the long-term advances made to the subsidiary companies in proportion to Plaintiff's ownership interest therein, namely 50% and 43.16%. Therefore, the Department dismisses Plaintiff's objection regarding this item and upholds Defendant's procedure, as the advances are considered long-term loans.

### **Fourth Item** Investments in Investment Funds and Sukuk for Years from 2016 to 2018:

As such, the Department, having taken cognizance of Case file, found that Plaintiff did not provide the supporting documents for the statement of claim. It is required that two essential conditions be met for investments to be considered property assets that are deductible from Zakat base, namely: The documented intention of the authorized person indicating the purpose of investment, and the lack of sale transactions during the year on such investments. Since investment funds and sukuk are characterized by pooling funds from various sources to be invested in diverse fields. Since the fund has a financial identity separate from the issuer and is based on capital turnover through buying and selling. Therefore, the investment in such funds is deemed as trade bids and thus may not be deducted from Zakat base. Thereupon, the Department dismisses Plaintiff's objection regarding this item.

## Decision:

**First:** Cancel Defendant (ZATCA) Decision against Plaintiff (...), TIN No..... regarding share of change in fair value reserve for 2016, subject matter of the Case.

**Second:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 20/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Committee for Determination of Tax Violations  
and Disputes  
First Department for Determination of Income  
Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-182  
Case No. Z-51216-2021

**Key words:**

**Zakat – Objection to Zakat Assessment – Real Estate Investments – Investments in Listed Shares – Depreciation Variances – Deducting Fixed Asset Financing from Profit.**

**Abstract**

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 2015. The dispute involves Zakat Payer's objection to ZATCA procedure regarding (Real Estate Investments) item, where part of the investments was disallowed from being deducted from Zakat base; (Investments in Listed Shares) item, where the full amount of non-trading investments was not deducted from Zakat base; (Depreciation Variances) item, which were not deducted; and (Deducting Fixed Asset Financing from Profit) item, where the amount related to financing fixed assets was not deducted from net profit. The Department found that regarding (Real Estate Investments) item, Zakat Payer did not provide evidence of any development activities on the properties, nor that they were unsellable in their current state. Regarding (Investments in Listed Shares) item, Zakat Payer failed to provide movement records to prove there were no sales transactions throughout the year. regarding (Depreciation Variances) item, it was established that Zakat base exceeded the adjusted net profit. Regarding (Deducting Fixed Asset Financing from Profit) item, it turned out that ZATCA had assessed Zakat based on the net Zakat base. Therefore, the Department amends Defendant's procedure against Zakat Payer regarding (Real Estate Investments for 2015) item and dismisses Zakat Payer's other objections to Defendant's Decisions regarding Zakat assessment for 2015.

**Instruments:**

- [Paragraphs \(1\), \(2\) and \(4.a\) of \(Second\) of Article \(4\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)





## Parties' Defenses

### The Plaintiff's defenses

**Item First: Real Estate Investments:**

Zakat Payer stated that ZATCA disallowed deduction of a portion of real estate investments amounting to SAR 3,405,604,151 from Zakat base. The primary purpose of these properties, as argued, is long-term investment for developing residential units, commercial projects and educational facilities. Given that such large-scale real estate development requires significant costs and long execution periods, Zakat Payer asserted that these investments are held for acquisition purposes and are accordingly classified as non-current assets.

**Item Second: Investments in Listed Shares:**

Zakat Payer stated that ZATCA disallowed the full deduction of non-trading investments amounting to SAR 33,514,632 from Zakat base. Zakat Payer argued that these are long-term investments in the capital of Saudi companies and are held for acquisition purpose.

**Item Third: Depreciation Variances:**

Zakat Payer stated that ZATCA disallowed deduction of depreciation variances based on Depreciation Schedule No. (10) of Zakat declaration for 2015 and calculated fixed assets and their depreciation in accordance with Defendant's Circular No. (2574/9) dated 14/05/1426 AH, which resulted in depreciation variances that should be deducted from the net profit for the year.

**Fourth Item** Deducting Fixed Asset Financing from Profit:

Zakat Payer stated that ZATCA disallowed deduction of the amount of financing fixed assets from net profit for 2015.

### Defendant's Defenses

**Item First: Real Estate Investments:**

ZATCA stated that the investment assets are classified as trade bids based on the presence of continuous sales of land and buildings, and that the depreciation applied to the buildings does not align with their value, indicating that they are intended for sale. It further asserted that the real estate investments are not entirely property assets and based its Decision on Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

**Item Second: Investments in Listed Shares:**

ZATCA stated that it deducted the item from Zakat base while excluding speculative shares and those classified as trade bids. In addition, ZATCA disallowed deduction of shares in Emirati joint stock companies, asserting that investments in such entities are not subject to Zakat collection and thus cannot be deducted from Zakat base. Accordingly, the maximum allowable deduction from Zakat base for Plaintiff's investments in listed shares is limited to those classified as property assets and registered with ZATCA, which are subject to Zakat collection, amounting to SAR 1,836,234,068 in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

**Item Third: Depreciation Variances:**

ZATCA stated that it excluded depreciation variance charged as a reduction from the year's result and deducted the fixed assets based on the financial statements, in application of provisions of Article (17) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425H, and Circular No. (2574/9) dated 14/05/1426 AH.

**Fourth Item** Deducting Fixed Asset Financing from Profit:

ZATCA stated that it disallowed deduction of the item in the amount of SAR 121,226,572 from the adjusted net profit.



## Committee's Response to Defenses.



### **Item First:** Real Estate Investments:

As such, the Department, having taken cognizance of Case file, found that the real estate investments include leased assets and assets under construction for leasing purposes, which are considered fixed assets and should be deducted from Zakat base. In addition, the investments include properties under development for the purpose of sale after completion. Since the development process takes a long period of time and may span several years, and given that the properties were not offered for sale prior to the completion of construction and development, such assets must be deducted from Zakat base for the years in which they remain under development, as they do not constitute trade bids. However, once the development is completed and the project is offered for sale, such assets shall no longer be deductible from Zakat base. Since Plaintiff did not provide the financial statements to verify the classification, nor did it provide evidence of any development activities on the properties, or that the properties could not be sold in their current situation, or proof of any restrictions preventing their disposal. Therefore, the Department concludes that they shall not be deducted from Zakat base.

### **Item Second:** Investments in Listed Shares:

As such, the Department, having taken cognizance of Case file, found that Plaintiff did not provide records of stock movements to prove the lack of sale transactions throughout the year. Having reviewed transactions detailed in the memorandum submitted by ZATCA, it turns out that there were both purchase and sale transactions, indicating that the investments were held for trading purposes. In addition, it turned out that an investment in a UAE-based company was included among the investments, which is not subject to Zakat collection and therefore may not be deducted from Zakat base. Moreover, two essential conditions must be met for investments to be considered property assets eligible for deduction from Zakat base: The documented intention of the authorized person indicating the purpose of investment, and the lack of sale transactions during the year on such investments. Therefore, the Department dismisses Plaintiff's objection.

### **Item Third:** Depreciation Variances:

As such, the Department, having taken cognizance of Case file, found that Plaintiff deducted the depreciation variances from the net profit and deducted the value of fixed assets according to figures reflected in the financial statements, without adhering to ZATCA Circular No. (1724/9) dated 24/03/1427 AH regarding the calculation of fixed assets deductible from Zakat base. In addition, Plaintiff did not provide Depreciation Schedule No. (10) of Zakat declaration. Since ZATCA calculation resulted in disallowing deduction of depreciation variance from the net profit and deducting fixed assets in accordance with its answer. Therefore, it turns out that there was no impact on Zakat calculation, as Zakat base was greater than the adjusted net profit. Thereupon, the Department dismisses Plaintiff's objection.

### **Fourth Item** Deducting Fixed Asset Financing from Profit:

As such, the Department, having taken cognizance of Case file, found that ZATCA calculated Zakat based on net Zakat base, meaning that it deducted the amounts used to finance the assets in question as part of the fixed assets allowable for deduction from Zakat base. Therefore, there is no dispute regarding the deduction of fixed assets within certain limits or the consideration of the adjusted net profit as the minimum Zakat base. Furthermore, Fatwa No. (23408) dated 18/11/1426 AH, which relates to Company's use of profits to purchase property assets throughout the year, stipulates that Zakat should be calculated based on the Zakat base, rather than the adjusted profit. Therefore, the Department dismisses Plaintiff's objection.



### Decision:

**First:** Amend Defendant (ZATCA) procedure against Plaintiff (...) Company, TIN No..... regarding (Real Estate Investments for 2015) item as stated in the grounds.

**Second:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment for 2015, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 20/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-183  
Case No. Z-51221-2021

**Key words:**

**Zakat – Objection to Zakat Assessment – Real Estate Investments – Murabaha Loans – Disallowing Deduction of Dividends from Retained Earnings – Investments in Listed Shares**

**Abstract**

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 2016. The dispute involves Zakat Payer's objection to Defendant's procedure regarding (Real Estate Investments) item, specifically disallowing deduction of part of the real estate investments; (Murabaha Loans) item, involving addition of loan amounts to Zakat base; (Disallowing Deduction of Dividends from Retained Earnings) item, where the distribution was not deducted from the opening balance of retained earnings; and (Investments in Listed Shares) item, where the full value of non-trading investments was not deducted from Zakat base. The Department found regarding (Real Estate Investments) item, Plaintiff did not provide evidence of any development activities on the properties, nor that they were unsellable in their current situation; regarding (Murabaha Loans) item, the addition of such loans, considered revolving loans, is deemed a valid procedure applied by Defendant prior to the issuance of Zakat Regulations; regarding (Disallowing Deduction of Dividends from Retained Earnings) item, Zakat Payer did not provide the supporting documents for cash dividends in question; and regarding (Investments in Listed Shares) item, Zakat Payer did not provide trading records to establish the lack of any sale transactions throughout the year. Therefore, the Department amends Defendant's procedure against Zakat Payer regarding (Real Estate Investments for 2016) item and dismisses Zakat Payer's other objections to Defendant's Decisions regarding Zakat assessment for 2016.

**Instruments:**

- [Paragraphs \(1\), \(2\) and \(4.a\) of \(Second\) of Article \(4\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's defenses

#### **Item First:** Real Estate Investments:

Zakat Payer stated that ZATCA disallowed deduction of a portion of real estate investments amounting to SAR 3,405,604,151 from Zakat base. The primary purpose of these properties, as argued, is long-term investment for developing residential units, commercial projects and educational facilities. Given that such large-scale real estate development requires significant costs and long execution periods, Zakat Payer asserted that these investments are held for acquisition purposes and are accordingly classified as non-current assets. Since the acquisition of real estate through a gift differs from acquisition through purchase. Therefore, the intention in such cases is deemed to be for possession and retention until a Decision is made to the contrary.

#### **Item Second:** Murabaha Loans:

Zakat Payer stated that ZATCA added loan amounts of SAR 210,000,000 to Zakat base.

#### **Item Third:** Disallowing Deduction of Dividends from Retained Earnings:

Zakat Payer stated that ZATCA disallowed deduction of dividends amounting to SAR 5,873,624 from the opening balance of retained earnings, arguing that these dividends were not distributed in cash. In addition, the cash dividends of SAR 29,126,376 were distributed in two installments, while an amount of SAR 5,873,624 was withheld and subsequently distributed in cash through the shareholders' current account.

#### **Fourth Item** Investments in Listed Shares:

Zakat Payer stated that ZATCA disallowed the full deduction of non-trading investments amounting to SAR 27,541,382 from Zakat base. Zakat Payer argued that these are long-term investments in the capital of Saudi companies and are held for acquisition purpose.

### Defendant's Defenses

#### **Item First:** Real Estate Investments:

ZATCA stated that the real estate investments were considered as trade bids after it turned out that there were continuous buying and selling operations of lands. Furthermore, the maximum amount that was deducted for Zakat Payer was the net value of real estate investments that were explicitly classified as property assets for gain and rental income generation in the audited financial statements. ZATCA based its Decision on Paragraphs (1) and (2) of (Second) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

#### **Item Second:** Murabaha Loans:

ZATCA stated that it added the balances of loans that had completed a full Zakat year, as well as renewable and ongoing loans, to Zakat base. In addition, ZATCA emphasized that its procedure was made in line with Provisions of the Implementing Regulations for the Collection of Zakat. Moreover, ZATCA based its Decision on Article (4) of the Implementing Regulations for the Collection of Zakat.

#### **Item Third:** Disallowing Deduction of Dividends from Retained Earnings:

ZATCA stated that it added dividends to Zakat base in accordance with Articles (4) and (20) of the Implementing Regulations for the Collection of Zakat.



#### **Fourth Item** Investments in Listed Shares:

ZATCA stated that it deducted the item from Zakat base, while excluding speculative shares and those classified as trade bids. In addition, ZATCA disallowed deduction of shares in Emirati joint stock companies, asserting that investments in such entities are not subject to Zakat collection and thus cannot be deducted from Zakat base. Accordingly, the maximum allowable deduction from Zakat base for Plaintiff's investments in listed shares is limited to those classified as property assets and registered with ZATCA, which are subject to Zakat collection, amounting to SAR 1,709,746,694 in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

### **Committee's Response to Defenses.**



#### **Item First:** Real Estate Investments:

As such, the Department, having taken cognizance of Case file, found that the real estate investments include leased assets and assets under construction for leasing purposes, which are considered fixed assets and should be deducted from Zakat base. In addition, the investments include properties under development for the purpose of sale after completion. Since the development process takes a long period of time and may span several years, and given that the properties were not offered for sale prior to the completion of construction and development, such assets must be deducted from Zakat base for the years in which they remain under development, as they do not constitute trade bids. However, once the development is completed and the project is offered for sale, such assets shall no longer be deductible from Zakat base. Since the Department found that the investment properties include a number of plots of land intended to be sold upon an increase in their market value to generate profit, such as Al-Rawdah land in Madinah and Al-Rimal land. Since Plaintiff did not provide the financial statements to verify their classification, nor did it provide evidence of any development activities on such lands, evidence that they could not be sold in their current situation, or any documents indicating restrictions on their disposal. Therefore, the Department concludes that such investments shall not be deducted from Zakat base.

#### **Item Second:** Murabaha Loans:

As such, the Department, having taken cognizance of Case file, found, through the detailed loan movement, that the loans are recurring and continuous in nature. Once the initial loan is repaid, a new loan of equal or similar value is obtained, indicating in substance that these are long-term loans. In addition, this is not affected by Plaintiff's claim that this constitutes retroactive application of the Implementing Regulations for the Collection of Zakat issued in 1440 AH is not upheld, as the addition of such loans as recurring loans was a procedure applied by Defendant prior to the issuance of the Implementing Regulations for the Collection of Zakat. Therefore, the Department dismisses Plaintiff's objection.

#### **Item Third:** Disallowing Deduction of Dividends from Retained Earnings:

As such, the Department, having taken cognizance of Case file, found that the dispute is document-based, as Plaintiff did not provide evidence on the distribution of cash dividends in question, nor did it provide shareholders' current account statement to demonstrate that the amounts had exited Plaintiff's possession prior to the completion of a full Zakat year. Therefore, the Department dismisses Plaintiff's objection.



#### **Fourth Item** Investments in Listed Shares:

As such, the Department, having taken cognizance of Case file, found that Plaintiff did not provide records of stock movements to prove the lack of sale transactions throughout the year. Having reviewed transactions detailed in the memorandum submitted by ZATCA, it turns out that there were both purchase and sale transactions, indicating that the investments were held for trading purposes. Moreover, two essential conditions must be met for investments to be considered property assets eligible for deduction from Zakat base: The documented intention of the authorized person indicating the purpose of investment, and the lack of sale transactions during the year on such investments. Therefore, the Department dismisses Plaintiff's objection.

#### **Decision:**

**First:** Amend Defendant (ZATCA) procedure against Plaintiff (...) Company, TIN No.... regarding (Real Estate Investments for 2016) item as stated in the grounds.

**Second:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment for 2016, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 20/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-184  
Case No. Z-51226-2021

**Key words:**

**Zakat – Objection to Zakat Assessment – Real Estate Investments – Murabaha Loans – Investments in Listed Shares – Adding Commercial Credit Payables That Have Completed a Full Zakat Year**

**Abstract**

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 2017. The dispute involves Zakat Payer's objection to ZATCA procedure regarding (Real Estate Investments) item, due to disallowing deduction of part of real estate investments from Zakat base; (Murabaha Loans) item, due to the addition of loan amounts to Zakat base; (Investments in Listed Shares) item, due to the failure to deduct all non-trading investments from Zakat base; and (Adding Commercial Credit Payables That Have Completed a Full Zakat Year) item. The Department found regarding (Real Estate Investments) item, no evidence of development was provided, and the assets could not be sold in their current situation; (Murabaha Loans) item, adding loans as renewable loans has been a practice applied by ZATCA prior to the issuance of the Implementing Regulations for the Collection of Zakat; (Investments in Listed Shares) item, Plaintiff failed to provide share movement proving the lack of sales throughout the year; and (Adding Commercial Credit Payables That Have Completed a Full Zakat Year) item, Plaintiff did not provide the detailed movement of payables to prove that the amounts in question had not completed a full Zakat year. Therefore, the Department amends Defendant's procedure against Zakat Payer regarding (Real Estate Investments for 2017) item and dismisses Zakat Payer's other objections to Defendant's Decisions regarding Zakat assessment for 2017.

**Instruments:**

- [Paragraphs \(1\), \(2\) and \(4.a\) of \(Second\) and Paragraph \(5\) of \(First\) of Article \(4\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)



## Parties' Defenses

### The Plaintiff's defenses

#### **Item First:** Real Estate Investments:

Zakat Payer stated that ZATCA disallowed deduction of a portion of real estate investments amounting to SAR 3,405,604,151 from Zakat base. The primary purpose of these properties, as argued, is long-term investment for developing residential units, commercial projects and educational facilities. Given that such large-scale real estate development requires significant costs and long execution periods, Zakat Payer asserted that these investments are held for acquisition purposes and are accordingly classified as non-current assets. In addition, they outline investments in real estate projects intended for leasing upon completion of development and preparation of the properties for rental, in order to benefit from them through its core business activity, noting that it did not deduct investments classified for sale from its Zakat base. Since the acquisition of real estate through a gift differs from acquisition through purchase. Therefore, the intention in such cases is deemed to be for possession and retention until a Decision is made to the contrary.

#### **Item Second:** Murabaha Loans:

Zakat Payer stated that ZATCA added loan amounts of SAR 356,082,730 to Zakat base.

#### **Item Third:** Investments in Listed Shares:

Zakat Payer stated that ZATCA disallowed the full deduction of non-trading investments amounting to SAR 31,734,959 from Zakat base. Zakat Payer argued that these are long-term investments in the capital of Saudi companies and are held for acquisition purpose.

#### **Fourth Item** Commercial Credit Liabilities:

Zakat Payer stated that ZATCA added credit payables and other liabilities to Zakat base in the amount of SAR 334,707, noting that it deals with many suppliers, which results in continuous activity on the accounts throughout the year. Since the balance of total payables at year-end relates to goods and services purchased, and therefore, the balance of credit payables account should not be added to Zakat base.

### Defendant's Defenses

#### **Item First:** Real Estate Investments:

ZATCA stated that it found the real estate investments to be prepared for trade bids based on the presence of continuous buying and selling of land. In addition, the maximum deductible amount for Plaintiff was limited to the net value of real estate investments held for property assets, which were explicitly classified in the audited financial statements as being retained for the purpose of earning rental income. In addition, ZATCA based its Decision on Paragraphs (1) and (2) of (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. stipulates:

#### **Item Second:** Murabaha Loans:

ZATCA stated that it added renewable and ongoing loan balances that had completed a full Zakat year amounting to SAR 441,799,060 to Zakat base in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

**Item Third: Investments in Listed Shares:**

ZATCA stated that it deducted the item from Zakat base, while excluding speculative shares and those classified as trade bids. In addition, ZATCA disallowed deduction of shares in Emirati joint stock companies, asserting that investments in such entities are not subject to Zakat collection and thus cannot be deducted from Zakat base. Accordingly, the maximum allowable deduction from Zakat base for Plaintiff's investments in listed shares is limited to those classified as property assets and registered with ZATCA, which are subject to Zakat collection, amounting to SAR 1,833,817,348 in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

**Fourth Item Commercial Credit Liabilities:**

ZATCA stated that it added the amounts that completed a full Zakat year amounting to SAR 334,707 to Zakat base in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

### Committee's Response to Defenses.

**Item First: Real Estate Investments:**

As such, the Department, having taken cognizance of Case file, found that the real estate investments include leased assets and assets under construction for leasing purposes, which are considered fixed assets and should be deducted from Zakat base. In addition, the investments include properties under development for the purpose of sale after completion. Since the development process takes a long period of time and may span several years, and given that the properties were not offered for sale prior to the completion of construction and development, such assets must be deducted from Zakat base for the years in which they remain under development, as they do not constitute trade bids. However, once the development is completed and the project is offered for sale, such assets shall no longer be deductible from Zakat base. It turned out that the project development was completed in 2017, and there was evidence of sales activity in 2018. Since Plaintiff did not provide the financial statements and Zakat declarations for 2017 and 2018 to verify the classification of project after completion, nor did it provide the supporting documents proving that the project was still under development and that the residential units were not offered for sale and did not constitute trade bids throughout such years. Therefore, the Department concludes that the project may not be deducted from Zakat base.

**Item Second: Murabaha Loans:**

As such, the Department, having taken cognizance of Case file, found, through the detailed loan movement, that the loans are recurring and continuous in nature. Once the initial loan is repaid, a new loan of equal or similar value is obtained, indicating in substance that these are long-term loans. In addition, this is not affected by Plaintiff's claim that this constitutes retroactive application of the Implementing Regulations for the Collection of Zakat issued in 1440 AH is not upheld, as the addition of such loans as recurring loans was a procedure applied by ZATCA prior to the issuance of the Implementing Regulations for the Collection of Zakat. Therefore, the Department dismisses Plaintiff's objection.

**Item Third: Investments in Listed Shares:**

As such, the Department, having taken cognizance of Case file, found that Plaintiff did not provide records of stock movements to prove the lack of sale transactions throughout the year. Having reviewed transactions detailed in the memorandum submitted by ZATCA, it turns out that there were both purchase and sale transactions, indicating that the investments were held for trading purposes. Moreover, two essential conditions must be met for investments to be considered property assets eligible for deduction from Zakat base: The documented intention of the authorized person indicating the purpose of investment, and the lack of sale transactions during the year on such investments. Therefore, the Department dismisses Plaintiff's objection.



#### **Fourth Item** Commercial Credit Liabilities:

As such, the Department, having taken cognizance of Case file, found that Plaintiff did not provide the detailed movement of the credit payables to prove that the contested amounts had not completed a full Zakat year. Since credit payables are considered part of Zakat base if they have completed a full Zakat year or were used to finance assets deductible from Zakat base. Therefore, the Department dismisses Plaintiff's objection.

#### **Decision:**

**First:** Amend the Defendant's action/ ZATCA against Plaintiff/ (...) TIN No..... regarding (Real Estate Investments for 2017) item as stated in the grounds.

**Second:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment for 2017, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 20/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-185  
Case No. Z-51243-2021

**Key words:**

**Zakat – Objection to Zakat Assessment – Real Estate Investments – Deferred Losses –  
Rejection of Zakat Calculation Based on Zakat Base Instead of Adjusted Net Profit –  
Adding Credit Payables that Completed Zakat Year – Investments in Funds**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for 2018. The dispute involves Zakat Payer's objection to ZATCA procedure regarding (Real Estate Investments) item, due to disallowing deduction of part of real estate investments from Zakat base; (Murabaha Loans) item, due to the addition of loan amounts to Zakat base; (Investments in Listed Shares) item, due to the failure to deduct all non-trading investments from Zakat base; and (Adding Commercial Credit Payables That Have Completed a Full Zakat Year) item. The Department found regarding (Real Estate Investments) item, no evidence of development was provided, and the assets could not be sold in their current situation; (Murabaha Loans) item, adding loans as renewable loans has been a practice applied by ZATCA prior to the issuance of the Implementing Regulations for the Collection of Zakat; (Investments in Listed Shares) item, Plaintiff failed to provide share movement proving the lack of sales throughout the year; and (Adding Commercial Credit Payables That Have Completed a Full Zakat Year) item, Plaintiff did not provide the detailed movement of payables to prove that the amounts in question had not completed a full Zakat year. Therefore, the Department amends Defendant's procedure against Zakat Payer regarding (Real Estate Investments for 2018) item and dismisses Zakat Payer's other objections to Defendant's Decisions regarding Zakat assessment for 2018.

**Instruments:**

- [Paragraphs \(1\), \(2\) and \(4.a\) of \(Second\) and Paragraph \(5\) of \(First\) of Article \(4\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)



## Parties' Defenses

### The Plaintiff's defenses

#### **Item First:** Real Estate Investments:

Zakat Payer stated that ZATCA disallowed deduction of a portion of real estate investments amounting to SAR 3,405,604,151 from Zakat base. The primary purpose of these properties, as argued, is long-term investment for developing residential units, commercial projects and educational facilities. Given that such large-scale real estate development requires significant costs and long execution periods, Zakat Payer asserted that these investments are held for acquisition purposes and are accordingly classified as non-current assets. In addition, they outline investments in real estate projects intended for leasing upon completion of development and preparation of the properties for rental, in order to benefit from them through its core business activity, noting that it did not deduct investments classified for sale from its Zakat base. Since the acquisition of real estate through a gift differs from acquisition through purchase. Therefore, the intention in such cases is deemed to be for possession and retention until a Decision is made to the contrary.

#### **Item Second:** Deferred Losses:

Zakat Payer stated that ZATCA disallowed deduction of deferred losses amounting to SAR 577,128,986 from Zakat base, and noted that the deferred losses for 2018 resulted from an actual loss incurred in 2017.

#### **Item Third:** Adjustments to Net Profit:

Zakat Payer stated that ZATCA calculated Zakat based on the adjusted profits of the year.

#### **Fourth Item** Commercial Credit Liabilities:

Zakat Payer stated that ZATCA added credit payables and other liabilities to Zakat base in the amount of SAR 53,442, noting that it deals with many suppliers, which results in continuous activity on the accounts throughout the year. Since the balance of total payables at year-end relates to goods and services purchased, and therefore, the balance of credit payables account should not be added to Zakat base.

#### **Fifth:** Investments in Funds:

Zakat Payer stated that ZATCA disallowed deduction of investment funds from Zakat base, and that the nature of investment was to benefit from rental income, which is evident in fund's investments.



## Defendant's Defenses

### **Item First:** Real Estate Investments:

ZATCA stated that the real estate investments were considered as trade bids after it turned out that there were continuous buying and selling operations of lands. Furthermore, the maximum amount that was deducted for Zakat Payer was the net value of real estate investments that were explicitly classified as property assets for gain and rental income generation in the audited financial statements. ZATCA based its Decision on Paragraphs (1) and (2) of (Second) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

### **Item Second:** Deferred Losses:

ZATCA stated that it did not deduct the item from Zakat base due to the lack of deferred losses based on the approved assessment for 2017 in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

### **Item Third:** Adjustments to Net Profit:

ZATCA stated that the net Zakat base is greater than the adjusted net profit, and that the Zakat base is calculated based on either the adjusted net profit or the net Zakat base, whichever is higher. In addition, ZATCA stated basing its Decision on Paragraph (9) of (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

### **Fourth Item** Commercial Credit Liabilities:

ZATCA stated that it added the amounts that completed a full Zakat year amounting to SAR 53,442 to Zakat base in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

### **Fifth:** Investments in Funds:

ZATCA stated that investment in real estate investment funds is considered a form of trade bids and therefore may not be deducted from Zakat base, as their purpose is trading in securities and goods through buying and selling.





## Committee's Response to Defenses.

### **Item First:** Real Estate Investments:

As such, the Department, having taken cognizance of Case file, found that the real estate investments include leased assets and assets under construction for leasing purposes, which are considered fixed assets and should be deducted from Zakat base. In addition, the investments include properties under development for the purpose of sale after completion. Since the development process takes a long period of time and may span several years, and given that the properties were not offered for sale prior to the completion of construction and development, such assets must be deducted from Zakat base for the years in which they remain under development, as they do not constitute trade bids. However, once the development is completed and the project is offered for sale, such assets shall no longer be deductible from Zakat base. Since Plaintiff did not provide the financial statements and Zakat declarations for 2017 and 2018 to verify the classification of the project after its completion, nor did it provide the supporting documents to prove that the project was still under development and that the residential units were not offered for sale or considered property assets during such years. Therefore, the Department concludes that the project may not be deducted from Zakat base.

### **Item Second:** Deferred Losses:

As such, since the deferred losses deductible from Zakat base are the adjusted losses according to ZATCA assessments after adding provisions previously deducted in the year of recognition to prevent double payment of Zakat, the relevant deferred loss for Zakat purposes is what has been adjusted under Zakat Law. Since Plaintiff did not provide the supporting documents for the objection. Therefore, the Department dismisses Plaintiff's objection.

### **Item Third:** Adjustments to Net Profit:

As such, the Department, having taken cognizance of Case file, since Zakat base must not be less than the adjusted profit as a basis for Zakat calculation in accordance with paragraph (9.i) of (Second) of Article (4) of the Implementing Regulations for the Collection of Zakat. Having reviewed ZATCA memorandum, the Department found that ZATCA calculated Zakat based on the net Zakat base as it was higher than the adjusted profit. Since Plaintiff did not provide the supporting documents for its objection. Therefore, the Department dismisses Plaintiff's objection.

### **Fourth Item** Commercial Credit Liabilities:

As such, the Department, having taken cognizance of Case file, found that Plaintiff did not provide the detailed movement of the credit payables to prove that the contested amounts had not completed a full Zakat year. Since credit payables are considered part of Zakat base if they have completed a full Zakat year or were used to finance assets deductible from Zakat base. Therefore, the Department dismisses Plaintiff's objection.

### **Fifth:** Investments in Funds:

As such, since the investment funds are characterized by pooling funds from various sources to be invested in diverse fields. Since the fund has a financial identity separate from the issuer and is based on capital turnover through buying and selling. Therefore, the investment in such funds is deemed as trade bids and thus may not be deducted from Zakat base. The duration of the investment in the fund does not change this, but rather the nature of investment matters. Moreover, two essential conditions must be met for investments to be considered property assets eligible for deduction from Zakat base: The documented intention of the authorized person indicating the purpose of investment, and the lack of sale transactions during the year on those investments. Since Plaintiff did not provide the supporting documents for the objection, such as account movements related to the investments. Therefore, the Department dismisses Plaintiff's objection.



### Decision:

**First:** Amend Defendant (ZATCA) procedure against Plaintiff (...) Company, TIN No..... regarding (Real Estate Investments for 2018) item as stated in the grounds.

**Second:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment for 2018, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 20/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-232  
Case No. 59037-2021-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Canceling Commercial Registration**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for years from 1433 to 1441. The dispute involves Zakat Payer's objection to Defendant's procedure outlined in issuing Zakat assessment for years from 1433 to 1441. Since Defendant failed to provide evidence that Zakat Payer engaged in business activity for the years in question. Therefore, the Department accepts the Case and overturns Defendant's Decision regarding Zakat assessment.

**Instruments:**

- [Paragraph \(6\) of Article \(11\) of Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2216\) dated 07/07/1440 AH](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Zakat Assessment for Years from 1433 to 1441:

Zakat Payer stated that Zakat assessment was made after the date of Enterprise's commercial registration cancellation, noting that no commercial activities were conducted and that the Enterprise does not hold any bank accounts.



## Committee's Response to Defenses.



### **Item First:** Zakat Assessment for Years from 1433 to 1441:

As such, the Department, having taken cognizance of documents provided by both parties, found that Plaintiff denied exercising activity for years from 1433 to 1441, and that ZATCA did not provide evidence to the contrary, in particular that Defendant has access to information that enable it to prove the same by directly and continuously accessing any information directly related to Zakat Payer maintained by third party that reveals the volume of imports, contracts, workforce, loans, subsidies received and VAT data. Thereupon, the Department concludes, in light of the principles that state being innocent is the rule, the default is non-existence and sanctity of wealth which cannot be infringed upon except by a clear legal or statutory text, that ZATCA failed to provide evidence that Plaintiff exercised activity throughout the years in question despite having access to such data that serves as strong evidence supporting that Plaintiff did not engage in business activity. Therefore, the Department accepts Plaintiff's objection and cancels Defendant's procedure regarding Zakat assessment, subject matter of the dispute.

### **Decision:**

Cancel Defendant (ZATCA) Decision against Plaintiff (...), TIN No. (...), regarding Zakat assessment subject matter of the dispute.

This Decision was delivered in presence of the parties. The Department set Sunday, 27/06/1444 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-234  
Case No. Z-56807-2021

**Key words:**

**Zakat - Objection to Zakat Assessment**

**Abstract**

Zakat Payer requests canceling ZATCA Decision regarding Zakat assessment for years from 1429 to 1441. The dispute involves Zakat Payer's objection to Defendant's procedure outlined in issuing Zakat assessment for years from 1429 to 1441. Since the Department found, regarding Zakat assessment for years from 1429 to 1432, that Zakat Payer is considered one of the categories that are not required to keep statutory books and records. Therefore, the Department dismisses Zakat Payer's objection to Defendant's Decisions regarding Zakat assessments for years from 1429 to 1432 and amends Defendant's Decisions against Zakat Payer regarding Zakat assessments for years from 1433 to 1441.

**Instruments:**

- [Paragraph \(6\) of Article \(13\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Zakat Assessment for Years from 1429 to 1441:

Zakat Payer stated that ZATCA issued Zakat assessment for years from 1429 to 1441 amounting to a total of SAR 1,043,828.13.

**Defendant's Defenses**

**Item First:** Zakat Assessment for Years from 1429 to 1441:

ZATCA stated that the claim was dismissed in form due the fact that the objection was not filed within the statutory period. In addition, ZATCA based the assessment Decision on Paragraph (6) of Article (13) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.



## Committee's Response to Defenses.



### **Item First:** Zakat Assessment for Years from 1429 to 1441:

As such, the Department, having taken cognizance of documents provided by both parties regarding years from 1429 to 1432, found that Plaintiff did not provide documents that support its statement of claim. Therefore, the Department dismisses Plaintiff's objection regarding years from 1429 to 1432. As for years from 1433 to 1441: Having taken cognizance of information provided by both parties, the Department found that Plaintiff's capital amounts to SAR 25,000 according to its commercial register. Since Plaintiff is considered among categories that are not required to keep statutory books and records, the Department found that Defendant's procedure for determining capital in estimate Zakat assessment, subject matter of objection, is invalid in accordance with Paragraph (6.a) of Article (13) of the Implementing Regulations for the Collection of Zakat above-mentioned. Therefore, the Department amends Defendant's Decisions regarding Zakat assessments for years from 1433 to 1441.

### **Decision:**

**First:** Dismiss objection filed by Plaintiff (...), TIN No..... to Defendant (ZATCA) Decision regarding Zakat assessment for years from 1429 to 1432 subject matter of the Case.

**Second:** Amend Defendant (ZATCA) Decisions against Plaintiff (...), TIN No..... regarding Zakat assessments for years from 1433 to 1441 subject matter of the Case as stated in the grounds.

This Decision was delivered in presence of the parties. The Department set Sunday, 27/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Committee for Determination of Tax Violations and Disputes First Department for Determination of Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-237  
Case No. Z-30639-2020

### Key words:

**Zakat – Objection to Zakat Assessment – Making Estimate Zakat Assessment – Capital of Commercial Registrations – Revenues – Unlisted Commercial Registrations**

### Abstract

Zakat Payer requests canceling ZATCA Decision regarding Zakat assessment for 2017. Since the dispute involves Zakat Payer's objection to Defendant's procedure outlined in issuing estimate Zakat assessment for 2017. Since the Department found, regarding Zakat assessment, that Zakat Payer did not include additional revenues of commercial registers in its declaration, and did not provide supporting documents for its claim. Therefore, the Department dismisses Zakat Payer's objection to Defendant's Decision regarding Zakat assessment.

### Instruments:

- [Zakat Law promulgated by Royal Decree No. \(577/28/17\) dated 14/03/1376 AH](#)
- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(6.a\) and \(8\) of Article \(13\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

### Parties' Defenses

#### The Plaintiff's defenses

**Item First:** Zakat Assessment for 2017:

Zakat Payer stated that the Company is managed under a management and operation agreement with Plaintiff in return for a monthly rent of SAR 1,000 for each branch registration, deposited into the account of Plaintiff's partners, and accordingly, the due Zakat is paid in Company's declaration.





### Defendant's Defenses

**Item First:** Zakat Assessment for 2017:

ZATCA stated that it calculated Zakat on the registered capital of the commercial registers in the amount of SAR 5,000,000, and that the revenues of Zakat Payer are recorded under Company's revenues due to the existence of a contract under which the Company operates or leases the registration for SAR 1,000 per record per month. In addition, ZATCA stated that its Decision was made in accordance with provisions of the Implementing Regulations for the Collection of Zakat and paragraph (6.a) of Article (13) of the Regulations issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

### Committee's Response to Defenses.



**Item First:** Zakat Assessment for 2017:

As such, the Department, having taken cognizance of statements provided by both parties, found that Plaintiff did not include additional revenues related to commercial registers in its Zakat declaration, and did not provide the supporting documents for its statement of claim. Therefore, the Department dismisses Plaintiff's objection.

### Decision:

Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding Zakat assessment subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 27/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-343  
Case No. Z-31592-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Revenues – Contract with a Company – Distributed Profits**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for 2018. The dispute involves Zakat Payer's objection to ZATCA procedure regarding (Revenues) item, the addition of revenue variance to Zakat assessment for 2018; (Contract with (...) Company) item, the addition of a contract with (...) Company valued at SAR 12,500,000 to Zakat base; and (Distributed Profits) item, the failure to deduct the distributed profits. The Department found, regarding (Revenues) item and (Contract with a (...) Company) item, that Zakat Payer did not provide the supporting documents for the statement of claim, and regarding (Distributed Profits) item, Zakat Payer did not provide evidence of the distribution of profits in question. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(3\) of Article \(20\), Paragraph \(First.8\) and Paragraph\(First.9\) of Article \(4\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Revenue Variance Between Financial Statements:

Zakat Payer stated that ZATCA added revenue variance to Zakat assessment for 2018.

**Item Second:** Contract with (...) Company:

Zakat Payer stated that ZATCA added a contract with (... Company) valued at SAR 12,500,000 to Zakat base, and mentioned that there is no contract with the said company or for the amount in question for 2018.



**Item Third: Unsubstantiated Distributed Profits:**

Zakat Payer stated that ZATCA did not deduct the distributed profits and that Zakat Payer had submitted the report of shareholders' meeting and dividends in its previous objection, and that the shareholders had approved the letter.

**Defendant's Defenses**

**Item First: Revenue Variance Between Financial Statements:**

ZATCA stated that it added the revenue not disclosed in the financial statements to Zakat base, and that its procedure was made in accordance with the Implementing Regulations for the Collection of Zakat, relying on Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

**Item Second: Contract with (...) Company:**

ZATCA stated that it added Zakat Payer's contract with (... Company) to the Zakat base due to failure to disclose it in accordance with Article (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

**Item Third: Unsubstantiated Distributed Profits:**

ZATCA stated that it added the distributed profits to Zakat base due to Zakat Payer's failure to provide the supporting documents in accordance with Article (20) of the Implementing Regulations for the Collection of Zakat.

**Committee's Response to Defenses.**



**Item First: Revenue Variance Between Financial Statements:**

As such, the Department, having taken cognizance of Case file, found that the dispute is document-based, as Plaintiff did not provide a contract tracking statement including the diversified revenues to verify that the revenues in question had been reported. Since Plaintiff did not provide the supporting documents for the statement of claim or anything contradicting Defendant's answer. Therefore, the Department dismisses Plaintiff's objection.

**Item Second: Contract with (...) Company:**

As such, the Department, having taken cognizance of Case file, found that the dispute is document-based. In addition, Plaintiff did not provide the supporting documents for the statement of claim or anything contradicting Defendant's answer. Therefore, the Department dismisses Plaintiff's objection.

**Item Third: Unsubstantiated Distributed Profits:**

As such, the Department, having taken cognizance of Case file, found that the dispute is document-based, as Plaintiff did not provide evidence on the distribution of dividends in question, such as shareholders' report of dividends and bank statements to demonstrate that the amounts had exited Plaintiff's possession prior to the completion of a full Zakat year. Therefore, the Department dismisses Plaintiff's objection.



### Decision:

Dismiss the objection of the Plaintiff/ (...) Co., TIN No..... to Defendant (ZATCA) Decision regarding the assessment, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 12/7/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-344  
Case No. Z-31146-2020

**Key words:**

**Zakat - Objection to Zakat Assessment - Recreation Expenses - Shareholders' Remuneration - Import Variances - Amounts Due to Related Parties - Disallowing Deduction of Spare Parts - Accumulated Losses**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for years from 2014 to 2018. Regarding (Recreation Expenses) item, the dispute involves adding recreation expenses to the adjusted net profit for 2014. The Department found that Zakat Payer did not provide the supporting documents for expenses in question, as such expenses are deductible. (Shareholders' Remuneration) **Item:** The Department found that Plaintiff did not provide evidence to prove the condition regarding partners' salaries. Regarding (Import Variances) item, the error was due to the lack of proper classification in the accounting system. In addition, Zakat Payer did not provide the necessary reconciliation to elaborate the reasons and justifications for import variances or supporting documents for Plaintiff's claim. Regarding (Amounts Due to Related Parties) item, the Department found that Zakat Payer did not provide the documents that elaborate the nature of spare parts that Zakat Payer requests to be deducted, nor did Zakat Payer demonstrate that such spare parts were used in the maintenance of fixed assets. Regarding (Accumulated Losses) item, it turned out that the non-deduction of the accumulated losses was valid. The considered accumulated losses for Zakat purposes are those that have been adjusted according to Zakat Law. Therefore, the Department establishes resolution of the dispute regarding (Import Variances) item, and dismisses all other objections.

**Instruments:**

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH](#)
- [Paragraph \(First.5\), \(Second.1\) and \(Second.9\) of Article \(4\), Paragraph \(1\) and \(2\) of Article \(5\), and Paragraph \(3\) of Article \(20\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)



## Parties' Defenses

### The Plaintiff's defenses

**Item First:** Recreation Expenses for 2014:

Zakat Payer stated that ZATCA added recreation expenses to the adjusted net profit for 2014, claiming that such expenses are incurred by the Company and are deductible expenses in accordance with provisions of Zakat regulations.

**Item Second:** Shareholders' Remuneration for 2014 and 2018:

Zakat Payer stated that ZATCA did not deduct shareholders' remuneration amounting to SAR 720,000 for 2014 and SAR 1,320,000 for 2018, arguing that such amounts outline salaries paid in return for managing Company's activities.

**Item Third:** Imports Variances for 2016 and 2018:

Zakat Payer stated that ZATCA added import variances amounting to SAR 10,172,961 for 2016 and SAR 15,095,476 for 2018, arguing that the error was due to a misclassification in the accounting system.

**Fourth Item** Amounts Due to Related Parties for Years from 2014 to 2018:

Zakat Payer stated that ZATCA added the balance of amounts due to related parties to Zakat base, explaining that an agreement had been made with (...) Company to act as its agent within the Kingdom. Zakat Payer further clarified that contracts were signed with various governmental and non-governmental entities, and due to non-payment for purchased goods, receivable balances had accumulated.

**Fifth:** Spare Parts for Years from 2014 to 2018:

Zakat Payer stated that ZATCA did not allow deduction of spare parts from Zakat base, noting that this item is considered an asset.

With regard to Item (6), Accumulated Losses According to Audited Financial Statements for All Years:

Zakat Payer stated that ZATCA disallowed deduction of the accumulated losses for years from 2014 to 2018, as such losses should have been deducted in accordance with the audited financial statements.

### Defendant's Defenses

**Item First:** Recreation Expenses for 2014:

ZATCA stated that it added the item to the adjusted net profit due to Plaintiff's failure to provide the supporting documents in accordance with Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

**Item Second:** Shareholders' Remuneration for 2014 and 2018:

ZATCA stated that it added (Shareholders' Remuneration) item to the adjusted net profit in application of the provisions of Article (5) of the Implementing Regulations for the Collection of Zakat.

**Item Third:** Imports Variances for 2016 and 2018:

ZATCA stated that it added the import variances to the adjusted net profit after comparing the declared figures in the analytical statement of purchases for 2016 with ZATCA report, and comparing the declaration submitted by Plaintiff for 2018 with ZATCA report, which revealed a match in the volume of imports. Accordingly, the objection was accepted in accordance with Articles (13) and (20) of the Implementing Regulations for the Collection of Zakat.



**Fourth Item** Amounts Due to Related Parties for Years from 2014 to 2018:

ZATCA stated that it added (Amounts Due to Related Parties) item to Zakat base due to the passage of a full Zakat year based on the statement submitted by Plaintiff, and in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

**Fifth:** Spare Parts for Years from 2014 to 2018:

ZATCA stated that its procedure aligns with provisions of the Implementing Regulations for the Collection of Zakat.

With regard to Item (6), Accumulated Losses According to Audited Financial Statements for All Years:

ZATCA stated that it deducted the deferred losses after adding provisions or reserves that had previously been used to reduce the losses in the year of their formation in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.

### Committee's Response to Defenses.

**Item First:** Recreation Expenses for 2014:

As such, the Department, having taken cognizance of Case file and documents provided by both parties, found that the dispute is document-based. Since Plaintiff did not provide the supporting documents for the expenses in question, which are considered deductible if proven to be actual expenses and supported by documents. Therefore, the Department dismisses Plaintiff's objection.

**Item Second:** Shareholders' Remuneration for 2014 and 2018:

As such, regarding 2014, the Department found that the dispute is document-based, as Plaintiff did not provide the supporting documents for the objection before ZATCA. Therefore, the Department dismisses Plaintiff's objection. Regarding 2018, where salaries and allowances for partners are considered deductible expenses provided they are registered with the General Organization for Social Insurance (GOSI), the Department, having taken cognizance of Case file, found that Plaintiff did not provide evidence to prove the fulfillment of this condition for partners' salaries. Therefore, the Department dismisses Plaintiff's objection.

**Item Third:** Imports Variances for 2016 and 2018:

Having taken cognizance of Case file and documents provided by both parties, the Department found, regarding 2016, that ZATCA procedure outlined in amending Plaintiff's financial results was due to variances in the value of imports reported in the declarations compared to the imports according to customs statement. Since Plaintiff did not provide the necessary reconciliation to clarify the reasons and justifications for import variances or the supporting documents for the claim, and since ZATCA customs statement is considered a key piece of evidence from an independent third party. Therefore, the Department dismisses Plaintiff's objection regarding import variances for 2016. Regarding 2018, the Department found that the dispute between the parties was resolved when ZATCA accepted Plaintiff's request, as stated in its answer. Therefore, the Department establishes resolution of the dispute between the parties regarding import variances for 2018.

**Fourth Item** Amounts Due to Related Parties for Years from 2014 to 2018:

As such, the Department, having taken cognizance of Case file and documents provided by both parties, found that Plaintiff did not provide the supporting documents for the claim. Since amounts due to related parties are considered a source of financing and are treated like equity in terms of Zakat calculation, any balance that has completed a full Zakat year must be added to Zakat base. This involves adding opening or closing balance, whichever is lower, as there is no detailed movement of the accounts to prove the settlement or offset between them. Therefore, the Department dismisses Plaintiff's objection.

**Fifth:** Spare Parts for Years from 2014 to 2018:





As such, the Department, having taken cognizance of Case file and documents provided by both parties, found that Plaintiff did not provide documents that elaborate the nature of spare parts for which deduction is being requested, nor evidence that they were used for the maintenance of fixed assets. Spare parts not intended for sale are deductible from Zakat base, provided that their nature is proven and that they are used for maintaining fixed assets and not intended for sale. Therefore, the Department dismisses Plaintiff's objection.

With regard to Item (6), Accumulated Losses According to Audited Financial Statements for All Years:

As such, the Department, having taken cognizance of Case file and documents provided by both parties, found that ZATCA deducted the deferred losses as adjusted according to the assessment after amending such losses by adding back provisions that had been reversed in the year they were formed. Since the deferred losses that may be deducted from Zakat base are those adjusted according to the assessments issued by ZATCA after adding provisions that had previously reduced the losses in their year of formation to prevent double payment of Zakat, the Department concluded that ZATCA procedure was valid. As the losses considered for Zakat purposes are those amended in accordance with Zakat regulations. Therefore, the Department dismisses Plaintiff's objection.

#### Decision:

**First:** Establish resolution of the dispute between Plaintiff (... Company), TIN (...), with Defendant (ZATCA) regarding (Import Variances) item, subject matter of the Case, when Defendant accepted Plaintiff's request in this regard.

**Second:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN (...), to Defendant (ZATCA) Decisions regarding Zakat assessment, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 12/7/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-345  
Case No. Z-30684-2020

#### Key words:

**Zakat – Objection to Zakat Assessment – Bonuses and Incentives – Commissions, Gratuities and Gifts – Bad Debts – Provision for Price Decline**

#### Abstract

Zakat Payer requests canceling ZATCA Decision regarding Zakat assessment for years from 2013 to 2016. The dispute involves Defendant's procedures outlined in issuing Zakat assessment for years from 2013 to 2016. Since the dispute involves Zakat Payer's objection to Defendant's procedure regarding (Remunerations and Incentives) item. Since Defendant added remunerations and incentives to Zakat base. Regarding (Commissions, Gratuities and Gifts) item, since Defendant did not deduct (Commissions) item and (Gratuities and Gifts) item from Zakat base. Regarding (Bad Debts) item, since Defendant did not deduct bad debts from Zakat base. Regarding (Price Decline Provision) item, since Defendant did not deduct price decline provision from Zakat base. Since the Department found: Regarding (Current Account of Shareholders and Related Parties) item, (Remunerations and Incentives) item, (Currency Variance) item, (End-of-Service Provision) item and (Material Error in Payment Receipts) item, that the dispute is resolved between the parties when Defendant accepted Zakat Payer's requests. Regarding (Commissions, Gratuities and Gifts) item, Zakat Payer did not provide documents that prove paying commissions to agents. Regarding (Bad Debts) item, Zakat Payer did not provide documents proving that the debt was written off. Regarding (Price Decline Provision) item, Zakat Payer did not provide provision movement. Therefore, the Department overturns Defendant's Decision regarding (Bonuses and Incentives) item, dismiss Zakat Payer's objection regarding the remaining items and establish resolution of other matters subject matter of the dispute.

#### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(70\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(A.1\), Paragraph \(3\) and Paragraph \(First/9\) of Article \(5\) the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)
- [Paragraph \(1\) of Article \(70\) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)



## Parties' Defenses

### The Plaintiff's defenses

#### **Item First:** Remuneration and Incentives:

Zakat Payer stated that ZATCA added the bonuses and incentives expense to Zakat base, noting that Zakat Payer is permitted to pay bonuses and grants to its employees in accordance with the employment contracts. It is also customary for companies engaged in wholesale and retail trade activities to provide bonuses and incentives to stimulate sales, which constitute necessary expenses for conducting business activity and are considered an integral part of wages.

#### **Item Second:** Commissions, Gratuities and Gifts for Years from 2013 to 2016:

Zakat Payer stated that ZATCA disallowed deduction of (Commissions, Gratuities and Gifts) items from Zakat base, even though the item outlines actual and necessary expenses for conducting business activity. Zakat Payer added that the nature of its business activity requires granting commissions and spending on certain gifts and gratuities for employees and sales staff in order to achieve the target sales volume.

#### **Item Third:** Bad Debts for 2015 and 2016:

Zakat Payer stated that ZATCA disallowed deduction of bad debts from Zakat base, even though they had been previously disclosed in the financial statements audited by the external auditor and are related to Zakat Payer's main business activity.

#### **Fourth Item** Price Decline Provision for Years from 2013 to 2016:

Zakat Payer stated that ZATCA disallowed deduction price decline provision from Zakat base, although this item outlines a loss resulting from inventory valuation. Zakat Payer clarified that its policy, as reflected in the annual financial statements audited by the external auditor, is to value inventory at the lower of cost or market value.

### Defendant's Defenses

#### **Item First:** Remuneration and Incentives:

ZATCA stated that it accepted Zakat Payer's objection regarding this item for 2015 and 2016, based on the approval of Remuneration Policy in 2015, while dismissing objection for 2013 and 2014. in accordance with Paragraph (1) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

#### **Item Second:** Commissions, Gratuities and Gifts for Years from 2013 to 2016:

ZATCA stated that its action was made in accordance with provisions of the Implementing Regulations for the Collection of Zakat due to Zakat Payer's failure to provide the required documents, and that it based its Decision on Paragraph (A.1) of Article (5) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

#### **Item Third:** Bad Debts for 2015 and 2016:

ZATCA stated that its procedure was made in accordance with provisions of the Implementing Regulations for the Collection of Zakat, due to Zakat Payer's failure to provide the required documents, and that it based its Decision on Paragraph (3) of Article (5) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.



#### **Fourth Item** Price Decline Provision for Years from 2013 to 2016:

ZATCA stated that its procedure was made in accordance with provisions of the Implementing Regulations for the Collection of Zakat due to the completion of a full Zakat year, and that it based its Decision on Paragraph (First.9) of Article (5) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

#### **Committee's Response to Defenses.**



##### **Item First:** Remuneration and Incentives:

As such, having taken cognizance of ZATCA answer regarding 2015 and 2016, the Department found that the dispute between the parties was resolved when Defendant accepted Plaintiff's requests for 2015 and 2016. As for 2013 and 2014: Since the existence of such remunerations and their requirement to be based on procedures stipulated by Labor Law are irrelevant when calculating Zakat transaction, whether the amounts are included in Zakat Payer's Zakat base or not. Since these regulatory procedures are intended for another purpose, aimed at maintaining rights of enterprise's employees. In addition, the Department found that the core of dispute is not document-based, but rather involves ZATCA belief of necessity of having a work organization regulation. Therefore, the Department annuls Defendant's Decision for 2013 and 2014.

##### **Item Second:** Commissions, Gratuities and Gifts for Years from 2013 to 2016:

As such, having taken cognizance of documents submitted by both parties, the Department found that such expenses are deductible if proven to be actual expenses supported by supporting documents regarding commissions for years from 2013 to 2016. Since Plaintiff provided a statement of commissions released to agents in (Excel) format and submitted a sample of contracts for 2006 and 2007 wherein stated the commissions, while failing to provide supporting documents for paying commissions to agents. Therefore, the Department dismisses Plaintiff's objection. As for gratuities and gifts for years from 2013 to 2016: Since Plaintiff did not provide evidence that the expenses outline actual expenses related to engaging in business activity. Therefore, the Department dismisses Plaintiff's objection.

##### **Item Third:** Bad Debts for 2015 and 2016:

As such, having taken cognizance of Case file, the Department found that the dispute is document-based, as Plaintiff did not provide a certificate from a chartered accountant, confirming that the debts were written off from the books or payable by bodies associated with Plaintiff. In addition, Plaintiff did not provide evidence that such debts cannot be collected, such as a judgment proving insolvency or bankruptcy. Therefore, the Department dismisses Plaintiff's objection.

##### **Fourth Item** Price Decline Provision for Years from 2013 to 2016:

As such, having taken cognizance of Case file, the Department found that Plaintiff requests deducting inventory price decline provision. Since Plaintiff did not provide movement of provisions through which the amount of formed provision can be verified. Since the dispute regarding this item involves the claim that the provisions may not be deducted due to the fact that they are non-deductible expenses. Therefore, the Department dismisses Plaintiff's objection.



### Decision:

**First:** Cancel Defendant (ZATCA) Decision against Plaintiff (...), TIN No..... regarding (Remunerations and Incentives for 2013 and 2014) item subject matter of the Case.

**Second:** Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding (Commissions, Gratuities and Gifts for years from 2013 to 2016) item subject matter of the Case.

**Third:** Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding (Price Decline Provision for years from 2013 to 2016) item subject matter of the Case.

**Fourth:** Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decision regarding (Bad Debts for 2015 and 2016) item subject matter of the Case.

**Fifth:** Establish resolution of other disputes raised by Plaintiff (... Company), TIN No..... with Defendant (ZATCA) regarding items subject matter of the Case when Defendant accepted Plaintiff's requests in this regard.

This Decision was delivered in presence of the parties. The Department set Sunday, 12/7/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-346  
Case No. Z-27972-2020

**Key words:**

**Zakat - Objection to Zakat Assessment - Import Variances**

**Abstract**

Zakat Payer is requests annulling ZATCA Decision regarding Zakat assessment for 2015, specifically regarding (Import Variances) and (Transfer to Statutory Reserve) items. The Department found that, regarding (Import Variances) item, that Zakat Payer merely provided a detailed revenue statement for 2014 and 2016 without providing the corresponding financial statements. Furthermore, no supporting documents for the statement of claim or evidence of Zakat payment were provided. Regarding (Transfer to Statutory Reserve) item, it turns out that Defendant accepted Plaintiff's request not to add the transfer to statutory reserve for 2015. Therefore, this results in establishing resolution of the dispute regarding (Transfer to Statutory Reserve) item, and dismisses the objection to (Transfer to Statutory Reserve) item.

**Instruments:**

- [Paragraph \(1\) of Article \(20\) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(55\), Article \(56\) and Paragraph \(1\) of Article \(7\) of the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- [Paragraph \(3\) of Article \(20\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Imports Variances for 2015:

Zakat Payer stated that ZATCA made adjustments related to import variances for 2015, and clarified that it is an authorized distributor for (... Company), importing IT devices based on purchase orders from customers. Zakat Payer handles the purchase order, sales invoice and delivery order, while the technicians from (... Company) manufacture the devices and install project materials for the client.





## Defendant's Defenses

### **Item First:** Imports Variances for 2015:

ZATCA stated that it calculated the estimated profits in accordance with the Regulations after comparing import figures listed in the statement issued by the General Authority of Customs with those reported in Plaintiff's declarations. Since no imports were recorded in Plaintiff's declaration, estimated profits for the variances were calculated pursuant to the Regulations. ZATCA based its Decision on Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

## Committee's Response to Defenses.

### **Item First:** Imports Variances for 2015:

Having taken cognizance of Case file, the Department found that ZATCA procedure outlined in adjusting Plaintiff's business results was due to variances in the value of imports reported in Plaintiff's declaration compared to the imports according to the Saudi Customs' statement. The statement of imports issued by ZATCA is considered a fundamental presumption from a neutral third party. Having reviewed the documents provided by both parties, it turned out that Plaintiff merely submitted a detailed revenue statement for 2014 and 2016 without providing its financial statements, nor did it provide the supporting documents for the statement of claim or evidence of Zakat payment. Therefore, the Department dismisses Plaintiff's objection regarding this item.

## Decision:

**First:** Declare that the dispute between the Plaintiff .....Company TIN No..... with Defendant (ZATCA) regarding (Transfer to Statutory Reserve) item, subject matter of the Case, when Defendant accepted Plaintiff's request in this regard.

**Second:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 12/7/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-347  
Case No. Z-27964-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Import Variances – Formed Provisions**

**Abstract**

Plaintiff submitted a statement of claim, objecting to Zakat assessment for 2014, 2016 and 2017, with the objection limited to (Import Variances) item and (Formed Provisions) item. The Committee found that, regarding (Import Variances) item, Plaintiff merely submitted a detailed revenue statement for 2014 and 2016 without providing its financial statements, nor did it provide the supporting documents for the statement of claim or evidence of Zakat payment. Regarding (Formed Provisions) item, the provisions formed throughout the year are not deductible for Zakat purposes under the Regulations. Therefore, the profit must be adjusted by adding back such non-deductible expenses. Thereupon, the Department dismisses Plaintiff's objection.

**Instruments:**

- [Paragraph\(1\) of Article \(20\) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(First.9\) of Article \(4\) and Paragraph \(3\) of Article \(20\) of the Implementing Regulations for the Collection of Zakat issued by Ministry of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Import Variances for 2014, 2016 and 2017:

Zakat Payer stated that ZATCA made adjustments to import variances for 2014, 2016 and 2017, and clarified that it is an authorized distributor for (... Company), importing IT devices based on purchase orders from customers. Zakat Payer handles the purchase order, sales invoice and delivery order, while the technicians from (... Company) manufacture the devices and install project materials for the client.

**Item Second:** Formed Provisions for 2016:



Zakat Payer stated that ZATCA added the formed Zakat provision in the amount of SAR 336,530 to Zakat base for 2016, whereas it should be deducted to avoid double payment of Zakat.

### Defendant's Defenses

**Item First:** Import Variances for 2014, 2016 and 2017:

ZATCA stated that it calculated the estimated profits in accordance with the Regulations after comparing import figures listed in the statement issued by the General Authority of Customs with those reported in Plaintiff's declarations. ZATCA based its Decision on Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

**Item Second:** Formed Provisions for 2016:

ZATCA stated that its procedure was made in accordance with provisions of Zakat Regulations, as it found that amounts had been formed for Zakat provision which impacted the statement of income. ZATCA based its Decision on Paragraph (First.9) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

### Committee's Response to Defenses.

**Item First:** Import Variances for 2014, 2016 and 2017:

As such, the Department, having taken cognizance of Case file, found that ZATCA procedure outlined in adjusting Plaintiff's business results was due to variances in the value of imports reported in Plaintiff's declaration compared to the imports according to the Saudi Customs' statement. The statement of imports issued by ZATCA is considered a fundamental presumption from a neutral third party. Having reviewed the documents provided by both parties, it turned out that Plaintiff merely submitted a detailed revenue statement for 2014 and 2016 without providing its financial statements, nor did it provide the supporting documents for the statement of claim or evidence of Zakat payment. Therefore, the Department dismisses Plaintiff's objection.

**Item Second:** Formed Provisions for 2016:

As such, the Department, having taken cognizance of Case file, found that Plaintiff requests deducting Zakat provision formed throughout the year in the amount of SAR 336,530. Since provisions formed throughout the year are not deductible for Zakat purposes under the Regulations, the profit must be adjusted by adding back such non-deductible expenses. Therefore, the Department dismisses Plaintiff's objection.

### Decision:

Dismiss the objection of the Plaintiff.....Company TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Sunday, 12/7/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-382  
Case No. Z-25341-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Trade Creditors – Advance Payments from Customers – Various Payables**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for years from 2016 to 2018. The dispute involves Zakat Payer's objection to Defendant's procedure outlined in adding (Trade Creditors) item, (Adding Advance Payments from Customers to Zakat Base) item and (Adding Various Payables to Zakat Base) item. Regarding the addition of advance payments from customers and the addition of various payables, the Department found that, regarding (Net Income) item, the dispute between the parties was resolved when Defendant accepted Zakat Payer's objection as stated in Defendant's answer. Regarding (Trade Creditors) item and (Advance Payments from Customers) item, Zakat Payer did not provide a detailed movement of the balances. Regarding (Various Payables) item, Zakat Payer's representative failed to provide a justification for accepting benefit of something that was not entitled to him. Therefore, the Department establishes resolution of the dispute regarding (Net Income) item and (Trade Creditors) item and dismisses all other objections.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles \(70\) and \(10\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(First.5\) of Article \(4\) and Paragraph \(3\) of Article \(20\) of the Implementing Regulations for the Collection of Zakat issued by Ministry of Finance Resolution No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(70\) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)



## Parties' Defenses

### The Plaintiff's defenses

**Item First:** Adding Trade Creditors for 2017 and 2018:

Zakat Payer stated that ZATCA added (Trade Creditors) item in the amount of SAR 1,146,937 for 2017 and SAR 26,168,561 for 2018. Zakat Payer further explained that it calculated Zakat liability by considering the total balance of trade creditors, subtracting the amount paid throughout the year, and thus the balance was not subject to Zakat year.

**Item Second:** Adding Advance Payments from Customers to Zakat Base for Years from 2016 to 2018:

Zakat Payer stated that ZATCA added (Advance Payments from Customers) item in the amount of SAR 673,007 for years from 2016 to 2018. Zakat Payer further explained that it calculated Zakat liability by considering the opening balance, subtracting the amount paid throughout the year, and thus the balance was not subject to Zakat year.

**Item Third:** Adding Various Payables to Zakat Base for Years from 2016 and 2018:

Zakat Payer stated that ZATCA added (Various Payables) item in the amount of SAR 1,268,457 for 2016 and SAR 84,270 for 2018. Zakat Payer further explained that it calculated Zakat liability by considering the opening balance of trade creditors, subtracting the amount paid throughout the year, and thus the balance was not subject to Zakat year.

### Defendant's Defenses

**Item First:** Adding Trade Creditors for 2017 and 2018:

ZATCA stated that its procedure was made in accordance with provisions of the Implementing Regulations for the Collection of Zakat, and that it based its Decision on Paragraph (First.5) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

**Item Second:** Adding Advance Payments from Customers to Zakat Base for Years from 2016 to 2018:

ZATCA stated that its procedure was made in accordance with provisions of the Implementing Regulations for the Collection of Zakat, and that it based its Decision on Paragraph (First.5) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

**Item Third:** Adding Various Payables to Zakat Base for Years from 2016 and 2018:

ZATCA stated that its procedure was made in accordance with provisions of the Implementing Regulations for the Collection of Zakat, and that it based its Decision on Paragraph (First.5) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

### Committee's Response to Defenses.

**Item First:** Adding Trade Creditors for 2017 and 2018:

As such, regarding 2017, the Department found that the dispute between the parties was resolved when ZATCA accepted Plaintiff's request. Therefore, the Department establishes resolution of the dispute regarding (Adding Trade Creditors to Zakat Base for 2017) item. Regarding 2018, the Department found that Plaintiff did not provide a detailed movement of the balances that would demonstrate that the opening balances were paid during the year to prove that the Zakat year did not apply to the amounts in question. Plaintiff only provided a detailed movement in the form



of (Excel) tables, which were not generated from the accounting system and cannot be considered. Since the balances of trade creditors are considered part of Zakat base, provided that the Zakat year applies to them or they are used to finance deductible assets. Therefore, the Department dismisses Plaintiff's objection regarding (Adding Trade Creditors to Zakat Base for 2018) item.

**Item Second:** Adding Advance Payments from Customers to Zakat Base for Years from 2016 to 2018:

As such, the Department found that Plaintiff did not provide a detailed movement of the balances that would demonstrate that the opening balances were paid during the year to prove that the Zakat year did not apply to the amounts in question. Plaintiff only provided a detailed movement in the form of (Excel) tables, which were not generated from the accounting system and cannot be considered. Since the received payments are considered a source of finance of which the amounts that completed a full Zakat year shall be added to Zakat base. Therefore, the Department dismisses Plaintiff's objection to (Adding Advance Payments from Customers to Zakat Base for Years from 2016 to 2018) item.

**Item Third:** Adding Various Payables to Zakat Base for Years from 2016 and 2018:

As such, the Department found that Plaintiff did not provide a detailed movement of the balances that would demonstrate that the opening balances were paid during the year to prove that the Zakat year did not apply to the amounts in question. Plaintiff only provided a detailed movement in the form of (Excel) tables, which were not generated from the accounting system and cannot be considered. Since the balances of trade creditors are considered part of Zakat base, provided that the Zakat year applies to them or they are used to finance deductible assets. Therefore, the Department dismisses Plaintiff's objection regarding (Adding Various Payables to Zakat Base for 2016 and 2018) item.

#### Decision:

**First:** Declare that the dispute between the Plaintiff .....Company TIN (...), with Defendant (ZATCA) regarding (Adjusted Net Income for 2017 and 2018) item, subject matter of the Case when Defendant accepted Plaintiff's requests in this regard.

**Second:** Declare that the dispute between the Plaintiff .....Company TIN (...), with Defendant (ZATCA) regarding (Adding Trade Creditors to Zakat Base for 2017) item, subject matter of the Case, when Defendant accepted Plaintiff's request in this regard.

**Third:** Dismiss otherwise objections filed by Plaintiff (... Company), TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment, subject matter of the Case.

This Decision was delivered in presence of the parties. The Department set Monday, 27/07/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-420  
Case No. Z-28120-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Adding (Additional Capital) Item to Zakat Base**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for 2017, specifically regarding (Adding (Additional Capital) Item to Zakat Base) item. Plaintiff stated that this item corresponds to a bad debt that has met all the necessary conditions for debt write-off. Plaintiff provided the financial statements for 2017 and provided evidence of its debt claims through the competent court. Therefore, the Department decided to cancel Defendant Decision.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First: Additional Capital:**

Zakat Payer stated that ZATCA added (Additional Capital) item to Zakat base, and this item corresponds to a bad debt that has met all the necessary conditions for debt write-off. Zakat Payer based its claim on Paragraph (3) of Article (5) of the Implementing Regulations for the Collection of Zakat, stating that the debts resulted from business activity and an independent entity. Zakat Payer added that it complies with reporting revenue once it is collected, and the Decision to write off the debt from the financial statements was made by the authorized person.





## Defendant's Defenses

### Item First: Additional Capital:

ZATCA stated that it added the additional capital in the amount of SAR 32,820,948 based on the discussion letter dated 29/10/1441 AH. Furthermore, Zakat Payer did not provide evidence of debt write-off, nor was any provision for doubtful debts made since the debt arose, which means that the Zakat year applied to the additional capital after excluding debt write-off. Therefore, the item was treated in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. ZATCA affirmed that its Decision was in line with provisions of the Implementing Regulations for the Collection of Zakat and was based on Paragraph (3) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

## Committee's Response to Defenses.

### Item First: Additional Capital:

As such, the Department, having taken cognizance of the statements provided by both parties, found that the dispute is document-based. Plaintiff provided the financial statements for 2017 and provided evidence of its debt claims through the competent court. The Department found that Plaintiff had met the necessary conditions for the deduction of bad debts. Therefore, the Department annuls Defendant's Decision.

## Decision:

Annul Defendant (ZATCA) Decision against Plaintiff (...), TIN No..... regarding Zakat assessment subject matter of the dispute.

This Decision was delivered in presence of the parties. The Department set Thursday, 16/07/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-424  
Case No. Z-31405-2020

#### Key words:

**Zakat – Objection to Zakat Assessment – Revenue Differences between Budget and VAT – Import Differences – Dividends – Trade Suppliers and Miscellaneous Creditors – Advance Payments From Clients.**

#### Abstract

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2018 AD, wherein Plaintiff’s objection included items (Revenue Differences Between Budget and VAT), (Import Differences), (Dividends), (Trade Suppliers and Miscellaneous Creditors), and (Advance Payments From Clients).

The Department Found That:

As for item (Revenue Differences Between Budget and VAT), Plaintiff indicated that it had submitted the documents supporting the items in its objection before Defendant; yet failed to submit the same before this Department. As for item (Import Differences), Defendant has failed to clarify the mechanism for calculation of the amount shown in the Zakat Assessment of (SAR 153,083). As for item (Dividends), the amounts had completed a Zakat Year before their amortization, and that the obligation of Zakat is linked to the survival of the fund with Plaintiff until the end of the Zakat Year. As for item (Trade Suppliers and Miscellaneous Creditors), the amounts in question had completed the Zakat Year. As for item (Advance Payments From Clients), the advance payments are considered a source of financing, and that the amount of which that completed the Zakat Year is added to Zakat Base. Also, the amounts in question had completed the Zakat Year

The Department Decided To:

Abolish Defendant’s Decision regarding item (Import Differences) and dismiss all Plaintiff’s other objections.

#### Instruments:

- [Tax Dispute and Violation Committee Procedures, promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Article \(4/First/4 & 5\), \(5.1/A\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Revenue Differences):  
Plaintiff claimed that Defendant added the VAT sales difference to the net profit due to Plaintiff's failure to declare the same within the revenues of the financial statements and that some account items are considered revenues from the tax side without the accounting side, whereby the advance payments show the VAT within the sales of the Tax Return, yet they are not declared as revenues in the income statement.
2. Item (Import Differences):  
Plaintiff claimed that Defendant added the import difference to the net profit by comparing the imports included in the Tax Return and those mentioned in the Customs Declaration extracted from the Customs Authority Information Center, as Defendant added a difference of (SAR 86,392) by virtue of its Assessment, on the grounds that the Customs Declaration shows offshore procurements with a total amount of (SAR 66,689).
3. Item (Dividends):  
Plaintiff claimed that Defendant did not deduct the dividends from the Zakat Base. Also, the dividends that Defendant refused to deduct are represented in withdrawals that were amortized in the partner's current account in the amount of (SAR 15,772,835). Also, there is an amount of (SAR 1,404,885) representing previous revenue invoices that have been canceled.
4. Item (Trade Suppliers/Miscellaneous Creditors):  
Plaintiff claimed that Defendant added the trade suppliers in the amount of (SAR 1,022,377) and the miscellaneous creditors in the amount of (SAR 194,039).
5. Item (Advance Payments From Clients):  
Plaintiff claimed that Defendant added the advance payments from clients in the amount of (SAR 6,544).

### Defenses of Defendant (ZATCA):

1. Item (Revenue Differences):  
Defendant stated that it added the VAT sales difference to the net profit due to Plaintiff's failure to declare the same within the revenues of the financial statements, in accordance with Article (20) of the Implementing Regulations for the Collection of Zakat issued by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH.
2. Item (Import Differences):  
Defendant stated that it added the import difference to the net profit by comparing the imports included in the Tax Return and those mentioned in the Customs Declaration extracted from the Customs Authority Information Center, in accordance with Article (5.1/A) of the Implementing Regulations for the Collection of Zakat issued by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH.
3. Item (Dividends):  
Defendant stated that it rejected the deduction of dividends and added the same to Zakat Base by adopting the opening balance in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.
4. Item (Trade Suppliers/Miscellaneous Creditors):  
Defendant stated that it added the item in question to the Zakat Base due to the completion of the Zakat Year as per the submitted activity statement, in accordance with Article (4/First/5) of the Implementing Regulations for the Collection of Zakat.



5. Item (Advance Payments From Clients):

Defendant stated that it added the item in question to the Zakat Base due to the completion of the Zakat Year, by adding the opening or closing balance, whichever is less, due to Plaintiff's failure to submit the supporting documents, in accordance with Article (4/First/4) and (20.3) of the Implementing Regulations for the Collection of Zakat.

**Department's Decision:**

1. Item (Revenue Differences):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the subject of dispute is of a documentary nature; and since the reasons for the differences in the revenues stated in the financial statements from the revenues shown in the VAT Return submitted by Plaintiff are insufficient, as Plaintiff indicated that it had submitted the documents supporting the items in its objection before Defendant; yet failed to submit the same before this Department; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

2. Item (Import Differences):

Having taken cognizance of the subject of dispute, the documents included in the Case file, and the Zakat Declaration submitted by Plaintiff, the Department found that, since Plaintiff declared an amount of (SAR 66,689) as offshore procurements in its Tax Return; and since the Customs Declaration has shown that the imports are worth (SAR 66,689); and since Defendant has failed to clarify the mechanism for calculation of the amount shown in the Zakat Assessment of (SAR 153,083); Therefore, the Department satisfies to abolish Defendant's Decision regarding the item in question.

3. Item (Dividends):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the detailed activity statement of the partner's current account (debtor) has shown that the balances were settled on 13/12/2018 AD, under No. (1843), which indicates that the amounts had completed a Zakat Year before their amortization; and since the obligation of Zakat is linked to the survival of the fund with Plaintiff until the end of the Zakat Year; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

4. Item (Trade Suppliers/Miscellaneous Creditors):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since trade payables are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; and since the amounts in question had completed the Zakat Year; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

5. Item (Advance Payments From Clients):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the advance payments are considered a source of financing, and that the amount of which that completed the Zakat Year is added to Zakat Base; and since the amounts in question had completed the Zakat Year; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



### Decision:

**First:** Abolish Defendant's (ZATCA) Decision against Plaintiff (....., TIN No. ....) regarding item (Import Differences) in in question.

**Second:** Dismiss all Plaintiff's (....., TIN ..... ) other objections to Defendant's (ZATCA) Decisions regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Thursday, 16/07/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-426  
Case No. Z-22670-2020

**Key words:**

**Zakat – Objection to Zakat Assessment.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 1440 AH, wherein Plaintiff objected to Defendant’s calculation of the value of importing a vehicle within the Zakat Base.

The Department Found That:

Defendant has failed to provide evidence establishing that the vehicle in question is related to Plaintiff’s activity. Also, Plaintiff has submitted evidence that the vehicle is for his personal use and that the vehicle in question is not considered a trade offer.

The Department Decided To: Abolish Defendant’s Decision against Plaintiff regarding the Zakat Assessment in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Zakat Assessment of 1440 AH):  
Plaintiff claimed that Defendant calculated the value of importing a vehicle within the Zakat Base, and that the import and all procedures at the Customs Authority were under his personal name due to his lack of a commercial registration.



### Defenses of Defendant (ZATCA):

1. Item (Zakat Assessment of 1440 AH):  
Defendant stated that it adheres to the validity and soundness of its procedure due to Plaintiff's failure to submit the vehicle license and registration form or the import clearance and its date.

### Department's Decision:

1. Item (Zakat Assessment of 1440 AH):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant has failed to provide evidence establishing that the vehicle in question is related to Plaintiff's activity; and since Plaintiff has submitted evidence that the vehicle is for his personal use; and since the vehicle in question is not considered a trade offer; Therefore, the Department satisfies to abolish Defendant's Decision regarding the item in question.

### Decision:

Abolish Defendant's (ZATCA) Decision against Plaintiff (....., TIN No. ....) regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Thursday, 16/07/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-447  
Case No. Z-32395-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Salaries of Partner and Related Parties – Trade Creditors – Advance Payments – VAT Expenses – Loans and Facilities – Related Creditor Parties.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2018 AD, wherein Plaintiff’s objection included items (Salaries of Partner and Related Parties), (Trade Creditors), (Advance Payments), (VAT Expenses), (Loans and Facilities), and (Related Creditor Parties).

The Department Found That:

As for item (Salaries of Partner and Related Parties), Plaintiff has failed to provide evidence of the availability of the requirement to register the salaries of partners with GOSI.

As for item (Trade Creditors), Plaintiff has failed to provide evidence of the non-completion of the Zakat Year of the amounts in question.

As for item (Advance Payments), Plaintiff has failed to provide the detailed activity statement of the advance payments.

As for item (Loans and Facilities), Plaintiff has failed to submit the loan agreements to clarify the reason for the indebtedness.

As for item Related Creditor Parties), Plaintiff has failed to submit the financial statements.

The Department Decided To:

Dismiss Plaintiff’s objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Article \(56\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Articles \(4/First/5\), \(5.1/A\), \(5.2\), \(6.2\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)

**Defenses of Parties:**





### Defenses of Plaintiff (Taxpayer):

1. Item (Salaries of Partner and Related Parties):  
Plaintiff claimed that Defendant added the salaries of the partner and related parties to the net profit as non-deductible expenses, as he is the owner of the establishment and its registration with GOSI is optional. Also, the related party provides actual services within the establishment, and a salary was agreed upon in addition to a percentage of profits of (SAR 200,000). Moreover, the expense is correct in terms of accounting to achieve the Matching Principle.
2. Item (Trade Creditors):  
Plaintiff claimed that Defendant added the trade payables to the Zakat Base and that the difference between the financial statements and the submitted activity statement is due to the difference in classification.
3. Item (Advance Payments):  
Plaintiff claimed that Defendant added the advance payments to the Zakat Base and that the amount that completed the Zakat Year is (SAR 298,678).
4. Item (VAT Expense):  
Plaintiff claimed that Defendant added the VAT expense to the Zakat Base and that the amount was paid to the seller and was calculated as an expense within the items of the income statement and was not recovered in the VAT Returns.
5. Item (Loans and Facilities):  
Plaintiff claimed that Defendant added the loans and facilities to the Zakat Base and that the date of obtaining the loan is 17/04/2018 AD with a value of (SAR 10,000,000), and it has not completed the Zakat Year; however, Defendant calculated the full value of the loan in addition to the future estimated interest and fees of (SAR 1,023,606).
6. Item (Related Creditor Parties):  
Plaintiff claimed that Defendant added the item in question to the Zakat Base and that the amount that completed the Zakat Year is (SAR 2,018,396).

### Defenses of Defendant (ZATCA):

1. Item (Salaries of Partner and Related Parties):  
Defendant stated that the owner of the establishment receives a salary, as well as Mr. (.....), a party related to the establishment, and that they are not registered with GOSI. Accordingly, Defendant rejected Plaintiff's objection. As for the salary of a related party, Defendant found that the related party is not registered with GOSI, which indicates that such an expense is not related to Plaintiff's activity, pursuant to Articles (5) and (6) of the Implementing Regulations for the Collection of Zakat issued by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH. Also, Defendant's Decision came in compliance with the provisions of Articles (5.2) and (20.3) of the said Implementing Regulations.
2. Item (Trade Creditors):  
Defendant stated that it added the item in question as per Plaintiff's Zakat Declaration, as it found that the submitted activity statement did not match the balances mentioned in the financial statements, and that it rejected Plaintiff's objection due to lack of sufficient documents pursuant to Article (20.3) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH. Also, Defendant's Decision came in compliance with the provisions of Articles (4/First/5) and (20.3) of the said Implementing Regulations.



3. Item (Advance Payments):  
Defendant stated that it accepted Plaintiff's objection and added an amount of (SAR 742,750) to the Zakat Base. Also, Defendant based its Decision on the provisions of Article (4/First/5) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.
4. Item (VAT Expense):  
Defendant stated that it added the item in question to the profit since it is a non-deductible expense, based on Article (6) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH. Also, Defendant's Decision came in compliance with the provisions of the said Implementing Regulations, as the establishment is registered in VAT system since the beginning of its enforcement and has the right to deduct and recover, pursuant to the provisions of Article (5.1/A) of the said Implementing Regulations.
5. Item (Loans and Facilities):  
Defendant stated that it added the item in question to the Zakat Base, and it rejected Plaintiff's objection, as it found that the loans were used to finance the fixed assets that had been added during the year and deducted from the Zakat Base, based on Article (4) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH. Also, Defendant's Decision came in compliance with the provisions of Article (4/First/5) of the said Implementing Regulations.
6. Item (Related Creditor Parties):  
Defendant stated that it added the item in question to the Zakat Base, that it partially rejected Plaintiff's objection, and that it added the used portion in financing fixed assets to the Zakat Base, as it found that a portion of the item in question was used in financing fixed assets that had been added during the year and deducted from the Zakat Base. Also, Defendant's Decision came in compliance with the provisions of Article (4/First/5) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.

#### Department's Decision:

1. Item (Salaries of Partner and Related Parties):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide evidence of the availability of the requirement to register the salaries of partners with GOSI, nor did she provide the reasons and justifications for not registering the salary of the related party (Mr. ....) with GOSI; and since Plaintiff stated that the registration is optional and not compulsory, which violates the provisions of Article (5.2) of the Implementing Regulations for the Collection of Zakat; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Trade Creditors):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the detailed activity statement of the payables and their financial statements to prove the classification of balances, nor did he provide evidence of the non-completion of the Zakat Year of the amounts in question; and since trade payables are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



3. Item (Advance Payments):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff is requesting to add an amount of (SAR 151,771.5) to Zakat Base, while Defendant accepted the addition of an amount of (SAR 742,750); and since the parties hereto did not agree on the amount of the added balance, the dispute over the item in question is then of a documentary nature; and since Plaintiff has failed to provide the detailed activity statement of the advance payments, nor did she provide evidence of the non-completion of the Zakat Year of the amounts in question; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

4. Item (VAT Expense):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff is requesting to exclude the VAT expense from the net profit since it has not been recovered within the VAT Returns; and since Plaintiff is registered for the VAT and has the right to deduct and recover the tax paid under the VAT Returns, it is not entitled to deduct the tax from the net profit, and it is considered a non-deductible expense; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

5. Item (Loans and Facilities):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the loan agreements to clarify the reason for the indebtedness, nor did he submit the financial statements and their notes to prove that the loans were not used to finance fixed assets in accordance with the provisions of Article (5/First/5) of the Implementing Regulations for the Collection of Zakat, as they are considered an element of Zakat Base in the event that they were used to finance fixed assets; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

6. Item (Related Creditor Parties):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the financial statements and their notes to prove that the balances were not used to finance fixed assets in accordance with the provisions of Article (5/First/5) of the Implementing Regulations for the Collection of Zakat, as they are considered an element of Zakat Base in the event that they were used to finance fixed assets; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

**Decision:**

Dismiss Plaintiff's (....., TIN No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Monday, 27/07/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-448  
Case No. Z-25357-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Projects Under Implementation – Fixed Asset Suppliers – Contractors’ Reserves – Spare Parts Inventory.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 2014 and 2015 AD, wherein Plaintiff’s objection included items (Projects Under Implementation), (Fixed Asset Suppliers), (Contractors’ Reserves), and (Spare Parts Inventory).

The Department Found That:

As for item (Projects Under Implementation), the Department found that the second condition was not met due to the existence of a sale transaction.

As for item (Fixed Asset Suppliers), Defendant’s response to some items, none of which included the item in question, is considered evidence that it had accepted part of Plaintiff’s objection.

As for item (Contractors’ Reserves), Plaintiff failed to submit the supporting documents that clarify the true nature of the advance payments of contractors or evidence that they are used to maintain the fixed assets.

As for item (Spare Parts Inventory), Plaintiff failed to submit the supporting documents that clarify the true nature of the spare parts or evidence that they are used to maintain the fixed assets.

The Department Decided To:

Abolish Defendant’s Decision regarding item (Fixed Asset Suppliers) and dismiss Plaintiff’s all other objection.

**Instruments:**

- [Article \(20.1\) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Articles \(4/Second/1 &2\), \(20.3\), and \(22.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Projects Under Implementation):  
Plaintiff claimed that Defendant did not deduct the item in question in the amount of (SAR 479,558,541) from the Zakat Base of 2014 and that the projects under implementation represent the total expenses of the construction of (.....) until the end of 2014 and were recognized in the statement of financial position as a capital item. Also, the agreement to sell the asset to “..... Company” has been cancelled, and it was recognized in the financial statements of 2016.
2. Item (Fixed Asset Suppliers):  
Plaintiff claimed that Defendant added the item in question to Zakat Base of 2014 and 2015. Also, Defendant added the closing balances of fixed assets suppliers to Zakat Base, despite the fact that only a portion thereof had completed the Zakat Year, without adopting the deduction of item (First) corresponding to those items, which results in double charging of Zakat.
3. Item (Contractors' Reserves):  
Plaintiff claimed that Defendant added the item in question to Zakat Base of 2014 and 2015. Also, Defendant added the closing balances of the contractors' reserves to Zakat Base, despite the fact that only a portion thereof had completed the Zakat Year, without adopting the deduction of item (First) corresponding to those items, which results in double charging of Zakat.
4. Item (Spare Parts Inventory):  
Plaintiff claimed that Defendant added the item in question to Zakat Base of 2014 and 2015 and that it represents advance payments for the purchase of fixed assets.

### Defenses of Defendant (ZATCA):

1. Item (Projects Under Implementation):  
Defendant stated that it did not approve the deduction of projects under implementation from the Zakat Base of 2014, as it was found from the financial statements of 2015 that the asset was sold in 2015, in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat issued by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH.
2. Item (Contractors' Reserves):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it found that the item in question is represented in the inventory of materials and advance payments of contractors related to projects under implementation. Also, Defendant based its Decision on Articles (4/Second/1) and (20.3) of the said Implementing Regulations.
3. Item (Spare Parts Inventory):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it found that the item in question is represented in the inventory of materials and advance payments of contractors related to projects under implementation. Also, Defendant based its Decision on Articles (4/Second/1) and (20.3) of the said Implementing Regulations.



### Department's Decision:

1. Item (Projects Under Implementation):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has sold the projects, which are (.....) to "..... Company" at a book cost of (SAR 605,600,000); and since there are two basic conditions must be met for investments (projects under implementation) to be considered as property asset and be deducted from Zakat Base, namely the documented intention of the authorized person that clarifies the intention for investment and the absence of sales that took place during the year on those investments; and since the Department found that the second condition was not met due to the existence of a sale transaction; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Fixed Asset Suppliers):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant's response to some items, none of which included the item in question, is considered evidence that it had accepted part of Plaintiff's objection; Therefore, the Department satisfies to dismiss abolish Defendant's Decision regarding the item in question.
3. Item (Contractors' Reserves):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff failed to submit the supporting documents that clarify the true nature of the advance payments of contractors or evidence that they are used to maintain the fixed assets; and since the spare parts that are not prepared for sale are considered a deductible item from Zakat Base if their nature is proven and were used to maintain fixed assets and not for the purpose of sale; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
4. Item (Spare Parts Inventory):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff failed to submit the supporting documents that clarify the true nature of the spare parts or evidence that they are used to maintain the fixed assets; and since the spare parts that are not prepared for sale are considered a deductible item from Zakat Base if their nature is proven and were used to maintain fixed assets and not for the purpose of sale; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

### Decision:

**First:** Abolish Defendant's (ZATCA) Decisions against Plaintiff (..... Company, TIN ..... ) regarding item (Fixed Asset Suppliers).

**Second:** Dismiss Plaintiff's (..... Company, TIN ..... ) other objections to Defendant's (ZATCA) Decisions regarding the Zakat Assessments in question.

This Decision was delivered in the presence of Both Parties. The Department has set Monday, 27/07/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**





Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No. IFR-2022-449  
Case No. Z-22719-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Fiscal year – Import Differences – Accrued Expenses – Depreciation Differences.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 2008 – 2014 AD, wherein Plaintiff’s objection included items (Zakat Assessments), (Import Differences), (Accrued Expenses), and (Depreciation Differences).

The Department Found That:

As for item (Zakat Assessments), Defendant has informed Plaintiff of Zakat Assessment of 2008 – 2012 AD only after the lapse of five (5) years from the final date set for the submission of Zakat Declaration.

As for item (Import Differences), Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim.

As for item (Accrued Expenses), Plaintiff has failed to submit the detailed activity statement of the accrued expenses.

As for item (Depreciation Differences), Defendant has failed to submit a statement of fixed assets and their depreciation.

As for item (Bad Debts), the Department has decided to abolish Defendant’s Decision due to the lapse of the statutory period for making the Zakat Assessment procedure

The Department Decided To:

Dismiss Plaintiff’s objection to items (Import Differences) and (Accrued Expenses), and abolish all Defendant’s other Decisions regarding the Zakat Assessments in question.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Articles \(4/First\), \(7.13\), \(20.3\), and \(21.8 &10\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)





## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Zakat Assessments From Fiscal Year Ending On December 31, 2008 To 2012):  
Plaintiff claimed that Defendant issued the Zakat Assessment of 2008 – 2012 after the lapse of the statutory period.
2. Item (Import Differences From Fiscal Year Ending On December 31, 2008 To 2014):  
Plaintiff claimed that Defendant added internal procurement within offshore procurement.
3. Item (Accrued Expenses From Fiscal Year Ending On December 31, 2008 To 2014):  
Plaintiff claimed that Defendant added the opening/closing balance for the accrued expenses to Zakat Base, and that they represent actual expenses and must be registered on an accrual basis.
4. Item (Depreciation Differences From Fiscal Year Ending On December 31, 2011 To 2014):  
Plaintiff claimed that Defendant did not calculate the depreciation differences and the rest of the value of the assets.

### Defenses of Defendant (ZATCA):

1. Item (Zakat Assessments From Fiscal Year Ending On December 31, 2008 To 2012):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as it found differences in the offshore procurements declared in Plaintiff's Zakat Declaration and those mentioned in the Customs Declaration. Also, Defendant based its Decision on Article (21) of the said Implementing Regulations
2. Item (Import Differences From Fiscal Year Ending On December 31, 2008 To 2014):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, due to Plaintiff's failure to submit the documents supporting its claim. Also, Defendant based its Decision on Article (20.3) of the said Implementing Regulations.
3. Item (Accrued Expenses From Fiscal Year Ending On December 31, 2008 To 2014):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, due to Plaintiff's failure to submit the account activity statement of the accrued expenses. Also, Defendant based its Decision on Article (4/First/5) of the said Implementing Regulations.
4. Item (Depreciation Differences From Fiscal Year Ending On December 31, 2011 To 2014):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (7.13) thereof



### Department's Decision:

1. Item (Zakat Assessments From Fiscal Year Ending On December 31, 2008 To 2012):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant failed to provide any substantial evidence of the existence of incorrect information in Plaintiff's Declaration that entitles Defendant to make the Zakat Assessment without being bound by a specific period, as stated in Article (21.8) of the Implementing Regulations for the Collection of Zakat, as amendments made by Defendant resulted either from incorrect implementation of Zakat regulations or disagreement in viewpoints during the Zakat calculation. In either Case, Defendant right to make the Zakat Assessment lapses within five (5) years from the final date set for the submission of Zakat Declaration pursuant to Article (21.10) of the said Implementing Regulations; and since Defendant has informed Plaintiff of Zakat Assessment of 2008 – 2012 AD only after the lapse of five (5) years from the final date set for the submission of Zakat Declaration; Therefore, the Department satisfies to abolish Defendant's Decision.
2. Item (Import Differences From Fiscal Year Ending On December 31, 2008 To 2014):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, with regard to years 2008 – 2012, since Department has decided to abolish Defendant's Decision due to the lapse of the statutory period for making the Zakat Assessment; Therefore, the Department satisfies to abolish Defendant's Decision for the years 2008 – 2012.  
With regard to the years 2013 and 2014, since Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim; and since the Import Declaration issued by Customs Authority is considered substantial evidence from an impartial third party; Therefore, the Department satisfies to dismiss Plaintiff's objection to the years 2013 and 2014.
3. Item (Accrued Expenses From Fiscal Year Ending On December 31, 2008 To 2014):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, with regard to years 2008 – 2012, since Department has decided to abolish Defendant's Decision due to the lapse of the statutory period for making the Zakat Assessment; Therefore, the Department satisfies to abolish Defendant's Decision for the years 2008 – 2012.  
With regard to the years 2013 and 2014, since Plaintiff has failed to submit the detailed activity statement of the accrued expenses and its financial statements to match the opening balance and the closing balance for proving the non-completion of the Zakat Year; and since trade payables are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; and since the amounts in question had completed the Zakat Year; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
4. Item (Depreciation Differences From Fiscal Year Ending On December 31, 2011 To 2014):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant's procedure as to applying the depreciation method was valid, yet it failed to provide Plaintiff with the grounds for calculation and amendment; and since the burden of proof falls on Defendant to prove Plaintiff's incorrect calculation of the depreciation expense; and since Defendant has failed to submit a statement of fixed assets and their depreciation; Therefore, the Department satisfies to abolish Defendant's Decision for the years 2013 and 2014.



### Decision:

**First:** Dismiss Plaintiff's (..... Company, TIN. ....) objection to Defendant's (ZATCA) Decision regarding item (Import Differences of 2013 and 2014) in question.

**Second:** Dismiss Plaintiff's (..... Company, TIN. ....) objection to Defendant's (ZATCA) Decision regarding item (Accrued Expenses of 2013 and 2014) in question.

**Third:** Abolish all Defendant's other Decisions against Plaintiff (..... Company, TIN. ....) regarding the Zakat Assessments in question.

This Decision was delivered in the presence of Both Parties. The Department has set Monday, 27/07/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Income Tax Violations and Disputes In Riyadh

Decision No. IFR-2022-455  
Case No. Z-32725-2020

#### Key words:

**Zakat – Objection to Zakat assessment – Investment Revenues Subject to Zakat – Trade Suppliers – Accrued Amounts – Long-Term Investments – Investments – Endowment Share.**

#### Abstract

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 2016 – 2018 AD, wherein Plaintiff’s objection included items (Investment Revenues Subject to Zakat), (Trade Suppliers), (Accrued Amounts), (Long-Term Investments), (Investments in Local Saudi Company of 2018), and (Non-Deduction of Endowment’s Share of 100% From Zakat Base).

The Department Found That:

As for item (Investment Revenues Subject to Zakat), Plaintiff has failed to submit the financial statements of the invested company and its Zakat Declarations.

As for item (Trade Suppliers), Plaintiff has failed to provide the detailed activity statement of the trade suppliers’ account to verify the non-completion of the Zakat Year of the payments.

As for item (Accrued Amounts), Plaintiff has failed to provide sufficient documents.

As for item (Long-Term Investments), Plaintiff has failed to submit the supporting documents to prove that they are funds out of its liability and that they are not for the purpose of trading.

As for item (Investments in Local Saudi Company), Plaintiff has failed to submit the financial statements of the investee company and its Zakat Declarations.

As for item (Endowment’s Share), Plaintiff has failed to provide the legal endowment instrument or a statement of the true nature of the endowment’s profits, whether the endowment was subject to Zakat, or whether it was invested and generating profits.

The Department Decided To:

Dismiss Plaintiff’s objection.

#### Instruments:

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [\(4/Second/4/A\), \(4/First/5\), \(4/Second/A\), \(9/First/1\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Investment Revenues Subject to Zakat of 2016 and 2017):  
Plaintiff claimed that Defendant added the item in question to Zakat Base of 2016 and 2017 and that these revenues represent revenues from local investee companies that are subject to Zakat, where the investee company pays Zakat for its activity directly to Defendant. Therefore, investments are subject to Zakat in the investee company, not the investing company itself, for the purpose of avoiding the double charge of Zakat.
2. Item (Trade Suppliers of 2017):  
Plaintiff claimed that Defendant added the item in question in the amount of (SAR 3,841) to Zakat Base of 2017 due to the non-completion of the Zakat Year and that the amounts were being used to finance working capital.
3. Item (Accrued Amounts From “..... Establishment”):  
Plaintiff claimed that Defendant did not deduct the accrued amounts from “..... Establishment” amounting to (SAR 3,007,208) from the Zakat Base of 2018, as these amounts represent amounts due from related parties and the Zakat on the balance due from related parties would result in a double charge of Zakat.
4. Item (Long-Term Investments of 2016 – 2018):  
Plaintiff claimed that Defendant did not deduct the item in question from the Zakat Base of 2016 – 2018, as it represents amounts that were out of Plaintiff’s liability before the Zakat was due and were now in the possession and disposal of another company. Also, these amounts are investments in capital companies within the Kingdom and funded by the elements of equity added to the Zakat Base.
5. Item (Investments in Local Saudi Company of 2018):  
Plaintiff claimed that Defendant did not deduct the item in question in the amount of (SAR 186,664) from Zakat Base of 2018.
6. Item (Endowment’s Share of 100% of 2016 – 2018):  
Plaintiff claimed that Defendant did not deduct the item in question from the Zakat Base of 2016 – 2018, based on Fatwa No. (262727) of 30/05/1435 AH and Defendant’s Letter No. (527/16/1436) of 18/01/1436 AH.

### Defenses of Defendant (ZATCA):

1. Item (Investment Revenues Subject to Zakat of 2016 and 2017):  
Defendant stated that procedure came in compliance provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/Second/4/A) thereof.
2. Item (Trade Suppliers of 2017):  
Defendant stated that it added the item in question to Zakat Base due to its completion of the Zakat Year, based on Articles (4) and (20) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH. Also, its procedure came in compliance with the provisions of the said Implementing Regulations due to Plaintiff’s failure to submit supporting documents, as it was based on Article (4/First/5) thereof.



3. Item (Accrued Amounts From “..... Establishment”):  
Defendant stated that it did not deduct the item in question from Zakat Base due to Plaintiff's failure to submit supporting documents, based on Articles (4) and (20) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH. Also, its procedure came in compliance with the provisions of the said Implementing Regulations, as it was based on Article (4/First/5) thereof.
4. Item (Long-Term Investments of 2016 – 2018):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as the purpose of investing in investment funds is to trade in the sale and purchase of securities; therefore, it is considered a trade offer and may not be deducted from Zakat Base. Also, Defendant based its Decision on Article (4/Second/4/A) of the said Implementing Regulations.
5. Item (Investments in Local Saudi Company of 2018):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as the purpose of investing in investment funds is to trade in the sale and purchase of securities; therefore, it is considered a trade offer and may not be deducted from Zakat Base. Also, Defendant based its Decision on Article (4/Second/4/A) of the said Implementing Regulations.
6. Item (Endowment's Share of 100% of 2016 – 2018):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, due to Plaintiff's failure to submit the documents supporting its claim. Also, Defendant based its Decision on Articles (9/First/1) and (20) of the said Implementing Regulations.

#### Department's Decision:

1. Item (Investment Revenues Subject to Zakat of 2016 and 2017):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the financial statements of the invested company and its Zakat Declarations, evidence that the amounts were subject to Zakat in the Zakat Base of the subsidiary company, or submit these documents to Defendant at the time of the objection; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Trade Suppliers of 2017):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the detailed activity statement of the trade suppliers' account to verify the non-completion of the Zakat Year of the payments as claimed by Plaintiff; and since the amounts withheld from suppliers are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.





3. Item (Accrued Amounts From “..... Establishment”):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide an account statement for the balance of receivables and payables to take the settlement between the two accounts, nor did it provide the audited financial statements to review the Carried forward profits after deducting the dividends to accept the deduction of the debit balance of “..... Establishment” and a statement of account for the debit balance of the partner; and since Plaintiff has failed to provide sufficient documents to verify the compatibility of the two cases; Therefore, the Department satisfies to dismiss Plaintiff’s objection to the item in question.
4. Item (Long-Term Investments of 2016 – 2018):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the supporting documents to prove that they are funds out of its liability and that they are not for the purpose of trading; and since there are two basic conditions must be met for investments to be considered as property asset and be deducted from Zakat Base, namely the documented intention of the authorized person that clarifies the intention for investment and the absence of sales that took place during the year on those investments; Therefore, the Department satisfies to dismiss Plaintiff’s objection to the item in question.
5. Item (Investments in Local Saudi Company of 2018):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff has failed to submit the financial statements of the investee company and its Zakat Declarations, and also failed to provide evidence that the amounts had been subjected to Zakat in the Zakat Base of the subsidiary company; and since there are two basic conditions must be met for investments to be considered as long-term investments that are deducted from Zakat Base, namely the documented intention of the authorized person that clarifies the intention for investment and the absence of sales that took place during the year on those investments; Therefore, the Department satisfies to dismiss Plaintiff’s objection to the item in question.
6. Item (Endowment’s Share of 100% of 2016 – 2018):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the legal endowment instrument or a statement of the true nature of the endowment’s profits, whether the endowment was subject to Zakat, or whether it was invested and generating profits; Therefore, the Department satisfies to dismiss Plaintiff’s objection to the item in question.

#### Decision:

Dismiss Plaintiff’s (..... Company, TIN No. ....) objection to Defendant’s (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Monday, 27/07/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah’s Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**





Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-458  
Case No.: Z-29730-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Carried-Forward Profits – Loans – Payables –  
Accrued Expenses – Advance Payments From Clients.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 2018 AD, wherein Plaintiff’s objection included items (Carried-Forward Profits), (Loans), (Payables), (Accrued Expenses), and (Advance Payments From Clients).

The Department Found That:

As for item (Carried-Forward Profits), Plaintiff has requested to deduct the dividends that took place during the year, considering that the fiscal year approved for the preparation of its financial statements is the calendar year.

As for item (Loans), the obligation of Zakat is linked to the survival of the fund with Plaintiff until the end of the Zakat Year.

As for item (Payables), the trade payables are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base.

As for item (Accrued Expenses), the amount added by Defendant has completed the Zakat Year, which renders validity of Defendant’s procedure.

As for item (Advance Payments From Clients), the advance payments are considered a source of financing, and that the amount of which that completed the Zakat Year is added to Zakat Base; and since the amounts in question had completed the Zakat Year.

The Department Decided To:

Dismiss Plaintiff’s objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Articles \(15.1\) and \(4/First/4 & 5\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Carried-Forward Profits):  
Plaintiff claimed that Defendant did not deduct the item in question in the amount of (SAR 7,386,061), as they represent profits that were distributed regularly and paid to the partners before the completion of the Zakat Year.
2. Item (Loans):  
Plaintiff claimed that Defendant added the long-term loans in the amount of (SAR 211,801), as they had not completed the Zakat Year, nor were they used to finance fixed assets.
3. Item (Payables):  
Plaintiff claimed that Defendant added the item in question in the amount of (SAR 118,277), as they had not completed the Zakat Year, nor were they used to finance fixed assets.
4. Item (Accrued Expenses):  
Plaintiff claimed that Defendant added the item in question in the amount of (SAR 157,563), as they had not completed the Zakat Year.
5. Item (Advance Payments From Clients):  
Plaintiff claimed that Defendant added the item in question in the amount of (SAR 9,552,510), as they represent payments received in advance from clients to implement contracts; therefore, they are not subject to Zakat due to the non-completion of the Zakat Year.

### Defenses of Defendant (ZATCA):

1. Item (Carried-Forward Profits):  
Defendant stated that the profits were distributed after the completion of the Zakat Year, except for an amount of (SAR 300,000). Accordingly, it was accepted as a dividend before the completion of the Zakat Year. Also, Defendant's procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (15.1) thereof.
2. Item (Loans):  
Defendant stated that the loan amounting to (SAR 211,801) had been repaid after the completion of the Zakat Year pursuant to Article (15) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH. Also, Defendant's procedure came in compliance with the provisions of the said Implementing Regulations, as it based its Decision Article (4/First/5) thereof.
3. Item (Payables):  
Defendant stated that it added the item in question due to the completion of the Zakat Year. Also, Defendant's procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/First/5) thereof.
4. Item (Accrued Expenses):  
Defendant stated that it added the item in question due to the completion of the Zakat Year. Also, Defendant's procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/First/5) thereof.



5. Item (Advance Payments From Clients):

Defendant stated that it added the item in question due to the completion of the Zakat Year according to the submitted activity statement. Also, Defendant's procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/First/4) thereof.

### Department's Decision:

1. Item (Carried-Forward Profits):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the profits were distributed on 26/12/2018 AD, that is, i.e., the distribution took place after the completion of the Zakat Year on 21/12/2018 AD, with the exception of an amount of (SAR 300,000), it completed the Zakat Year on 20/12/2018 AD; and since the obligation of Zakat is linked to the survival of the fund with Plaintiff until the end of the Zakat Year, and that the Law in allowing taxpayers to choose the fiscal year on the basis of the calendar year came to facilitate and organize their matters in keeping their accounts, which must not affect the obligation to pay Zakat when its legal requirements are met; and since Plaintiff has requested to deduct the dividends that took place during the year, considering that the fiscal year approved for the preparation of its financial statements is the calendar year; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

2. Item (Loans):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the amount of the loan has been paid on 31/12/2018 AD, that is, i.e., after the completion of the Zakat Year on 21/12/2018 AD; and since the obligation of Zakat is linked to the survival of the fund with Plaintiff until the end of the Zakat Year, and that the Law in allowing taxpayers to choose the fiscal year on the basis of the calendar year came to facilitate and organize their matters in keeping their accounts, which must not affect the obligation to pay Zakat when its legal requirements are met; and since Plaintiff has requested to exclude the amount of (SAR 211,801) from the Zakat Base due to the non-completion of the Zakat Year, considering that the fiscal year approved for the preparation of its financial statements is the calendar year; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

3. Item (Payables):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the detailed activity statement of the payables has shown that the completion of the Zakat Year on the amount of (SAR 118,277.34) had been recalculated, which was added by Defendant; and since the trade payables are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; and since the dispute over the item in question is of a documentary nature; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

4. Item (Accrued Expenses):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the detailed activity statement has shown that the amount added by Defendant has completed the Zakat Year, which renders validity of Defendant's procedure; and since the accrued expenses are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



5. Item (Advance Payments From Clients):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the detailed activity statement of the account of the advance payments from clients has shown that the amount of (SAR 9,552,510) has completed the Zakat Year; and since the advance payments are considered a source of financing, and that the amount of which that completed the Zakat Year is added to Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

**Decision:**

Dismiss Plaintiff's (..... Company, TIN No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Monday, 27/07/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-499  
Case No.: Z-28144-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Bad Debts – Undeclared Contract Profits – Undeclared Offshore Procurements – Creditors and Other Balances – Non-Deduction of Lands – Carried-Forward Losses.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 2017 AD, wherein Plaintiff’s objection included items (Bad Debts), (Undeclared Contract Profits), (Undeclared Offshore Procurements), (Creditors and Other Balances), (Non-Deduction of Lands), and (Carried-Forward Losses).

The Department Found That:

As for item (Bad Debts), Plaintiff has failed to provide evidence of meeting the conditions for the deduction of bad debts.

As for item (Undeclared Contract Profits), Defendant has failed to clarify the details of the undeclared revenues.

As for item (Undeclared Offshore Procurements), Defendant’s procedure to amend Plaintiff’s business outcome is due to the existence of differences in the value of the imports included in Plaintiff’s Declaration compared to those included in Customs Declaration.

As for item (Creditors and Other Balances), Plaintiff has failed to provide the detailed activity statement of payables to prove the non-completion of Zakat Year.

As for item (Non-Deduction of Lands), Plaintiff has failed to provide an explanation for its failure to implement the agreement of sale of assets from the partner to Plaintiff to transfer all rights and ownership thereto.

As for item (Carried-Forward Losses), Defendant’s Assessment has shown that it had deducted the carried-forward losses, after adjusting the same with the provisions that were returned in the year of its composition.

The Department Decided To:

Abolish Defendant’s Decision regarding item (Undeclared Contract Profits) and dismiss all Plaintiff’s other objections.



### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Articles \(5.3\), \(6.2\), \(20.3\), \(4/First/5\), \(4/Second/1 & 9\), and \(3/Second/9\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) of 01/06/1438 AH.](#)

### Defenses of Parties:

#### Defenses of Plaintiff (Zakat Payer):

1. Item (Bad Debts):  
Plaintiff claimed that Defendant did not deduct the bad debts in the amount of (SAR 471,028) from Zakat Base of 2017, as they represent amounts that have been closed in the income statement due to the fact that they are the revolving balances of customers who have defaulted on payment for more than five years.
2. Item (Undeclared Contract Profits):  
Plaintiff claimed that Defendant added the undeclared contract profits in the amount of (SAR 49,350) to the Zakat Base of 2017, as the documents proving Plaintiff's declaration of the contracts concluded in 2017 and the payment of Zakat thereon have been submitted.
3. Item (Undeclared Offshore Procurements):  
Plaintiff claimed that Defendant added the undeclared offshore procurements in the amount of (SAR 89,381) to Zakat Base of 2017.
4. Item (Creditors and Other Balances):  
Plaintiff claimed that Defendant added creditor balances and other credit balances in the amount of (SAR 3,710,271) to Zakat Base of 2017, as the balances have not completed the Zakat Year.
5. Item (Non-Deduction of Lands):  
Plaintiff claimed that Defendant did not deduct the lands in the amount of (SAR 10,793,793) from Zakat Base of 2017.
6. Item (Carried-Forward Losses):  
Plaintiff claimed that Defendant did not approve an amount of (SAR 986,920) of the carried-forward losses of 2017, as the net losses carried forward according to the audited financial statements represent an amount of (SAR 1,664,423). Also, Defendant based its Decision on Article (3/Second/9) of the Implementing Regulations for the Collection of Zakat, as it considered these losses as fully deductible from Zakat Base.

#### Defenses of Defendant (ZATCA):

1. Item (Bad Debts):  
Defendant stated that it added the item in question to the net profit since it is not a deductible item from the Zakat Base pursuant to Article (5) of the Implementing Regulations for the Collection of Zakat issued by the Minister of Finance's Decision No. (2082) of 01/06/1438 AH.





2. Item (Undeclared Contract Profits):  
Defendant stated that it added the item in question to the net profit due to the transformation of Plaintiff's legal entity from an establishment to a company on 21/07/1436 AH, corresponding to 10/05/2015 AD. Also, the contract data of the establishment showed contracts for 2017 with a value of (SAR 470,000) that Plaintiff did not account for or declare. Accordingly, profits of (10.5%) were taken therefrom and were included in Plaintiff's net profit, based on Article (6) of the Implementing Regulations for the Collection of Zakat.
3. Item (Undeclared Offshore Procurements):  
Defendant stated that it added the item in question to the net profit as import differences based on Article (6) of the Implementing Regulations for the Collection of Zakat.
4. Item (Creditors and Other Balances):  
Defendant stated that it added the item in question due to the completion of the Zakat Year, and also due to Plaintiff's failure to submit the supporting documents, based on Articles (4) and (20) of the Implementing Regulations for the Collection of Zakat.
5. Item (Non-Deduction of Lands):  
Defendant stated that it did not deduct the fixed assets in full from the Zakat Base, as the lands are in the name of one of the partners and that Plaintiff did not submit the supporting documents, based on Article (4) of the Implementing Regulations for the Collection of Zakat.
6. Item (Carried-Forward Losses):  
Defendant stated that it deducted the item in question from the Zakat Base after amending the same with items that affect the net loss, based on Article (4) of the Implementing Regulations for the Collection of Zakat.

#### Department's Decision:

1. Item (Bad Debts):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute is over the item in question is of a documentary nature, as Plaintiff submitted a statement of the bad debts of 2017, explaining the name of the entity and the amount, without providing evidence of meeting the conditions for the deduction of bad debts, such as the certificate of a certified public accountant stating that these debts have been written off, or the documents confirming that Plaintiff has carried out all procedures to collect debts and that they were not owed to related parties; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Undeclared Contract Profits):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff submitted the documents proving its declaration of the contracts concluded for 2017 and the payment of Zakat thereon, which are: a statement of the contracts released of 2017 amounting to (SAR 16,488,525.5), the certificates of release of the contracts contained in the statement issued by Defendant, and the contracts concluded with the parties whose names are shown; and since Defendant has failed to clarify the details of the undeclared revenues; and since the burden of proof falls on Defendant; Therefore, the Department satisfies to abolish Defendant's Decision regarding the item in question.





3. Item (Undeclared Offshore Procurements):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide any supporting documents regarding the same; and since Defendant's procedure to amend Plaintiff's business outcome is due to the existence of differences in the value of the imports included in Plaintiff's Declaration compared to those included in Customs Declaration; and since the Import Declaration issued by the Customs Authority is considered a substantial evidence from an impartial third party; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

4. Item (Creditors and Other Balances):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the financial statements of 2017 have shown that the item in question is represented in two items, (Trade Creditors) and (Creditors and Other Credit Balances), wherein Defendant added the balances that had completed the Zakat Year; and since statement of suppliers of 2017 has shown that it relates to item (Trade Creditors) only, in addition to the mismatch of the opening and closing balances contained therein with those contained in the financial statements; and since Plaintiff has failed to provide the detailed activity statement of payables to prove the non-completion of Zakat Year; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

5. Item (Non-Deduction of Lands):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff did not submit supporting documents for its statement of claim and the reasons that prevented the transfer of land ownership to be in its name, nor did it provide evidence that the lands were used in its activity; and since the financial statements of 2017 and Plaintiff's letter addressed to Defendant on 05/09/2020 AD have shown that Plaintiff did not provide an explanation for its failure to implement the agreement of sale of assets from the partner to Plaintiff to transfer all rights and ownership thereto; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

6. Item (Carried-Forward Losses):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the adjusted carried-forward losses are considered a deductible element from Zakat Base as per Assessment made by Defendant after adding the provisions thereto, under which the loss has been previously reduced in the year of its composition for the purpose of preventing the double charge of Zakat; thus, the criterion for deducting the carried-forward losses for the purpose of Zakat are those adjusted as required by Zakat Law; and since Defendant's Assessment has shown that it had deducted the carried-forward losses, after adjusting the same with the provisions that were returned in the year of its composition, which renders validity of Defendant's procedure; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



### Decision:

**First:** Abolish Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN ..... ) regarding item (Undeclared Contract Profits) in question.

**Second:** Dismiss all Plaintiff's (..... Company, TIN ..... ) other objections to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Tuesday, 05/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-504  
Case No.: 26225-2020-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Reassessment – Import Differences.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 1999 – 2013 AD, wherein Plaintiff’s objection included items (Reassessment) and (Import Differences).

The Department Found That:

As for item (Reassessment), Defendant has informed Plaintiff of Zakat Assessment of 1419 – 1433 AH only after the lapse of five (5) years from the final date set for the submission of Zakat Declaration.

As for item (Import Differences), Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the documents supporting its statement of claim.

The Department Decided To:

Abolish Defendant’s Decision regarding item (Reassessment) and dismiss Plaintiff’s objection to item (Import Differences).

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Articles \(10\), \(21.8/C\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Reassessment of 1419 – 1434 AH):  
Plaintiff claimed that Defendant revised the Assessment in the amount of (SAR 278,916) for the years 1419 – 1434 AH.
2. Item (Import Differences of 1434 AH):  
Plaintiff claimed that Defendant added the import differences of 1434 AH.

### Defenses of Defendant (ZATCA):

1. Item (Reassessment of 1419 – 1434 AH):  
Defendant stated that Plaintiff was recharged due to the existence of uncoded imports that were not previously charged or included in the Zakat Declarations submitted by Plaintiff, based on Article (21) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082) of 01/06/1438 AH.
2. Item (Import Differences of 1434 AH):  
Defendant stated that Plaintiff was charged pursuant to the Rule of Import set forth in Article (13) of Implementing Regulations for the Collection of Zakat, as the imports of vegetables and fruits were charged at a rate of (3.5%), and the imports of general trade at a rate of (10.5%), with the addition of the capital that was charged pursuant to the Rule of Capital Determination for Importers, except for year 1430 AH, as the capital was charged in addition to profits of (15%) of the capital due to the absence of imports during that year.

## Department's Decision:

1. Item (Reassessment of 1419 – 1434 AH):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant failed to provide any substantial evidence of incorrect information included in Plaintiff's Declaration that entitles Defendant to make the Zakat Assessment without being bound by a specific period, as amendments made by Defendant resulted either from incorrect implementation of Zakat regulations or disagreement in viewpoints during the Zakat calculation. In either Case, Defendant right to make the Zakat Assessment lapses within five (5) years from the final date set for the submission of Zakat Declaration pursuant to Article (21.10) of the Implementing Regulations for the Collection of Zakat; and since Article (21) thereof does not apply to Plaintiff's case; and since Defendant has informed Plaintiff of Zakat Assessment of 1419 – 1434 AH only after the lapse of five (5) years from the final date set for the submission of Zakat Declaration; Therefore, the Department satisfies to abolish Defendant's Decision.
2. Item (Import Differences of 1434 AH):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide any supporting documents regarding the same; and since the Import Declaration issued by the Customs Authority is considered a substantial evidence from an impartial third party; and since Defendant's procedure to amend Plaintiff's business outcome is due to the existence of differences in the value of the imports included in Plaintiff's Declaration compared to those included in Customs Declaration; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



### Decision:

**First:** Abolish Defendant's (ZATCA) Decision against Plaintiff (....., TIN No. ....) regarding the Reassessment after the lapse of statutory period in question.

**Second:** Dismiss Plaintiff's (....., TIN No. ....) objection to item (Import Differences of 1434 AH) in question.

This Decision was delivered in the presence of Both Parties. The Department has set Tuesday, 05/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Income Tax Violations and Disputes In Riyadh**

**Decision No.: IFR-2022-505**  
**Case No.: Z-26169-2020**

**Key words:**

**Zakat – Objection to Zakat Assessment – Audited Financial Statements – Additional Capital Difference – Local Investment Revenues Subject to Zakat – Investments in Local Companies Subject to Zakat – Other Credit Balances.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 2018 AD, wherein Plaintiff’s objection included items (Adoption of Audited Financial Statements as Basis for Preparation of Zakat Declaration), (Additional Capital Difference), (Local Investment Revenues Subject to Zakat), (Investments in Local Companies Subject to Zakat), (Non-Deduction of Lands), and (Carried-Forward Losses).

The Department Found That:

As for item (Adoption of Audited Financial Statements as Basis for Preparation of Zakat Declaration), Plaintiff has failed to clarify the items in which it requests amendment.

As for item (Additional Capital Difference), Plaintiff has failed to submit the supporting documents for the non-completion of the Zakat Year of the capital increase.

As for item (Local Investment Revenues Subject to Zakat), amendment letter has shown that the amount in question had been deducted from the net profit.

As for item (Investments in Local Companies Subject to Zakat), the amendment letter has shown that the investments in the amount of (SAR 1,194,337,548) had been deducted from the Zakat Base.

As for item (Other Credit Balances), Plaintiff has failed to provide the detailed activity statement of the payables to prove the non-completion of the Zakat Year of the amounts in question.

The Department Decided To:

Dismiss Plaintiff’s objection to Defendant’s Decision regarding the Zakat Assessment in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Articles \(4/First/1 & 5\), \(4/Second/1\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Adoption of Audited Financial Statements as Basis for Preparation of Zakat Declaration): Plaintiff claimed that Defendant, in amending the Zakat Declaration of 2018, added some items without deducting their equivalent based on the audited financial statements. Also, Plaintiff has prepared the Zakat Declaration based on the draft financial statements that are not approved by a certified public accountant, as the financial statements were deposited in QAWAEM on 17/09/2019 AD, while it submitted the Zakat Declaration on 28/08/2019 AD.
2. Item (Additional Capital Difference): Plaintiff claimed that Defendant added the additional capital difference in the amount of (SAR 359,119,692) without deducting investments in local companies subject to Zakat. Also, Plaintiff has prepared the Zakat Declaration based on the draft of the unapproved financial statements, in which the additional capital difference and the corresponding investments thereto have not been added.
3. Item (Local Investment Revenues Subject to Zakat): Plaintiff claimed that Defendant added investment revenues for the investee companies in the amount of (SAR 6,255,885), as they represent revenues subject to Zakat with local companies.
4. Item (Investments in Local Companies Subject to Zakat): Plaintiff claimed that Defendant did not deduct investments in local companies that are subject to Zakat with a total amount of (SAR 352,863,807), as they represent long-term investments and are subject to the collection of Zakat. Also, they are classified in the approved financial statements under non-current assets.
5. Item (Other Credit Balances): Plaintiff claimed that Defendant added the other credit balances in the amount of (SAR 75,298) to Zakat Base.

### Defenses of Defendant (ZATCA):

1. Item (Adoption of Audited Financial Statements as Basis for Preparation of Zakat Declaration): Defendant stated that it made the Assessment according to the audited financial statements approved by the Certified Public Accountant Office. Also, Defendant based its Decision on Article (4) of the Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. (2082) of 01/06/1438 AH.
2. Item (Additional Capital Difference): Defendant stated that it added an additional capital amount of (SAR 549,305,341) due to the completion of the Zakat Year as per the audited financial statements. Also, Defendant deducted the balance of investments in the amount of (SAR 1,194,377,548) and excluded Plaintiff's share of profits of the investee companies from the adjusted profit in the amount of (SAR 219,621,470), as they represent profits in local investee companies in which they were previously subject to Zakat, based on Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. (2082) of 01/06/1438 AH.
3. Item (Local Investment Revenues Subject to Zakat): Defendant stated that it deducted Plaintiff's share of the profits of the investee companies in the amount of (SAR 6,255,885) from the adjusted profit, as it is a share of profits in local investee companies and is subject to the collection of Zakat, based on Article (4) of Implementing Regulations for the Collection of Zakat.





4. Item (Investments in Local Companies Subject to Zakat):

Defendant stated that it deducted all the balances of the investments shown in the financial statements as explained in item (Additional Capital Difference), where the opening balance was deducted after excluding the dividends received. Also, Plaintiff's share of profits in the investee companies was deducted from the adjusted profit.

**Department's Decision:**

1. Item (Adoption of Audited Financial Statements as Basis for Preparation of Zakat Declaration):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff is objecting to the calculation of the Zakat based on the draft financial statements submitted thereby and requesting recalculation of Zakat based on the financial statements audited by a certified public accountant; and since Plaintiff has failed to clarify the items in which it requests amendment; and since Defendant has made its Assessment based on the financial statements approved by the Certified Public Accountant Office; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question, due to the absence of the grounds for objection.

2. Item (Additional Capital Difference):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the supporting documents for the non-completion of the Zakat Year of the capital increase; and since the increase in the capital is added to Zakat Base when it completes the Zakat Year or if its source is an equity item or were used to finance a deductible asset from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

3. Item (Local Investment Revenues Subject to Zakat):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the amendment letter has shown that the amount in question had been deducted from the net profit; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

4. Item (Investments in Local Companies Subject to Zakat):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the amendment letter has shown that the investments in the amount of (SAR 1,194,337,548) had been deducted from the Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

5. Item (Other Credit Balances):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the detailed activity statement of the payables to prove the non-completion of the Zakat Year of the amounts in question; and since trade payables are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



### Decision:

Dismiss Plaintiff's (..... Company, TIN No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Tuesday, 05/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-506  
Case No.: Z-2020-24558

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment.**

**Abstract**

Cell 5126: Zakat – Objection to Estimated Zakat Assessment. Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Estimated Zakat Assessments of 2018 AD.

The Department Found That:

The submitted documents have shown that Plaintiff’s activity is “Wholesale of Gold and Precious Metals,” which determines that the estimated profit rate to be applied is (15%) in accordance with the provisions of Implementing Regulations for the Collection of Zakat; and since Plaintiff has failed to submit the VAT Returns, under which it requests to calculate the Zakat Base. The Department Decided To:

Dismiss Plaintiff’s objection.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Article \(13.6\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Zakat Assessment of 1439 AH):  
Plaintiff claimed that Defendant has approved incorrect VAT Returns to estimate the Zakat Base.



### Defenses of Defendant (ZATCA):

1. Item (Zakat Assessment of 1439 AH):  
Defendant stated that its Decision came in compliance with the provisions of Article (13) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.

### Department's Decision:

1. Item (Zakat Assessment of 1439 AH):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff falls under the categories that are not obligated to keep regular books and records; Defendant is entitled to collect information and calculate the Zakat on an estimated basis according to the information that reflects the nature of Plaintiff's activity; and since the documents submitted by parties thereto have shown that Plaintiff's activity is "Wholesale of Gold and Precious Metals;" which determines that the estimated profit rate to be applied is (15%) pursuant to the provisions of Implementing Regulations for the Collection of Zakat; and since Plaintiff has failed to submit the VAT Returns, under which it requests to calculate the Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection.

### Decision:

Dismiss Plaintiff's (....., TIN No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Tuesday, 05/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-507  
Case No.: Z-24470-2020

**Key words:**

**Zakat– Objection to Zakat Assessment.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessments of 1440 AH, where Plaintiff objected to the rate applied when calculating the Estimated Zakat Base of 1440 AH.

The Department Found That:

The period in question is from 01/04/1440 AH to 30/03/1441 AH; hence, the “Rules for Calculating Zakat on a Deemed Basis” do not apply to Plaintiff, as the said Rules enter into force after 31/12/2019 AD, corresponding to 05/05/1441 AH.

The Department Decided To:

Amend Defendant’s Decision regarding Plaintiff’s activity in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance’s Decision No. \(1535\) of 11/06/1425 AH.](#)
- [Article \(13.6/B\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) of 01/06/1438 AH.](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Zakat Assessment of 1440 AH):  
Plaintiff claimed that Defendant divided the amount by (8) and added the result to the result of multiplying the total amount of sales by (15%), without taking into account the procurements declared in the VAT Returns, in addition to the general and administrative expenses of the establishment, which are rents, salaries, residence fees, government fees, etc.



### Department's Decision:

1. Item (Zakat Assessment of 1440 AH):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff falls under the categories that are not obligated to keep regular books and records, Defendant is entitled to collect information and calculate the Zakat on an estimated basis according to the information that reflects the nature of Plaintiff's activity pursuant to Article (13.6/B) of the of Implementing Regulations for the Collection of Zakat; and since Plaintiff's activity is "Provision of Fuel," which determines that the estimated profit rate to be applied is (10%); and since the period in question is from 01/04/1440 AH to 30/03/1441 AH; hence, the "Rules for Calculating Zakat on a Deemed Basis" do not apply to Plaintiff, as the said Rules enter into force after 31/12/2019 AD, corresponding to 05/05/1441 AH; Therefore, the Department satisfies to amend Defendant's Decision by calculating an estimated Zakat on the capital of commercial activities in addition to the profit of the revenues recognized by (10%) in application of the Law.

### Decision:

Amend Defendant's (ZATCA) Decision against Plaintiff (....., TIN No. ....) regarding the activity in question for the grounds stated herein. This Decision was delivered in the presence of Both Parties. The Department has set Tuesday, 05/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-508  
Case No.: 19498-2020-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Long-Term Loans – Accrued Expenses Did Not Complete Zakat Year.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding Zakat Assessment of 2016 AD, wherein Plaintiff’s objection included items (Long-Term Loans) and (Accrued Expenses That Did Not Complete Zakat Year).

The Department found that:

As for item (Long-Term Loans), Plaintiff has failed to submit the Zakat Declaration of “..... Company.” Also, loans are considered a source of financing.

As for item (Accrued Expenses That Did Not Complete Zakat Year), Plaintiff’s submission of the detailed activity statement of the accrued expenses in 2016 cannot be accepted due to the lack of conformity of the opening balance with the audited financial statements of 2016. The Department Decided To: Dismiss Plaintiff’s objection.

**Instruments:**

- [Article \(20.1\) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) of 14/03/1376 AH.](#)
- [Articles \(55\) and \(56\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Articles \(4/First/5\) and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH.](#)





## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Long-Term Loans):  
Plaintiff claimed that Defendant added the item in question to the Zakat Base of 2016 and that it represents a loan provided to an associate company, as “..... Company” is owned by the owners of “..... Company,” as shown in the financial statements. Also, “..... Company” obtained a loan and delivered the same in full to “..... Company” for the purpose of purchasing land, which was added to the accounts of “..... Company” and deducted from its Zakat Base.
2. Item (Accrued Expenses That Did Not Complete Zakat Year):  
Plaintiff claimed that Defendant added the item in question to the Zakat Base of 2016, and that it represents real expenses supported by documents, and has not completed the Zakat Year.

### Defenses of Defendant (ZATCA):

1. Item (Long-Term Loans):  
Defendant stated that it added the item in question due to the completion of Zakat Year, as it found that there were lands mortgaged to “Amlak Finance” in exchange for a loan that was used to purchase those lands. In addition, such a loan was disclosed in the financial statements of “..... Company,” while the value of the lands was deducted from the Zakat Base. Accordingly, Defendant adopted the loan activity pursuant to Article (4) Implementing Regulations for the Collection of Zakat.
2. Item (Accrued Expenses That Did Not Complete Zakat Year):  
Defendant stated that it added the item in question due to the completion of Zakat Year pursuant to Article (4) of the Implementing Regulations for the Collection of Zakat.

## Department’s Decision:

1. Item (Long-Term Loans):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has submitted the financial statements of both “..... Company” and “..... Company,” as well as payment receipts that are submitted by “..... Company” to “..... Company,” and since Plaintiff has failed to submit the Zakat Declaration of “..... Company,” and since loans are considered a source of financing; Therefore, the Department satisfies to dismiss Plaintiff’s objection to the item in question.
2. Item (Accrued Expenses That Did Not Complete Zakat Year):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff’s submission of the detailed activity statement of the accrued expenses in 2016 cannot be accepted due to the lack of conformity of the opening balance with the audited financial statements of 2016, since Plaintiff should have submitted an account activity statement extracted from the accounting system in conformity with the audited financial statements to consider whether the amounts had completed the Zakat Year; Therefore, the Department satisfies to dismiss Plaintiff’s objection to the item in question.



### Decision:

Dismiss Plaintiff's (..... Company, TIN No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Tuesday, 05/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Our Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-511  
Case No.: 27801-2020-Z

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment – Non-Deduction of Investments – Subjection of Credit Balances to Zakat.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2002 and 2003 AD.

The Department Found That:

As for item (Non-Deduction of Investment of SAR 7,500,000”), Plaintiff has failed to submit a copy of the transfer, a bank statement of the transfer transaction, and the financial statements of the investee company outside the Kingdom from a certified public accountant, nor did it submit the supporting documents confirming the payment of Zakat to deduct them from the Zakat Base to avoid double charge of Zakat. As for item (Non-Deduction of Investment of Allied Company of “SAR 3,220,804”), Plaintiff’s financial statements have shown that the value of investments at the end of the year is (0) to achieve losses; hence there is no closing balance; consequently, it is not deducted from the Zakat Base. As for item (Non-Deduction of Investments in Subsidiaries), Plaintiff owns both companies, and that they represent Saudi companies registered with Defendant and subject to Zakat. Also, Defendant has failed to clarify the reasons that led to their non-deduction. As for item (Subjection of Credit Balances), the amount (SAR 394,294) has completed the Zakat Year, as credit balances are considered a source of financing and also an equity in terms of Zakat calculation, by adding the amounts that completed the Zakat Year.

The Department Decided To:

Abolish Defendant’s Decision regarding item (Non-Deduction of Investments in Subsidiaries and Allied Companies) and dismiss all Plaintiff’s other objections.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Non-Deduction of Investment in “..... Company” of 2002):  
Plaintiff claimed that Defendant did not deduct the investments in (..... Company “Jordan”) in the amount of (SAR 7,500,000) from Zakat Base of 2002, as they represent real long-term investments that were paid from the Company’s funds and meet the statutory requirements for deduction from the Zakat Base in accordance with Defendant’s Circular No. (1/2/8443/2) of 08/08/1392 AH.
2. Item (Non-Deduction of Investments in Subsidiaries and Allied Companies from Zakat Base of 2003):  
Plaintiff claimed that Defendant did not deduct investments in “..... Company” in the amount of (SAR 16,353,730) and “..... Trading Company” in the amount of (SAR 571,260) as subsidiaries, and “..... Company” in the amount of (SAR 2,083,903) as an allied company, from the Zakat Base of 2003, as they represent long-term investments in the capital of the companies in question. Also, both “..... Company, TIN .....” and “..... Company, TIN .....” are Saudi companies registered with Defendant and subject to Zakat.
3. Item (Subjection of Credit Balances with Banks to Zakat of 2003):  
Plaintiff claimed that Defendant added the balance of the creditor banks in the amount of (SAR 37,414,527) for Zakat, and that the balance of the creditor banks represents an overdraft to meet their operational requirements periodically and at short intervals. Also, the opening balance of the creditor banks, represented in an amount of (SAR 102,800,940), has not completed the Zakat Year, and the amount paid during the year is (SAR 673,631,286).

### Defenses of Defendant (ZATCA):

1. Item (Non-Deduction of Investment in “..... Company” of 2002):  
Defendant stated that the Company’s share is an amount of (SAR 5,040,000) and that the investment is included in the budget of the Company in the amount of (SAR 16,353,730) during 2003. Also, Plaintiff did not submit the required documents, and that the budgets do not meet the provisions of Article (4) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. (2082) of 01/06/1438 AH.
2. Item (Non-Deduction of Investments in Subsidiaries and Allied Companies from Zakat Base of 2003):  
Defendant stated that that procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/Second/4) thereof.
3. Item (Subjection of Credit Balances with Banks to Zakat of 2003):  
Defendant stated that it added credit balances based on the Fatwa No. (22665) of 15/01/1424 AH and Article (4) of the Implementing Regulations for the Collection of Zakat.



### Department's Decision:

1. Item (Non-Deduction of Investment in "..... Company" of 2002):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit a copy of the transfer, a bank statement of the transfer transaction, and the financial statements of the investee company outside the Kingdom from a certified public accountant, nor did it submit the supporting documents confirming the payment of Zakat to deduct them from the Zakat Base to avoid double charge of Zakat; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Non-Deduction of Investments in Subsidiaries and Allied Companies from Zakat Base of 2003):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the supplementary notes to the financial statements have shown that Plaintiff owns both companies, and that they represent Saudi companies registered with Defendant and subject to Zakat; and since Defendant has failed to clarify the reasons that led to their non-deduction; Therefore, the Department satisfies to abolish Defendant's Decision regarding the deduction of investment in (..... Company, "Subsidiary") and (..... Company, "Allied"); since Plaintiff, with regard to the foreign investment related to "..... Trading Company" in the amount of (SAR 571,260) as a subsidiary company, has failed to provide proof of payment of Zakat of the investment; Therefore, the Department satisfies to dismiss Plaintiff's objection related to the foreign investment in (..... Company, "Subsidiary").
3. Item (Subjection of Credit Balances with Banks to Zakat of 2003):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that the amount (SAR 394,294) has completed the Zakat Year; Therefore, the Department satisfies to amend Defendant's Decision by approving the detailed activity statement of accounts and adding the amount of (SAR 394,294) to the Zakat Base.

### Decision:

**First:** Abolish Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN ..... ) regarding the deduction of investment in (..... Company, "Subsidiary") and (..... Company, "Allied"), for the grounds stated herein.

**Second:** Amend Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN ..... ) regarding item (Subjection of Credit Balances with Banks to Zakat of 2003), for the grounds stated herein.

**Third:** Dismiss all Plaintiff's (..... Company, TIN ..... ) other objections to Defendant's (ZATCA) Decisions regarding the Zakat Assessments in question.

This Decision was delivered in the presence of Both Parties. The Department has set Tuesday, 05/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Income Tax Violations and Disputes In Riyadh**

**Decision No.: IFR-2022-513**  
**Case No.: Z-48033-2021**

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment – Import Differences – Short-Term Bank Loans – Carried-Forward Losses – Related Parties.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2015 and 2017 AD, wherein Plaintiff’s objection included items (Import Differences), (Short-Term Bank Loans “Overdraft”), (Carried-Forward Losses), and (Related Parties).

The Department Found That:

As for item (Import Differences), Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the Customs Declaration.

As for item (Short-Term Bank Loans “Overdraft”), the overdraft balance is considered an element of Zakat Base if it completed a Zakat Year or was used to finance deductible assets from Zakat Base.

As for item (Carried-Forward Losses), the carried-forward losses deducted from Zakat Base were not in conformity with Plaintiff’s request in its statement of claim.

As for item (Related Parties), Plaintiff has failed to submit the financial statements for 2017 or the supporting documents for its statement of claim.

The Department Decided To:

Dismiss Plaintiff’s objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Paragraph \(1\) of Article \(20\) of Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Articles \(56\) and \(55\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Articles \(5\), \(20.3\), \(4/First/5\), and \(4/Second/9\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Import Differences):  
Plaintiff claimed that Defendant added the import differences to the Zakat Base of 2015 and 2017, as they represent deductible expenses based on the provisions of Article (5) of the Implementing Regulations for the Collection of Zakat. Also, the error made by Plaintiff, represented by including the items that included the offshore procurements within the cost of reaching the net profit, did not result in an adjustment in the net profit rate.
2. Item (Short-Term Bank Loans “Overdraft”):  
Plaintiff claimed that Defendant subjected the overdraft balance of (SAR 1,910,844) to the Zakat Base of 2015, as it has not completed the Zakat Year and is fully paid before the end of the fiscal year.
3. Item (Carried-Forward Losses):  
Plaintiff claimed that Defendant adjusted the value of the carried-forward losses.
4. Item (Related Parties):  
Plaintiff claimed that Defendant added the item in question to the Zakat Base of 2015 and 2017, as the nature of the transactions takes place in the course of business and is mainly represented in the payment of some expenses and disbursements on its behalf.

### Defenses of Defendant (ZATCA):

1. Item (Import Differences):  
Defendant stated that it added the import difference to the net profit due to the difference between the offshore procurements according to the Customs Declaration and those included in the Zakat declarations. Also, Defendant adheres to the validity and soundness of its procedure due to Plaintiff's failure to submit the required documents, in accordance with Article (20) of Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.
2. Item (Short-Term Bank Loans “Overdraft”):  
Defendant stated that it added the loans to the Zakat Base. Also, it adheres to the validity and soundness of its procedure due to the non-conformity of the opening balance of the item in question with the balance of the loans in the financial statements.
3. Item (Carried-Forward Losses):  
Defendant stated that it deducted the adjusted carried-forward losses from the Zakat Base based on the previous Assessment of 2016, in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat.
4. Item (Related Parties):  
Defendant stated that it added the item question in the amount of (SAR 6,570,739) for 2015 as per the Zakat Declaration, and in the amount of (SAR 4,903,839.43) for 2017 due to the non-conformity of the data submitted of the financial statements, based on Article (4) of the Implementing Regulations for the Collection of Zakat.





### Department's Decision:

1. Item (Import Differences):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant's procedure to amend Plaintiff's business outcome is due to the existence of differences in the value of the imports included in Plaintiff's Declaration compared to those included in Customs Declaration, as Plaintiff has failed to separate between the offshore procurements and customs duties in its Zakat Declaration, which resulted to the incorrect calculation of the profit; and since Plaintiff has failed to provide the necessary conformity to clarify the reasons and justifications for the import differences, nor did it provide the Customs Declaration; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

2. Item (Short-Term Bank Loans "Overdraft"):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute is over the item in question is of documentary nature, wherein Plaintiff submitted some documents on the activity of loans for 2015, which cannot be accepted as a supporting document of its statement of claim, as it had only submitted the financial statements, without providing proof that the loans did not finance fixed assets; and since the overdraft balance is considered an element of Zakat Base if it completed a Zakat Year or was used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

3. Item (Carried-Forward Losses):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the carried-forward losses deducted from Zakat Base were not in conformity with Plaintiff's request in its statement of claim; and since Plaintiff has failed to provide details of the calculation of the carried-forward loss and that it is adjusted as per Defendant's Assessment, nor did it verify the addition of the previous returned provisions for profit to the year of its composition; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

4. Item (Related Parties):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff was satisfied with submission of the financial statements for 2015, through which the validity and soundness of the Defendant's procedure was proven, as it adopted the opening or closing balance, whichever is less; and since Plaintiff has failed to submit the financial statements for 2017 or the supporting documents for its statement of claim; and since accruals of related parties are considered a source of financing and also an equity in terms of Zakat calculation, the amounts that had completed the Zakat Year should be added to Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

### Decision:

Dismiss Plaintiff's (..... Company, TIN No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Wednesday, 06/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-517  
Case No.: Z-28276-2020

**Key words:**

**Zakat– Objection to Zakat Assessment.**

**Abstract**

Cell: 5434 Zakat – Objection to Zakat Assessment. Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 1441 AH, wherein Plaintiff objected to the rate applied when calculating the Zakat Base on an estimated basis.

The Department Found That:

As for rate applied when calculating the Zakat Base on an estimated basis, Plaintiff falls under the categories that are subject to the Rules for Calculating Zakat on a Deemed Basis.

The Department Decided To:

Dismiss Plaintiff’s objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article \(20.1\) of Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) of 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles \(56\) and \(55\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Zakat Assessment of 1441 AH):  
Plaintiff claimed that Defendant applied the rate applied when calculating the Zakat Base of 1441 AH on an estimated basis, and that it paid the amount of Zakat due from “.....” within the Zakat due from “..... Company,” based on the value of the contract for the management and operation of licenses of “.....” Also, Plaintiff contacted Defendant to clarify that all sales are for “..... Company.”



### Defenses of Defendant (ZATCA):

1. Item (Zakat Assessment of 1441 AH):  
Defendant stated that its Decision came in compliance with the conditions in Articles (3) and (4) of the Rules for Calculating Zakat on a Deemed Basis issued by the Minister of Finance's Decision No. (852) of 28/02/1441 AH.

### Department's Decision:

1. Item (Zakat Assessment of 1441 AH):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff falls under the categories that are subject to the Rules for Calculating Zakat on a Deemed Basis, Defendant is entitled to collect information and calculate the Zakat on an estimated basis in accordance with those Rules, which stipulate estimating the profits of Plaintiff's activity at (15%) of the sales declared in the VAT Returns, and estimating the capital by dividing those sales by (8); and since the documents submitted by parties thereto have shown that Defendant's procedure to apply the said formula to the sales declared in the VAT Returns submitted by Plaintiff is sound and valid; Therefore, the Department satisfies to dismiss Plaintiff's objection.

### Decision:

Dismiss Plaintiff's (....., TIN ..... ) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Wednesday, 06/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Income Tax Violations and Disputes In Riyadh**

**Decision No.: IFR-2022-520**  
**Case No.: Z-25347-2020**

**Key words:**

**Zakat – Objection to Zakat Assessment– Inadmissible Donations – Reduction of Investments – Non-Modification of Investments by Dividends – Non-Deduction of Zakat Paid by Company.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2014 AD, wherein Plaintiff’s objection included items (Inadmissible Donations), (Reduction of Investments), (Non-Modification of Investments by Dividends), and (Non-Deduction of Zakat Paid by Company).

The Department Found That:

As for item (Inadmissible Donations), the donations that may be deducted from the Zakat Base are those supported by documents after verifying their validity and accuracy.

As for item (Reduction of Investments), Plaintiff has failed to submit the financial statements of the subsidiary company, its Zakat Declarations, or the Articles of Association to verify the percentage of equity therein.

As for item (Non-Modification of Investments by Dividends), Plaintiff has failed to submit the financial statements and Zakat Declarations of the investee company to verify the accuracy of the balances .

As for item (Non-Deduction of Zakat Paid by Company), Plaintiff has provided proof of payment of an amount of (SAR 6,911,000).

The Department Decided To:

Abolish Defendant’s Decision regarding the Zakat paid and dismiss all Plaintiff’s other objections.

**Instruments:**

- [Zakat Law promulgated by Royal Decree No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Articles \(5.4\), \(6.2\), \(4/Second/4/A\), \(4/Second/9\), \(20.3\), and \(29.1\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Inadmissible Donations):  
Plaintiff claimed that Defendant did not deduct the item in question in the amount of (SAR 4,504,000) from Zakat Base of 2014, and that all donations had been paid to licensed associations.
2. Item (Reduction of Investments):  
Plaintiff claimed that Defendant reduced the value of investments by (SAR 415,000,000), considering the same as loans provided to subsidiaries, as they represent long-term investments due to the fact that there is no specific date for payment or an interest thereon, and that they were paid to a subsidiary company in which it owns (65%) of its capital. Also, the Zakat of the amount has been paid by the investee company.
3. Item (Non-Modification of Investments by Dividends):  
Plaintiff claimed that Defendant did not deduct the investments after deducting the profits received in the amount of (SAR 4,130,171,000) from the Zakat Base of 2014, as the Zakat of the dividends has been paid by the investee company since they pertain to the profits of “..... Company” of 2014.
4. Item (Non-Deduction of Zakat Paid by Company):  
Plaintiff claimed that Defendant did not deduct the amounts paid by the company with a value of (SAR 6,911,000) for 2014.

### Defenses of Defendant (ZATCA):

1. Item (Inadmissible Donations):  
Defendant stated that it partially accepted Plaintiff's objection in the amount of (SAR 1,292,605) based on Article (5) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.
2. Item (Reduction of Investments):  
Defendant stated that it partially accepted Plaintiff's objection and deducted the investments in the amount of (SAR 4,130,171,000) based on Article (4) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.
3. Item (Non-Modification of Investments by Dividends):  
Defendant stated that it did not deduct the item in question from the Zakat Base due to the failure to pay its Zakat by the investee company.
4. Item (Non-Deduction of Zakat Paid by Company):  
Defendant stated that Plaintiff has never objected to the item in question thereto. Accordingly, Plaintiff's objection to is inadmissible in form.

## Department's Decision:

1. Item (Inadmissible Donations):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has submitted the documents supporting the payment of donations in the amount of (SAR 1,292,605) only, yet it failed to provide proof of payment of the full amount or proof that “..... Establishment” is a licensed charity; and since the donations that may be deducted from the Zakat Base are those supported by documents after verifying their validity and accuracy; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



2. Item (Reduction of Investments):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff failed to submit the financial statements of the subsidiary company, its Zakat Declarations, or the Articles of Association to verify the percentage of equity therein; and since Plaintiff's financial statements have shown that the amounts represent a loan provided to a subsidiary company; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

3. Item (Non-Modification of Investments by Dividends):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff failed to submit the financial statements and Zakat Declarations of the investee company to verify the accuracy of the balances and that they were not related to profits from previous years; rather, Plaintiff has only submitted the minutes of the partners' meeting in the investee company regarding the distribution of interim profits; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

4. Item (Non-Deduction of Zakat Paid by Company):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant issued the Amended Assessment on 23/02/2020 AD, in which it indicated that the amount paid from Zakat represented (SAR 1,100); and since Plaintiff has provided proof of payment of an amount of (SAR 6,911,000); and since Defendant did not challenge the validity of that amount; Therefore, the Department satisfies to abolish Defendant's Decision regarding the item in question.

**Decision:**

**First:** Abolish Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN ..... ) regarding the Zakat paid in question.

**Second:** Dismiss all Plaintiff's (..... Company, TIN ..... ) other objections to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set (....., .../.../... AH), as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-524  
Case No.: 33485-2020-Z

**Key words:**

**Zakat – Objection to Zakat Assessment– Guarantee Provision – Overcharged Procurement Difference – Profit of Undeclared Offshore Procurement – Accruals of Related Parties.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2018 AD, wherein Plaintiff’s objection included items (Guarantee Provision), (Overcharged Procurement Difference), (Profit of Undeclared Offshore Procurement), and (Accruals of Related Parties).

The Department Found That:

As for item (Guarantee Provision), Plaintiff added the guarantee provision in the adjusted net profit and calculated the Zakat Base after adjusting the net accounting profit.

As for item (Overcharged Procurement Difference), Plaintiff has only submitted the financial statements for 2018 without submitting the documents supporting the expenses in question.

As for item (Profit of Undeclared Offshore Procurement), Plaintiff did not separate between local and offshore procurements; rather, has submitted a Customs Declaration conforming to the Defendant’s procedure.

As for item (Accruals of Related Parties), Plaintiff has failed to submit the detailed activity statement to verify the completion of the Zakat year of the balances or the supporting documents for its statement of claim.

The Department Decided To:

Dismiss Plaintiff’s objection.

**Instruments:**

- [Article 20.1 of Tax Dispute and Violation Committee Procedures issued under Royal Decree No. \(26040\) dated 21/04/1441](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Articles \(4/First/9\), \(5.1/A\), and \(20.3\) of Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2216\) dated 07/07/1440 AH](#)





## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Guarantee Provision):  
Plaintiff claimed that Defendant added the item in question to the net profit, as the provision is used to cover potential expenses during the guarantee period. Upon its expiration, the remaining value of the guarantee, if any, is closed in the account of other revenues.
2. Item (Overcharged Procurement Difference):  
Plaintiff claimed that Defendant adjusted the profit by the difference between the costs in the financial statements and the amounts declared in the input field for the basic rate in the VAT Returns.
3. Item (Profit of Undeclared Offshore Procurement):  
Plaintiff claimed that Defendant included the offshore procurements within the cost of sales. Also, the error made by Plaintiff, represented by the failure to separate local and offshore procurements, did not affect the net profit subject to Zakat.
4. Item (Accruals of Related Parties):  
Plaintiff claimed that Defendant added the item in question to the Zakat Base, as the nature of the transactions takes place in the course of business and is mainly represented in the payment of some expenses and disbursements on its behalf.

### Defenses of Defendant (ZATCA):

1. Item (Guarantee Provision):  
Defendant stated that it added the item in question since the provisions are considered non-deductible expenses from the net profit. Also, Defendant based its Decision on Article (4/First/9) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.
2. Item (Overcharged Procurement Difference):  
Defendant stated that it made its amendment through the difference between the costs charged to the financial statements and the procurements charged in the VAT Return, due to Plaintiff's failure to provide the reasons for these differences. Also, Defendant based its Decision on Article (5.1/A) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.
3. Item (Profit of Undeclared Offshore Procurement):  
Defendant stated that it added the item in question to the net profit due to the failure to declare the offshore procurement in its Zakat Declaration and also due to Plaintiff's failure to submit the required documents, based on Article (20) of the Implementing Regulations for the Collection of Zakat.
4. Item (Accruals of Related Parties):  
Defendant stated that it partially accepted Plaintiff's objection regarding the balance of "..... Company," as it appears that the amount that has completed the Zakat Year is (SAR 41,181), and rejected the same regarding the accruals of each of "Mr. ...." and "..... Company," as they represent revolving balances from last year and there is no activity thereon, based on Article (4) of the Implementing Regulations for the Collection of Zakat.



### Department's Decision:

1. Item (Guarantee Provision):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff failed to submit the activity statement of the provisions through which it is possible to verify the balance of the provisions that has completed the Zakat Year, which should be added to the Zakat Base; and since the financial statements and its notes have shown that Plaintiff added the guarantee provision in the adjusted net profit and calculated the Zakat Base after adjusting the net accounting profit, as it stated that three profits of the expense are used during the year, which determines that the used portion thereof was subtracted in the calculation of the Zakat Base from the provisions at the beginning of the period; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Overcharged Procurement Difference):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff has only submitted the financial statements for 2018 without submitting the documents supporting the expenses in question; and since procurements are considered deductible expenses from Zakat Base if they are actual expenses and supported by documents; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
3. Item (Profit of Undeclared Offshore Procurement):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the Import Declaration issued by the Customs Authority is considered a substantial evidence from an impartial third party; and since Defendant's procedure to amend Plaintiff's business outcome is due to the existence of differences in the value of the imports included in Plaintiff's Declaration compared to those included in Customs Declaration, as Plaintiff did not separate between local and offshore procurements; rather, has submitted a Customs Declaration conforming to the Defendant's procedure, without providing an analytical statement of local and offshore procurements to verify the validity of the separation process; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
4. Item (Accruals of Related Parties):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the detailed activity statement to verify the completion of the Zakat year of the balances or the supporting documents for its statement of claim; and since accruals of related parties are considered a source of financing and also an equity in terms of Zakat calculation, the amounts that had completed the Zakat Year should be added to Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

### Decision:

Dismiss Plaintiff's (..... Company, TIN ..... ) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Wednesday, 06/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Income Tax Violations and Disputes In Riyadh**

**Decision No.: IFR-2022-525**  
**Case No.: Z-26945-2020**

**Key words:**

**Zakat – Objection to Zakat Assessment – Company’s Share in Profits of Subsidiaries – Investments in Financial Instruments**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2012 AD, wherein Plaintiff’s objection included items (Company’s Share in Profits of Subsidiaries) and (Investments in Financial Instruments).

The Department Found That:

As for item (Company’s Share in Profits of Subsidiaries), Plaintiff has failed to submit the supporting documents for its statement of claim or evidence of its commitment to the requirements of the deduction of foreign investments.

As for item (Investments in Financial Instruments), there were credit activities in some companies.

As for item (Fixed Asset), the dispute over the item in question has been resolved with Defendant accepting Plaintiff’s requests.

The Department Decided To:

- Establish resolution of dispute over item (Fixed Asset).
- Amend Defendant’s Decision regarding item (Partner’s Share in Profits of Subsidiaries).
- Dismiss Plaintiff’s objection to item (Investments in Financial Instruments).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(70\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Articles \(4/Second/4/A & B\) and \(20.3\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) of 01/06/1438 AH. Article \(70.1\) of Implementing Regulations Law of Civil Procedure issued by Minister of Justice’s Decision No. \(39933\) of 19/05/1435 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Company's Share in Profits of Subsidiaries):  
Plaintiff claimed that added Plaintiff's share of the losses resulting from investments in offshore subsidiaries, amounting to (SAR 2,701,987) to the Zakat Base.
2. Item (Investments in Financial Instruments):  
Plaintiff claimed that Defendant did not deduct investments in financial instruments, as they represent investments in Saudi joint stock companies listed on the Saudi Exchange and are subject to the collection of Zakat.

### Defenses of Defendant (ZATCA):

1. Item (Company's Share in Profits of Subsidiaries):  
Defendant stated that Plaintiff has investments in subsidiaries outside the Kingdom, and did not commit to submitting the financial statements of the subsidiaries approved in the country of investment, in accordance with Article (4) of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH.
2. Item (Investments in Financial Instruments):  
Defendant stated that Plaintiff has investments in the Saudi Exchange with an investment financial portfolio with ".....," as it found that they are for the purpose of trading and not for the purpose of property; thus, they are considered current assets prepared for sale due to the existence of the intention to sell at the beginning of the investment and also due to the failure to provide evidence of the documented intention of the authorized person before the investment, in accordance with Article (1) of the Implementing Regulations for the Collection of Zakat.

## Department's Decision:

1. Item (Company's Share in Profits of Subsidiaries):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the supporting documents for its statement of claim or evidence of its commitment to the requirements of the deduction of foreign investments; and since Plaintiff has the right to deduct foreign investment from its Zakat Base on the condition that audited accounts from a certified public accountant in the country of investment be submitted to Defendant; Therefore, the Department satisfies to dismiss Plaintiff's objection regarding the non-deduction of foreign investments; and since Defendant, with regard to the addition of Plaintiff's share of foreign investments, has added the profits resulting from the investments in the amount of (SAR 2,701,987) to the adjusted profit, yet it did not accept the deduction of foreign investments from the Zakat Base due to the lack of evidence that they were subject to collection of Zakat, which determines that the losses received on the investments should be deducted equivalent to share of the investing company "Plaintiff;" Therefore, the Department satisfies to abolish Defendant's Decision regarding the addition of Plaintiff's share of foreign investments.



2. Item (Investments in Financial Instruments):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has submitted a statement detailing the quantity of shares, the closing price, and the market value, and has also submitted the activity statement of investments in the shares; and since it was found that there were credit activities in some companies; and since there are two basic conditions must be met for investments to be considered as property asset and be deducted from Zakat Base, namely the documented intention of the authorized person that clarifies the intention for investment and the absence of sales that took place during the year on those investments; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

**Decision:**

**First:** Establish resolution of dispute between Plaintiff (..... Company, TIN .....) and Defendant (ZATCA) over item (Fixed Asset), with Defendant accepting Plaintiff's requests in this regard.

**Second:** Amend Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN .....) regarding item (Partner's Share in Profits of Subsidiaries) for the grounds stated herein.

**Third:** Dismiss Plaintiff's (..... Company, TIN .....) objection to Defendant's (ZATCA) Decision regarding item (Investments in Financial Instruments).

This Decision was delivered in the presence of Both Parties. The Department has set Wednesday, 06/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-598  
Case No.: 31151-2020-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Addition of Partner's Credit Balance.**

**Abstract**

Plaintiff ("Zakat Payer") filed this Case to abolish Defendant's ("ZATCA") Decision regarding the Zakat Assessment of 2018 AD, wherein Plaintiff's objection included item (Addition of Partner's Credit Balance).

The Department Found That:

Plaintiff has failed to submit the financial statements to verify the value of the opening and closing balance

The Department Decided To:

Dismiss Plaintiff's objection.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Addition of Partner's Credit Balance):  
Plaintiff claimed that Defendant adopted the opening or closing balance, whichever is less, without taking into account the payment activity during the year, at an amount of (SAR 13,882,757). Accordingly, the amount that had completed the Zakat Year represents (SAR 2,960,860).



### Defenses of Defendant (ZATCA):

1. Item (Addition of Partner's Credit Balance):  
Defendant stated that its Decision came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4//First/2) thereof.

### Department's Decision:

1. Item (Addition of Partner's Credit Balance):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature, as Plaintiff failed to submit the financial statements to verify the value of the opening and closing balance; and since the detailed activity statement for 2018 submitted by Plaintiff has shown the opening balance in the amount of (SAR 16,843,616) on 01/01/2018 AD, and the payments during the year in the amount of (SAR 13,882,757), yet it was found that there were debit activities amounting to (SAR 4,609,099) between 23/12/2018 AD and 31/12/2018 AD, which determines that they completed the Zakat Year; and since the amount of (SAR 7,569,958) that had completed the Zakat Year is equal to the VAT in Defendant's Assessment; and since the partner's current account is considered an element of Zakat Base if it completed a Zakat Year, its source was an equity, or was used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

### Decision:

Dismiss Plaintiff's (....., TIN No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Monday, 18/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**





**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Income Tax Violations and Disputes In Riyadh**

**Decision No.: IFR-2022-644**  
**Case No.: 70657-2021-Z**

**Key words:**

**Zakat – Objection to Zakat Assessment – Guarantee Provision – Loans – Addition of Accruals of Shareholders – Non-Deduction of Investments in Securities Available for Sale – Non-Approval of Deduction of Property for Development and Real Estate Investments – Adjusted Profit.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2015 AD, wherein Plaintiff’s objection included items (Guarantee Provision), (Loans), (Addition of Accruals of Shareholders), (Non-Deduction of Investments in Securities Available for Sale), (Non-Approval of Deduction of Property for Development and Real Estate Investments), (Advance Payments and Expenses Paid), (Accruals of Shareholders) and (Adjusted Profit).

The Department Found That:

As for item (Guarantee Provision), the activity statement of the guarantee provision submitted by Plaintiff has shown that there was no used portion from the provision during the year. As for item (Loans), the loans had financed property, equipment, investments of associate companies and real estate investments through the net cash from operating activities. As for item (Addition of Accruals of Shareholders), Plaintiff has failed to submit the detailed activity statement to prove the non-completion of the Zakat Year of the amounts in question. As for item (Non-Deduction of Investments in Securities Available for Sale), investment in these funds is considered a trading asset and should not be deducted from Zakat Base, regardless of the duration of investment in the fund, as the criterion is the nature of the investment.

As for item (Non-Approval of Deduction of Property for Development and Real Estate Investments), they are not prepared for sale and not considered a trading offer except when they are completed. As for item (Advance Payments and Expenses Paid), the advance payments to suppliers and contractors are related to item (5) of the property under development. As for item (Accruals of Shareholders), the financial statements and their notes have shown that the funds due from shareholders who have significant influence. As for item (Adjusted Profit), the deduction of net fixed assets and the like represent non-current assets that assist in current and future production.

The Department Decided To:

- Dismiss Plaintiff’s objection to items (Guarantee Provision), (Accruals of Shareholders), and (Non-Deduction of Investments in Securities Available for Sale from Zakat Base).
- Amend Defendant’s Decision regarding item (Loans).
- Abolish all Defendant’s other Decisions against Plaintiff.



### Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Articles \(4/First/9\), \(4/First/5\), \(4/First/4/A\), \(4/Second/1\), \(4/Second/5\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

### Defenses of Parties:

#### Defenses of Plaintiff (Zakat Payer):

1. Item (Non-Approval of Guarantee Provision as a Statutory Deductible Expense and Its Addition to Adjustments to Net Book Profit of "SAR11,479,985" for 2015):  
Plaintiff claimed that Defendant approved the guarantee provision as a statutory deductible expense in the amount of (SAR 11,479,985) for 2015, as it represents actual accrued expenses that have been disbursed and paid later subject to the cash flow and have not been paid at the time of registration as an expense.
2. Item (Addition of Loans Formed in 2015 to Zakat Base of "SAR 801,162,559" for 2015):  
Plaintiff claimed that Defendant added the balance of the loans formed during the Zakat Year of 2015. As for the revolving and renewable loans, Plaintiff's activity is real estate financing, as the borrowed amounts are used to finance the activity; therefore, they do not represent revolving loans. Also, Plaintiff has paid a portion of the loan balance at the beginning of the period through the net cash from the operating activities amounting to (SAR 252,132,951) as per the audited financial statements. As for the non-addition of loans that financed fixed assets during the year, Defendant subjected the balance of the bank's loan that had completed the Zakat Year to the Zakat Base in the amount of (SAR 382,309,255).
3. Item (Addition of Accruals of Shareholders of "SAR 185,394,825" to Zakat Base of 2015):  
Plaintiff claimed that Defendant added the accruals of shareholders to Zakat Base of 2015, and that they are not considered as loans and are not subject to Zakat, even if they have completed the Zakat Year. Also, they did not finance additions of property assets; rather, they are used to finance working capital and represent third parties' accruals owed from the company.
4. Item (Non-Deduction of Investments in Securities Available for Sale of "SAR 30,000,000" from Zakat Base of 2015):  
Plaintiff claimed that Defendant did not deduct investments in securities available for sale in the amount of (SAR 30,000,000) from the Zakat Base of 2015 and limited its objection to the following: a) Investments in funds should not be subject to Zakat if they represent long-term investments, the purpose of which is to generate revenues and grow capital as a property asset; and b) Investments in funds should be subject to Zakat if their activity is represented in the development of real estate for the purpose of resale or lease when ready for sale.



5. Item (Non-Approval of Deduction of Property for Development of “SAR 1,202,435,457” and Real Estate Investments of “SAR 487,666,992” from Zakat Base of 2015):  
Plaintiff claimed that Defendant did not approve the deduction of property for development in the amount of (SAR 1,202,435,457) and real estate investments in the amount of (SAR 487,666,992) from the Zakat Base of 2015, as Plaintiff's intention is to acquire and not trade. Accordingly, Plaintiff classified the property for development in the financial statements as long-term assets and the real estate investments as non-current assets.
6. Item (Calculation of Zakat on Zakat Base, not Adjusted Profit):  
Plaintiff claimed that Defendant calculated Zakat on the Zakat Base.

#### Defenses of Defendant (ZATCA):

1. Item (Non-Approval of Guarantee Provision as a Statutory Deductible Expense and Its Addition to Adjustments to Net Book Profit of “SAR11,479,985” for 2015):  
Defendant stated that it added the loans that had completed the Zakat Year to the Zakat Base in the amount of (SAR 1,541,671,814), as it found through the activity statement of loans that they are revolving in the amount of (SAR 1,159,362,559) in addition to the assets and equity that were financed thereby in the amount of (SAR 382,309,255). Also, they represent continuous loans where the loan is paid within the same period; therefore, they completed the Zakat Year, based on Article (4) of the Implementing Regulation for the Collection of Zakat.
2. Item (Addition of Loans Formed in 2015 to Zakat Base of “SAR 801,162,559” for 2015):  
Defendant stated that it added the loans that had completed the Zakat Year to the Zakat Base in the amount of (SAR 1,541,671,814), as it found through the activity statement of loans that they are revolving in the amount of (SAR 1,159,362,559) in addition to the assets and equity that were financed thereby in the amount of (SAR 382,309,255). Also, they represent continuous loans where the loan is paid within the same period; therefore, they completed the Zakat Year, based on Article (4) of the Implementing Regulation for the collection of Zakat.
3. Item (Addition of Accruals of Shareholders of “SAR 185,394,825” to Zakat Base of 2015):  
Defendant stated that it added the item in question to the Zakat base, as it found by reviewing the financial statements that the accruals of shareholders in the amount of (SAR 185,394,825) had completed the Zakat Year, based on Article (4) of the Implementing Regulation for the Collection of Zakat.
4. Item (Non-Deduction of Investments in Securities Available for Sale of “SAR 30,000,000” from Zakat Base of 2015):  
Defendant stated that it did not deduct investment in securities available for sale in the amount of (SAR 30,000,000), as it found that the purpose of the activity of investment funds is to trade in the sale and purchase of securities and goods; therefore, it is considered a trade offer, which may not be deducted from the Zakat Base.
5. Item (Non-Approval of Deduction of Property for Development of “SAR 1,202,435,457” and Real Estate Investments of “SAR 487,666,992” from Zakat Base of 2015):  
Defendant stated that it did not deduct the real estate investments in addition to the property for development, as it found that they are prepared for sale after their development.
6. Item (Calculation of Zakat on Zakat Base, not Adjusted Profit):  
Defendant stated that its procedure came in compliance with the provisions of the Implementing Regulation for the Collection of Zakat, based on Fatwa No. (23408) of 18/11/1426AH.



### Department's Decision:

1. Item (Non-Approval of Guarantee Provision as a Statutory Deductible Expense and Its Addition to Adjustments to Net Book Profit of "SAR11,479,985" for 2015):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the financial statements and their notes have shown that the guarantee expense represents a contingent liability until the end of the guarantee period; and since the activity statement of the guarantee provision submitted by Plaintiff has shown that there was no used portion from the provision during the year, it should be added to the Zakat Base in application of the provisions of Article (4/First/9) of the Implementing Regulations for the Collection of Zakat; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Addition of Loans Formed in 2015 to Zakat Base of "SAR 801,162,559" for 2015):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, with regard to the revolving and renewable loans, since the financial statements and their notes have shown that Plaintiff borrows from local banks Islamic loans on a Murabaha Financing Formula secured by mortgaging property for development of the Group; and since these loans are considered long-term loans since they are linked to the continuity of real estate activity; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question; and since the cash flow statement, with regard to Plaintiff's claim of not adding loans that financed fixed assets during the year in the amount of (SAR 382,309,255), has shown that the loans had financed property, equipment, investments of associate companies and real estate investments through the net cash from operating activities in the amount of (SAR 230,109,222); thus, the amount paid from the available cash from operating activities is taken into consideration; Therefore, the Department satisfies to amend Defendant's Decision to amend the amount of loans that financed the assets added to Zakat Base to become (SAR 152,200,033).
3. Item (Addition of Accruals of Shareholders of "SAR 185,394,825" to Zakat Base of 2015):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the financial statements and their notes have shown that the accruals of shareholders are considered a source of financing, and that the amount of which that completed the Zakat Year is added to Zakat Base; and since Plaintiff has failed to submit the detailed activity statement to prove the non-completion of the Zakat Year of the amounts in question; since the a accruals of shareholders are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
4. Item (Non-Deduction of Investments in Securities Available for Sale of "SAR 30,000,000" from Zakat Base of 2015):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the financial statements and their notes have shown that they pertain to real estate funds, "..... Fund" and "..... Fund;" and since Plaintiff has failed to provide evidence that the investments are subject to the collection of Zakat in application of the provisions of Article (4.4/A) of the Implementing Regulations for the Collection of Zakat; and since there are two basic conditions must be met for investments to be considered as property asset and be deducted from Zakat Base, namely the documented intention of the authorized person that clarifies the intention for investment and the absence of sales that took place during the year on those investments; and since investment funds are characterized by collecting amounts from different sources for investment in several fields; and since these funds have an independent financial liability of the investment entity issuing the same and is based on flipping and trading money through buying and selling, not acquisition; hence, investment in these funds is considered a trading asset and should not be deducted from Zakat Base, regardless of the



duration of investment in the fund, as the criterion is the nature of the investment; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

5. Item (Non-Approval of Deduction of Property for Development of "SAR 1,202,435,457" and Real Estate Investments of "SAR 487,666,992" from Zakat Base of 2015):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the financial statements and their notes have shown that the requirements set forth in Article (4) of the Implementing Regulations for the Collection of Zakat regarding the properties for development and real estate investments have not been met, as they are not prepared for sale and not considered a trading offer except when they are completed; and since there are two basic conditions must be met for the projects under implementation to be considered as property asset and be deducted from Zakat Base, namely the documented intention of the authorized person that clarifies the intention for investment and the absence of sales that took place during the year on those investments; Therefore, the Department satisfies to abolish Defendant's Decision regarding the item in question.

6. Item (Calculation of Zakat on Zakat Base, not Adjusted Profit):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since it is established that the calculation of Zakat Base for Zakat Payers is by adding the positive elements of the Zakat Base represented by capital, equity, year's profits, and other sources of financing, while deducting the negative elements, represented by fixed assets, long-term investments, year's losses, and carry-forward losses; and since the deduction of net fixed assets and the like represent non-current assets that assist in current and future production, and as long as the year's profits were used to finance these assets, their limitation to specific limits has no legal or statutory basis, which results in the deduction of net fixed assets and property investments without being bound by a certain limit or activity; Therefore, the Department satisfies to abolish Defendant's Decision regarding the deduction of fixed assets within the limits of equity.

#### Decision:

**First:** Dismiss Plaintiff's (..... Company, TIN ....) objection to Defendant's (ZATCA) Decisions regarding item (Non-Approval of Guarantee Provision as a Statutory Deductible Expense and Its Addition to Adjustments to Net Book Profit).

**Second:** Dismiss Plaintiff's (..... Company, TIN ....) objection to Defendant's (ZATCA) Decisions regarding item (Addition of Accruals of Shareholders to Zakat Base)

**Third:** Dismiss Plaintiff's (..... Company, TIN ....) objection to Defendant's (ZATCA) Decisions regarding item (Non-Deduction of Investments in Securities Available for Sale from Zakat Base).

**Fourth:** Amend Defendant's Decision against Plaintiff (..... Company, TIN ....) regarding item (Addition of Loans Formed to Zakat Base) for the grounds stated herein.

**Fifth:** Abolish all Defendant's other Decisions against Plaintiff (..... Company, TIN ....) regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Sunday, 24/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**





Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-645  
Case No.: Z-27652-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Statute of Limitations.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 1430 AH, wherein Plaintiff’s objection included the following:

1. Item (Statute of Limitations):  
Plaintiff objected to Defendant’s Decision for issuing its Zakat Assessment after the lapse of the statutory period.
2. Item (Personnel Cost Differences):  
Plaintiff objected to Defendant’s Decision for adding the overcharged difference to the adjusted net profit.
3. Item (Advance Payments from Clients):  
Plaintiff objected to Defendant’s Decision, stating that the debit balances are greater than the credit balances.

The Department Found That:

As for item (Statute of Limitations), Defendant has failed to provide any significant evidence of the existence of incorrect information in Plaintiff’s Declaration.

As for items (Personnel Cost Differences) and (Advance Payments from Clients), the Department has decided to abolish Defendant’s Decision regarding item (Statute of Limitations).

The Department Decided To:

Abolish Defendant’s Decision regarding all items in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Articles \(21.8/C\) and \(21.10\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**



1. Item (Statute of Limitations):

Plaintiff claimed that added issued the Zakat Assessment after the lapse of the statutory period.

**Department's Decision:**

1. Item (Statute of Limitations):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Defendant has failed to provide any substantial evidence of the existence of incorrect information in Plaintiff's Declaration that entitles Defendant to make the Zakat Assessment without being bound by a specific period, as amendments made by Defendant resulted either from incorrect implementation of Zakat regulations or disagreement in viewpoints during the Zakat calculation, which determines that Article (21.8) of the Implementing Regulations for the Collection of Zakat does not apply to Plaintiff's case; and since Defendant has informed Plaintiff of Zakat Assessment for the years in question only after the lapse of five (5) years from the final date set for the submission of Zakat Declaration; and since Defendant has failed to provide any significant evidence of the existence of incorrect information in Plaintiff's Declaration, in application of Article (21.8) of the said Implementing Regulations; Therefore, the Department satisfies to abolish Defendant's Decision.

**Decision:**

**First:** Abolish Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN .....) regarding the Zakat Assessment of 1430 AH in question.

**Second:** Abolish Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN .....) regarding item (Personnel Cost Differences of 1430 AH) in question.

**Third:** Abolish Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN .....) regarding item (Advance Payments from Clients of 1430 AH) in question.

This Decision was delivered in the presence of Both Parties. The Department has set Sunday, 24/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-652  
Case No.: 26402-2020-Z

**Key words:**

**Zakat – Objection to Zakat Assessment.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 1438 AH, wherein Plaintiff objected to the issuance of the Estimated Zakat Assessment.

The Department Found That:

The capital had been fully used to purchase fixed assets; and since the fixed assets exceed the capital and that the factory did not realize any revenues during the Assessment period.

The Department Decided To:

Abolish Defendant’s Decision regarding the Estimated Zakat Assessment.

**Instruments:**

- [Article 20.1 of the Tax Disputes and Violations Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.10/Third\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Zakat Assessment of 1438 AH):  
Plaintiff claimed that Defendant made the Assessment based on the capital registered in the Commercial Registration without taking into account that Plaintiff did not practice the activity during the year in question, and that the full value of the capital had been used to purchase fixed assets.

**Department’s Decision:**

1. Item (Zakat Assessment of 1438 AH):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the financial statements submitted by Plaintiff have shown that the capital had been fully used to purchase fixed assets; and since the fixed assets exceed the



capital; and since it was proven that the factory did not realize any revenues during the Assessment period; Therefore, the Department satisfies to abolish Defendant's Decision regarding the item in question.

#### Decision:

Abolish Defendant's (ZATCA) Decision against Plaintiff (..... Company, TIN ..... ) regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Sunday, 24/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-655  
Case No.: 34683-2021-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Addition of Dividends to Zakat Base.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2018 AD, wherein Plaintiff’s objection included item (Addition of Dividends of “SAR 3,589,412” to Zakat Base of 2018). The Department Found That:

The financial statements have shown that Plaintiff had distributed profits from the profits of the year and that dividends were added to the net adjusted profit in the Zakat Base. Also, the subjection of the dividends to Zakat is governed by the extent of the presence of the fund on which Zakat is to be paid by the taxpayer when it completes the Zakat Year.

The Department Decided To:

Abolish Defendant’s Decision regarding the Zakat Assessment.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(4/First/8\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Addition of Dividends of “SAR 3,589,412” to Zakat Base of 2018):  
Plaintiff claimed that Defendant does not have the right to dispose of dividends due to its transition to the financial liability of the shareholders; therefore, the burden of payment of Zakat falls on them, as they are Saudi companies who include those amounts within their Zakat Declarations.



### Defenses of Defendant (ZATCA):

1. Item (Addition of Dividends of “SAR 3,589,412” to Zakat Base of 2018):  
Defendant stated that its Decision came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/First/8) thereof.

### Department’s Decision:

1. Item (Addition of Dividends of “SAR 3,589,412” to Zakat Base of 2018):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the financial statements have shown that Plaintiff had distributed profits from the profits of the year; and since dividends were added to the net adjusted profit in the Zakat Base; and since the subjection of the dividends to Zakat is governed by the extent of the presence of the fund on which Zakat is to be paid by the taxpayer when it completes the Zakat Year; and since it was proven that Plaintiff does not own the fund, it is then not permissible to oblige Plaintiff to pay Zakat on that fund prior to its completion of the Zakat Year; Therefore, the Department satisfies to abolish Defendant’s Decision regarding the item in question.

### Decision:

Abolish Defendant’s (ZATCA) Decision against Plaintiff (..... Company, TIN ..... ) regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Sunday, 24/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah’s Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-659  
Case No.: Z-21348-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Trade Creditors – Accrued Expenses and Other Credit Balances – Non-Deductible Expenses.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2016 AD, wherein Plaintiff’s objected to Defendant’s Decision for adding items (Trade Creditors), (Accrued Expenses and Other Credit Balances), (Advance Payments of Fixed Asset), and (Non-Deductible Expenses) to Zakat Base.

The Department Found That:

As for items (Trade Creditors) and (Accrued Expenses and Other Credit Balances), Plaintiff has failed to provide the detailed activity statement of the trade payables.

As for item (Advance Payments of Fixed Asset), Defendant has accepted Plaintiff’s objection as per its Reply submitted to the Department.

As for item (Non-Deductible Expenses), since Plaintiff has failed to submit the supporting documents for its statement of claim.

The Department Decided To:

Establish resolution of dispute over item (Advance Payments of Fixed Asset) and dismiss all Plaintiff’s other objections

**Instruments:**

- [Article 20.1 of the Tax Disputes and Violations Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles \(55\), \(56\), and \(70\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Articles \(4/First/5\), \(5.1\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Article \(70.1\) of Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice’s Decision No. \(39933\) of 19/05/1435 AH.](#)



## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Trade Creditors):  
Plaintiff claimed that Defendant added the item in question in the amount of (SAR 33,670,929) to Zakat Base of 2016, and stated that the amounts represent payments received from some clients in exchange for the implementation of projects, as they are disbursed to supply the necessary resources for these projects. Also, the payment of Zakat for both advance payments for projects and the results of their work leads to the double charge of Zakat.
2. Item (Accrued Expenses and Other Credit Balances):  
Plaintiff claimed that Defendant added the item in question in the amount of (SAR 2,600,900) to Zakat Base of 2016 and stated that the amounts represent dues to its employees; therefore, they represent a fixed debt on Plaintiff and a monetary trust.
3. Item (Non-Deductible Expenses):  
Plaintiff claimed that Defendant added the item in question in the amount of (SAR 6,059) to Zakat Base of 2016 and stated that they are work-related and have been deducted from project revenues.

### Defenses of Defendant (ZATCA):

1. Item (Trade Creditors):  
Defendant stated that that procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/First/5) thereof.
2. Item (Accrued Expenses and Other Credit Balances):  
Defendant stated that that procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (4/First/5) thereof.
3. Item (Non-Deductible Expenses):  
Defendant stated that that procedure came in compliance with the provisions of the Implementing Regulations for the Collection of Zakat issued by the Ministerial Decision No. (2082) of 01/06/1438 AH, as it based its Decision on Article (5.1) thereof.

## Department's Decision:

1. Item (Trade Creditors):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the detailed activity statement of the payables; and since trade payables are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
2. Item (Accrued Expenses and Other Credit Balances):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to provide the detailed activity statement of the payables and the accrued expenses; and since trade payables and the accrued expenses are considered an element of Zakat Base if they completed a Zakat Year or were used to finance deductible assets from Zakat Base; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.



3. Item (Non-Deductible Expenses):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has failed to submit the supporting documents for its statement of claim; and since expenses are considered deductible from Zakat Base if they are actual expenses and supported by documents; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

**Decision:**

**First:** Establish resolution of dispute between Plaintiff (..... Company, TIN ....) and Defendant (ZATCA) over item (Advance Payments of Fixed Asset), with Defendant accepting Plaintiff's requests in this regard.

**Second:** Dismiss all Plaintiff's (..... Company, TIN ....) other objections to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

This Decision was delivered in the presence of Both Parties. The Department has set Sunday, 24/08/1443 AH, as the date of receipt of a copy thereof. Parties hereto may appeal against this Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace Be Upon Out Prophet Muhammad and Upon His Family and Companions.**





Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-3629  
Case No.: Z-28621-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Deduction of Investments.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2016 AD, wherein Plaintiff objection included item (Deduction of Real Estate Investments).

The Department Found That:

As for item (Deduction of Real Estate Investments), since investment must not be deducted, the amounts that financed the investment should not also be added to Zakat Base.

The Department Decided To:

Amend Defendant’s Decision.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Articles \(4/Second/1\) and \(20.3\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Deduction of Real Estate Investments):  
Plaintiff claimed that Defendant did not deduct investments from the Zakat base since they are registered in the name of the father, who is not a partner in the company, as the children are the partners of the company, based on Article (4/Second/1) of Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. (2082). In addition, Defendant addressed fixed assets and not investments, which is the subject of the case, as Article (4/Second/4/A) the said Implementing Regulations explicitly stipulates: “Investments in an entity in the Kingdom, in participation with others, if such investments are subject to Zakat according to this Regulations .....,” while (4/Second/4/c) stipulates: “In all cases, if the investments, whether inside or outside



the Kingdom, are in the form of securities, bonds, currencies, deposits, or deferred transactions .....” Also, these investments are a station, a residential building, and a half-residential building, all of which are owned in the name of the father; however, the company has full control, and the ownership is temporary and pro forma until the completion of the procedures for the transfer of ownership of the company. Moreover, the audited financial statements attached to the declaration submitted for the fiscal year 2016 have shown that Plaintiff disclosed the financing of investments within the group of equity under item (Other Contributions to Capital of “SAR 16,209,037”), and it was also included within the Zakat Base in the full amount to match the item of investments deducted from the same.

#### Defenses of Defendant (ZATCA):

1. Item (Deduction of Real Estate Investments):

Defendant stated that it did not deduct the investment in lands since they are registered in the name of the father, who is not a partner in the company, in accordance with Article (4/Second/1) of Implementing Regulations for the Collection.

#### Department’s Decision:

1. Item (Deduction of Real Estate Investments):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the assets are considered deductible from Zakat Base if they were registered in the name of the partners and were used in the activity, along with the submission of evidence proving the justifications and reasons that precluded the transfer of ownership to the company “Plaintiff;” and since Plaintiff has failed to submit the supporting documents for its argument on the reasons that precluded the transfer of ownership to be in the name of the company; and since Plaintiff stated that it added other contributions to the capital financing these investments to the Zakat base when submitting the Zakat Declaration; and since investment must not be deducted, the amounts that financed the investment should not also be added to Zakat Base; Therefore, the Department satisfies to amend Defendant’s Decision and not add other contributions to the capital to the Zakat base.

#### Decision:

Accept Plaintiff’s (..... Company, C.R No. .... ) objection to Defendant’s Decision in form and amend Defendant’s Decision on merits.

This Decision was delivered in the presence of Both Parties. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of a copy thereof. Parties hereto may appeal against the Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.



Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-3636  
Case No.: Z-34940-2021

**Key words:**

**Zakat – Objection to Zakat Assessment – Deduction of Fixed Assets – Addition of Dividends – Offshore Procurement Differences.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2018 AD, wherein Plaintiff objection included items (Deduction of Fixed Assets), (Investments Available for Sale), (Addition of Dividends), and (Offshore Procurement Differences).

The Department Found That:

As for item (Deduction of Fixed Assets), Plaintiff has provided evidence of the use of the lands in connection with the activity, as well as all the electronic title deeds.

As for item (Trade Creditors - Advance Payments from Clients), the dispute had been resolved with Plaintiff’s acceptance of Defendant’s procedure.

As for item (Addition of Dividends), Plaintiff has failed to submit the partners’ Decision to distribute the profits or the bank statements to prove that they were no longer in Plaintiff’s possession.

As for item (Offshore Procurement Differences), Plaintiff has failed to submit the supporting documents for the remaining differences amounting to (SAR 1,355,121).

The Department Decided To:

- Abolish Defendant’s Decision regarding item (Deduction of Fixed Assets from Zakat Base).
- Establish resolution of dispute over item (Trade Creditors - Advance Payments from Clients).
- Dismiss Plaintiff’s objection to item (Addition of Dividends to Zakat Base).
- Amend Defendant’s Decision regarding item (Offshore Procurement Differences).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(70\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Paragraph \(3\) of Article \(57\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Articles \(4/Second/1\), \(4/First/8\) and \(20.3\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)



- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) of 01/06/1438 AH. Article \(70.1\) of Implementing Regulations Law of Civil Procedure issued by Minister of Justice's Decision No. \(39933\) of 19/05/1435 AH.](#)

### Defenses of Parties:

#### Defenses of Plaintiff (Zakat Payer):

1. Item (Deduction of Fixed Assets from Zakat Base of 2018):  
Plaintiff claimed that Defendant did not accept the deduction of the value of the land, as its ownership has been transferred through donation thereto. Accordingly, Plaintiff requests to calculate the said land, the value and ownership of which are verified at the recorded values. Also, Plaintiff attached the Title Deeds to the Case file.
2. Item (Addition of Dividends to Zakat Base of 2018):  
Plaintiff claimed that Defendant distributed the profits of the partner by reducing the indebtedness of the partner establishment, which is fully owned thereby and is a client of Plaintiff. Also, a legal entry was made that does not conflict with the accounting standards applicable in the Kingdom. However, the Implementing Regulations do not contain any indication on how to prove the distribution of the profit in such a case. Accordingly, Plaintiff adheres to the validity of the procedure it has taken. Moreover, Plaintiff attached the entry and the notice that was issued to the establishment to reduce the indebtedness.
3. Item (Offshore Procurement Differences of 2018):  
Plaintiff claimed that Defendant combined the procurements included in the cost of sales, which were mentioned in the Zakat Declaration in the amount of (SAR 324,068), with the offshore procurements that included fixed assets (production line). In addition, it was clarified to Defendant that the imports mentioned in Customs Declaration included a production line that was registered among Plaintiff's assets and was not included in the cost. Also, Plaintiff asserts that the value registered in the Zakat Declaration pertained to the raw materials used in the production processes that were included in the product cost. Accordingly, Plaintiff requests that the value of the offshore procurement differences, amounting to (SAR 8,749,427) be excluded from the calculation of Zakat. Moreover, Plaintiff attached the shipping documents and purchase invoices for the aforementioned production line.

#### Defenses of Defendant (ZATCA):

1. Item (Deduction of Fixed Assets from Zakat Base of 2018):  
Defendant stated that it excluded lands in the amount of (SAR 2,850,000) from the net fixed assets, represented Plots No. (576) and (577) in the amount of (SAR 900,000), which palm farms, and Plot No. (610) in the amount of (SAR 1,300,000). However, Plot No. (609) in the amount of (SAR 650,000) was partially rejected since it represents the partner's share.
2. Item (Addition of Dividends to Zakat Base of 2018):  
Defendant stated that it excluded unsupported dividends amounting to (SAR 2,001,137) from retained earnings of (SAR 70,268,710) for 2018 due to the failure to provide the supporting documents for the dividends item.
3. Item (Offshore Procurement Differences of 2018)  
Defendant stated that it added the item in question to the net result according to the Customs Declaration submitted through the discussion letter dated 13/01/1442 AH; hence, it was calculated according to the instructions of the value of the goods plus the customs duties, as the imports mentioned in the Customs Declaration for 2018 amounted to (SAR 9,073,495), while the imports stated in the Zakat Declaration amounted to (SAR 324,068). Accordingly, the



declared difference is (SAR 8,749,427); therefore, the difference charged with the increase is (SAR 874,947) at a rate of (10%) of the undeclared difference.

### Department's Decision:

1. Item (Deduction of Fixed Assets from Zakat Base of 2018):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Plaintiff has provided evidence of its ownership of the land plots in question, which are (576, 577, 610, and 609); and since Plots Nos. (577) and (576) are agricultural lands; and since Defendant has accepted Plots Nos. (602, 617, 618 and 619), which were classified as agricultural lands, yet it failed to submit any objection to their use; and since Plaintiff has attached all the electronic title deeds; and since Plaintiff has provided evidence of the use of the lands in connection with the activity; Therefore, the Department satisfies to amend Defendant's Decision regarding the item in question.
2. Item (Addition of Dividends to Zakat Base of 2018):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question is of a documentary nature; and since Plaintiff has submitted an account statement extracted from the accounting system for the partner's (Mahilan) current account, which shows that Plaintiff approved a commission for the general manager (the partner) in the amount of (SAR 2,001,137) for the years' profits 2017 on 30/04/2018 AD, and has closed the entire balance of the partner's current account in the amount of (SAR 2,476,876) on 20/05/2018 AD, yet it failed to submit the partners' Decision to distribute the profits or the bank statements to prove that they were no longer in Plaintiff's possession; and since Plaintiff failed to submit the supporting documents for its arguments; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.
3. Item (Offshore Procurement Differences of 2018):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the Import Declaration issued by the Customs Authority is considered a substantial evidence from an impartial third party; and since Defendant's procedure to amend Plaintiff's business outcome is due to the existence of differences in the value of the imports stated in Plaintiff's Declaration compared to those included in Customs Declaration; and since Plaintiff has provided justifications for these differences, considering a portion thereof as imports of fixed assets for the production line, yet failed to submit a settlement between the imports as in the Customs Declaration with those stated in Plaintiff's Declaration for 2018; and since Plaintiff has submitted the Customs Declaration for 2018, as well as the invoices and shipping documents for the production line in the amount of (€ 1,630,000), which were linked to Customs Declaration No. (282030) (as per the information mentioned in the bill of lading) via Jeddah Islamic Port on 24/03/1440 AH, corresponding to 03/12/2018 AD, which shows that the value of the said production line is (SAR 7,394,306); and since Plaintiff has failed to submit the supporting documents for the remaining differences amounting to (SAR 1,355,121); Therefore, the Department satisfies to amend Defendant's Decision from (SAR 8,749,427) to SAR 1,355,121), and increase its profit by (10%), considering thereof as undeclared revenue.



### Decision:

**First:** In Form: In form:

Accept Plaintiff's (..... Company, C.R No. ....) objection to Defendant's (ZATCA) Decision regarding the Zakat Assessment in question.

**Second: On Merits:**

1. Abolish Defendant's Decision regarding item (Deduction of Fixed Assets from Zakat Base of 2018).
2. Establish resolution of dispute over item (Trade Creditors - Advance Payments from Clients).
3. Dismiss Plaintiff's objection to item (Addition of Dividends to Zakat Base of 2018).
4. Amend Defendant's Decision regarding item (Offshore Procurement Differences of 2018).

This Decision was delivered in the presence of Both Parties. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of a copy thereof. Parties hereto may appeal against the Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-3637  
Case No.: 37506-2021-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Receivables from Government Agencies – Hospitality – Bad Debts.**

**Abstract**

Plaintiff (“Zakat Payer”) filed this Case to abolish Defendant’s (“ZATCA”) Decision regarding the Zakat Assessment of 2017 and 2018 AD, wherein Plaintiff’s objection included items (Receivables from Government Agencies), (Hospitality), and (Bad Debts).

The Department Found That:

As for item (Receivables from Government Agencies), Plaintiff has failed to submit the supporting documents to prove that the “government agency” was requested to pay the fund owed thereto and that Plaintiff’s inability to collect the amounts due is a result of the negligence of that government agency.

As for item (Hospitality), these expenses are considered deductible if proven to be actual expenses and are supported by documents. Also, Plaintiff has failed to submit the supporting documents for its argument regarding the expenses in question.

As for item (Bad Debts), Plaintiff has failed to return the bad debts to the book profit and has also failed to provide evidence that the conditions for deducting the bad debts have been met.

The Department Decided To:

- Dismiss Plaintiff’s objection.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles \(4.1/A\), \(5.3\), \(6.2\), and \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance’s Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)





## Defenses of Parties:

### Defenses of Plaintiff (Zakat Payer):

1. Item (Receivables from Government Agencies):  
Plaintiff claimed that the amounts of (SAR 76,843,205) and (SAR 43,910,519) are owed by government agencies for previous years, and that they must complete a Zakat Year in order to be subject to Zakat, as subjecting these amounts to Zakat before their collection will inevitably lead to an economic crisis for Plaintiff.
2. Item (Hospitality):  
Plaintiff claimed that the item in question represents the expenses of beverages, including tea, coffee, and water, as well as other expenses paid in cash and supported with documents.
3. Item (Bad Debts):  
Plaintiff claimed that it added the provision for doubtful debts in full to the book profit in the Zakat Declaration in Table No. (20) for 2018.

### Defenses of Defendant (ZATCA):

1. Item (Receivables from Government Agencies “2017-2018”):  
Defendant stated that the item in question represents receivables owed by Plaintiff to government agencies, and it is not a deductible item from the Zakat Base, in accordance with the provisions of Article (4) of the Implementing Regulations for the Collection of Zakat of 1438 AH. Also, Defendant based its reply to Inquiry No. (6) on Fatwa No. (19643) of 23/05/1415 AH, which stipulated: “Zakat is due on debts owed by the company to debtors, whether due at a single future date or multiple future dates, regardless of their due date, if they completed a Zakat Year and were owed by a solvent debtor who is not in default, and the creditor is able to recover his/her fund.”
2. Item (Hospitality):  
Defendant stated that Plaintiff did not submit any supporting documents for these expenses.
3. Item (Bad Debts):  
Defendant stated that it requested Plaintiff to provide the necessary documents to accept the item in question as a deductible expense; however, Plaintiff failed to do so.

## Department’s Decision:

1. Item (Receivables from Government Agencies):  
Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since Zakat is not obligatory on the creditor on his/her fund owed to government agencies which he/she is unable to collect due to a delay from these government agencies and not as a result of his/her negligence or failure to adhere to the standards and requirements set by the government agency; and since Plaintiff has failed to submit the supporting documents to prove that the “government agency” was requested to pay the fund owed thereto and that Plaintiff’s inability to collect the amounts due is a result of the negligence of that government agency; Therefore, the Department satisfies to dismiss Plaintiff’s objection to the item in question.



2. Item (Hospitality):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since these expenses are deductible if proven to be actual expenses and are supported by documents; and since the dispute over the item in question is of a documentary nature; and since Plaintiff has failed to submit the supporting documents for its argument regarding the expenses in question; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

3. Item (Bad Debts):

Having taken cognizance of the subject of dispute and Notes Nos. (16) and (5) to the financial statements for 2018 AD (unaudited) and Table (20) of Plaintiff's Zakat Declaration, the Department found that, since Plaintiff has failed to return the bad debts to the book profit and has also failed to provide evidence that the conditions for deducting the bad debts have been met; Therefore, the Department satisfies to dismiss Plaintiff's objection to the item in question.

**Decision:**

Accept Plaintiff's (..... Company, C.R No. ....) objection to Defendant's (ZATCA) Decision in form and dismiss the same on merits.

This Decision was delivered in the presence of Both Parties. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of a copy thereof. Parties hereto may appeal against the Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-3640  
Case No.: 55466-2021-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Prepaid Deferred Expenses.**

**Abstract**

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision regarding Zakat Assessment of 2015 AD, as it included Plaintiff's objection to Defendant's Decision regarding the non-deduction of prepaid deferred expenses in the amount of (SAR 114,560,36) from Zakat Base.

The Department Found That:

Plaintiff has failed to submit the financial statements and the documentary evidence of those expenses to determine their details and nature for clarification of their Zakat calculation and validation.

The Department Decided To:

- Dismiss Plaintiff's objection.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(4/Second/7\) of Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. \(2082\) of 01/06/1438 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

**Defenses of Parties:**

**Defenses of Plaintiff (Zakat Payer):**

1. Item (Deduction of Prepaid Deferred Expenses):

Plaintiff claimed that they are actual expenses that were duly cleared from the company's financial liability and were registered as prepaid expenses in accordance with the accounting standards; hence, they are considered deferred expenses and pre-operational or incorporation expenses that must be deducted from Zakat Base. In addition, these expenses should not be considered non-deductible expenses for the purposes of Zakat calculation, as stipulated in Article (6) of Implementing Regulations for the Collection of Zakat. Moreover, these expenses contribute to generating revenue for a number of years; hence, they are considered incorporation expenses and



must be deducted from Zakat Base pursuant to Defendant's (ZATCA) Circular No. (9/1973) dated 04/04/1428 AH. Furthermore, the Decision No. (IR-2020-35) delivered by the First Appellate Department for Income Tax Violations and Disputes upheld the company's "Plaintiff" motion to deduct these expenses from Zakat Base.

#### Defenses of Defendant (ZATCA):

##### 1. Item (Deduction of Prepaid Deferred Expenses):

Defendant stated that it did not approve the deduction of the item in question from Zakat Base, as it is not among deductible items set forth in Article (4) of Implementing Regulations for the Collection of Zakat of 1438 AH. In addition, the accounting treatment according to the accrual basis requires considering the prepaid expenses as an item of the current assets and then amortized periodically, while charging the income to the amortization expense annually pursuant to the principle of matching the expense with the income, which indicates that this expense was considered when calculating the Zakat Base, as the net income is among components of the Zakat Base. Accordingly, the entire balance of the deferred expenses should not be deducted in full from Zakat Base, but rather the periodically realized expense is deducted. Moreover, the item in question is not considered among deductible elements or items from the Zakat Base under the provisions of Implementing Regulations for the Collection of Zakat of 1438 AH.

#### Department's Decision:

##### 1. Item (Deduction of Prepaid Deferred Expenses):

Having taken cognizance of the subject of dispute and the documents included in the Case file, the Department found that, since the dispute over the item in question lies the deduction of prepaid deferred expenses from Zakat Base, as Plaintiff stated that they are actual expenses that were duly cleared from the company's financial liability; hence, they are considered deferred expenses and among long-term capital expenses that may be deducted from the Zakat Base, while Defendant argued that those expenses are not among deductible elements or items from the Zakat Base under the provisions of Implementing Regulations for the Collection of Zakat; and since Plaintiff has failed to submit the financial statements and the documentary evidence of those expenses to determine their details and nature for clarification of their Zakat calculation and validation; Therefore, the Department satisfies to dismiss Plaintiff's objection.

#### Decision:

Accept Plaintiff's (..... Company, C.R No. ....) objection to Defendant's (ZATCA) Decision in form and dismiss the same on merits.

This Decision was delivered in the presence of Both Parties. Date of depositing the Decision in the e-system of the General Secretariat of Zakat, Tax and Customs Committees is considered the date of delivery of a copy thereof. Parties hereto may appeal against the Decision under Law within thirty (30) days from the day following the date specified for its receipt, whereafter the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-3922  
Case No.: Z-26051-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Miscalculation of Zakat Base**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for 2020, specifically regarding the duplication of the amount for 2019 and 2020. The Department found that Plaintiff provided a detailed statement that is manually prepared, elaborating miscalculation of the amount duplication, while failing to provide the supporting documents for its position on the item in question. Since Plaintiff did not provide VAT returns to verify the accuracy of its statement, or a proof of payment of Zakat for 1440 to consider Zakat amount. The Department decided to dismiss Plaintiff's objection.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(3\) of Article \(20\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Miscalculation of Zakat Base:

Zakat Payer stated that the objection involves ZATCA mistake of duplicating calculation of sales for the third quarter of 2019, as the same amount was counted twice; once as part of Zakat for 1440 AH, and then again as part of Zakat for 1441 AH. In the event of excluding duplicated amount of SAR 5,296,603.07 related to the sales reported in tax return for the third quarter of 2019, which had already been included in Zakat assessment for 1440, the correct Zakat base for 1440 would be as follows: Zakat Base = SAR 641,868.25, and Zakat Payable = SAR 16,046.73. Accordingly, we request that ZATCA representative refer to VAT sales based on which the estimated Zakat base for 1440 and 1441 was calculated, and the duplicated sales amount for the third quarter of 2019 will become evident”.



## Defendant's Defenses

### Item First: Miscalculation of Zakat Base:

Defendant stated that its Decision was made in accordance with (Third) and (Fourth) of Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH, as the assessment was made based on VAT sales as follows: [Zakat Base = (SAR 2,098,435.2), and Required Zakat = (SAR 52,460.88)]. Accordingly, Defendant has exercised its powers granted under these Rules, which entitles Defendant to make an Estimated Assessment on Plaintiff as per the information and data reached. In addition, Defendant may, pursuant to the powers granted under these Rules, calculate the Zakat Base that fairly reflects the true nature of Plaintiff's activity in the light of circumstances and facts related to the situation and information available on Plaintiff, either through documented evidence provided by Plaintiff, or through direct and continuous reference to any information directly related to Plaintiff that is kept by a third party showing the size of Plaintiff's imports, contracts, employment, loans, and subsidies obtained.

## Committee's Response to Defenses.

### Item First: Miscalculation of Zakat Base:

Having taken cognizance of Case file, arguments and documents included therein, the Department found that Plaintiff attached a manually prepared detailed statement showing the alleged error in duplicating amount in Zakat calculations for 1440 and 1441. However, Plaintiff did not provide the supporting documents for its position on the item in question. Since Plaintiff did not provide VAT returns necessary to verify the accuracy of its claim, nor did it provide proof of payment of Zakat for 1440 to enable a review of Zakat amount. Having reviewed the manually prepared table provided by Plaintiff, it turned out that Plaintiff did not account for the third quarter of 2020, considering that Plaintiff's financial period spans from 01/01/1440 AH to 29/12/1441 AH (corresponding to 31/08/2019 AD to 19/08/2020 AD). Therefore, it turns out that Zakat is due on a portion of the sales from the third quarter of 2020. As such, and given that Plaintiff's calculation is inaccurate. Therefore, the Department dismisses Plaintiff's objection.

## Decision:

Accept the objection filed by Plaintiff (...), holder of National ID No. (...), to Defendant (ZATCA) Decision in form and dismiss the objection on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-4236  
Case No.: 31298-2020-Z

**Key words:**

**Zakat – Objection to Zakat Assessment – Dividends Completed a Full Zakat Year**

**Abstract**

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for 2017. The dispute involves Defendant's procedure outlined in issuing Zakat assessment for 2017. The Department found, regarding (Dividends Completed a Full Year) item, that Zakat payment is conditional on remaining property in the possession of Plaintiff until the end of Hijri year. Accordingly, the Department decided to dismiss the case.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(8\) of \(First\) of Article \(4\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Dividends Completed a Full Zakat Year:

Plaintiff stated in the statement of claim, regarding adding dividends to Zakat base for 2017 on the ground of completing a full Zakat year, that Article (15) of the Implementing Regulations for the Collection of Zakat stipulates that Zakat Payer shall be entitled to use the Gregorian fiscal year to complete a full Zakat year, as dividends shall be added to Zakat base due to the fact that such dividends were distributed before the year-end.





## Defendant's Defenses

### **Item First:** Dividends Completed a Full Zakat Year:

ZATCA stated that it added the amount of SAR 1,200,000 as profits that were distributed after the completion of a full Zakat year. Having taken cognizance of the documents related to audit, it turned out that each partner received SAR 600,000, which was distributed on 31/12/2017 AD, meaning after the passage of a full Zakat year in accordance with Paragraph (11) of (First) of Article (4). Accordingly, ZATCA added (Dividends Completed a Full Zakat Year) item to Zakat base for the year in question, which is consistent with both Sharia and regulatory requirements. Islamic jurisprudence requires the passage of twelve lunar months over Zakatable funds, as confirmed by the Decision of the Council of Senior Scholars in Saudi Arabia by Resolution No. (222) dated 29/06/1426 AH. This also aligns with Royal Decree No. (8634/28/2/17) dated 22/06/1370 AH, and with Article (15), Paragraph (1) of the Implementing Regulations for the Collection of Zakat. This has been the established practice within ZATCA for all Zakat Payers without exception and has been consistently upheld by the Appellate Committee, as well as confirmed by ZATCA Letter No. (3314/1) dated 22/05/1419 AH, which stated: “We inform you that the lunar (Hijri) year shall be applied in cases where elements and items in the submitted accounts, prepared according to the Gregorian calendar, have completed the lunar year”.

## Committee's Response to Defenses.

### **Item First:** Dividends Completed a Full Zakat Year:

As such, since Zakat payment is conditional on the wealth in the possession of Plaintiff until the end of lunar year, and that the law gives Zakat Payers the option to choose its fiscal year based on Gregorian year is to facilitate their affairs in book-keeping, and shall not impact their obligation to pay Zakat when its Sharia requirement is met. Having taken cognizance of Case file, the Department found that the dispute involves Plaintiff's claim to deduct dividends distributed throughout the year, considering that the fiscal year approved for preparing its financial statements is the Gregorian year, rather than the Hijri year. Therefore, the Department dismisses Plaintiff's objection.

## Decision:

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision regarding Zakat assessment subject matter of the Case in form and dismiss it on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.**



Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-4347  
Case No.: Z-30091-2020

**Key words:**

**Zakat – Objection to Zakat Assessment – Short-Term Loans and Overdrafts – Accrued Expenses – Provision for Doubtful Debts – Dividends – Advance Payments from Customers**

**Abstract**

Zakat Payer filed this case moving for annulling ZATCA Decision regarding Zakat assessment for years from 2015 to 2018. The dispute involves Defendant's procedure outlined in making Zakat assessment for years from 2015 to 2018. Zakat Payer objects to Defendant's procedure regarding (Short-Term Loans and Overdrafts) item, concerning the addition of short-term loans and overdrafts to Zakat base; (Accrued Expenses) item, concerning the addition of carried-over balance of accrued expenses to Zakat base; (Provision for Doubtful Debts) item, concerning the addition of provision for doubtful debts to Zakat base twice; (Dividends) item, concerning the disallowing deduction of dividends from Zakat base; and (Advance Payments from Customers) item, concerning the addition of advance payments from customers to Zakat base. The Department found, regarding (Short-Term Loans and Overdrafts) item, that Zakat Payer did not provide the detailed movement supporting its claim that the loans had not completed a full Zakat year; regarding (Accrued Expenses) item, Zakat Payer did not provide the detailed movement of accrued expenses to prove that the amounts had not completed a full Zakat year; regarding (Provision for Doubtful Debts) item, Zakat Payer did not provide the movement details of provision for doubtful debts; regarding (Dividends) item, Zakat Payer did not provide payment receipts or bank statements proving that these amounts had been discharged from Company's liability; regarding (Advance Payments from Customers) item, Zakat Payer did not provide a statement of account generated from the accounting system elaborating that the opening balances were closed in the revenue account during the period, or that the closing balances were created during the year; and regarding (Social Insurance Expenses) item, Zakat Payer did not object to this item in the submitted memorandum. Therefore, the Department establishes resolution of the dispute regarding (Accrued Expenses) item and (Insurance Expenses) item, and dismisses all other objections.



### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(70\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(First.5\), Paragraph \(4\), Paragraph \(8\), Paragraph \(9\) of \(First\) of Article \(4\), Paragraph \(3\) of Article \(20\), and Paragraph \(1\) of Article \(70\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [the Implementing Regulations of the Law of Civil Procedure issued by Ministerial Resolution No. \(39933\) dated 19/05/1435 AH.](#)

### Parties' Defenses

#### The Plaintiff's defenses

**Item First:** Short-Term Loans and Overdrafts for Years from 2015 to 2018:

Plaintiff stated that ZATCA added the opening or closing balance, whichever is lower, to Zakat base for years from 2015 to 2018 in the amount of SAR 64,836,611.17, SAR 35,839,410.67, SAR 34,807,862.53 and SAR 173,060,891, respectively. However, this procedure is incorrect based on Fatwa No. (22665) dated 15/04/1424 AH, which stated that “the entire or part of Zakat year must pass (on the loan) before being spent, and any portion of it that has completed a full Zakat year is subject to Zakat”. This means that the completion of a full Zakat year is a condition for the levying Zakat on the loan.

**Item Second:** Accrued Expenses for 2015, 2016 and 2018:

Plaintiff stated that, in Zakat assessment, the carried-over balance of accrued expenses was added to Zakat base based on the principle of the passage of a full Zakat year. In addition, Plaintiff explained that the Company follows the accrual accounting principle, rather than cash basis, in recording its financial transactions, and that the reported expenses outline costs incurred by the Company and are deductible expenses. These expenses outline obligations that are fixed in amount and date and are calculated through Company's accounting system. Based on Appellate Committee Decision No. (1274) dated 13/6/1434 AH, the Committee held that whether the expenses are recorded as an expense or a provision, they correspond to entitlements owed to Company's employees, satisfying both the conditions of accrual and determinability, with no future probability of the expense being unpayable or not disbursed to the employee. These accrued expenses were recorded in accordance with the Saudi Labor Law.

**Item Third:** Provision for Doubtful Debts for Years from 2015 to 2017:

Plaintiff stated that ZATCA subjected the provision for doubtful debts to Zakat twice: once when adjusting Zakat net profit, and again under other additions to Zakat base.



#### **Fourth Item** Dividends for Years from 2015 to 2017:

Plaintiff argued for disallowing deduction of dividends from Zakat base for years from 2015 to 2017 in the amount of SAR 15,000,000, SAR 5,000,000 and SAR 5,000,000 respectively. It was stated in the statement of claim that ZATCA added the opening balance of retained earnings account to Zakat base, which Plaintiff objected to, noting that ZATCA did not deduct the value of dividends that were made throughout the financial periods according to Company's audited financial statements. Plaintiff further explained that such profits were distributed in cash from Company's account and that a full Zakat year had not passed on them.

#### **Fifth:** Advance Payments from Customers for 2016:

Plaintiff stated that ZATCA added the advance payments from customers to Zakat base. However, this procedure was incorrect based on Fatwa No. (22665) dated 15/04/1424 AH, which stipulates that the passage of a full Zakat year is a condition for Zakat obligation. In addition, Plaintiff explained that the opening balance of advance payments from customers amounted to SAR 19,091,292, the additions throughout the year amounted to SAR 3,062,173, the deductions throughout the year amounted to SAR 9,669,142, and the closing balance amounted to SAR 12,484,323. Accordingly, the balance on which a full Zakat year had passed was SAR 9,422,150.

### **Defendant's Defenses**

#### **Item First:** Estimate Zakat assessment for 1440.

The audit process revealed that there are revolving loans based on tracking loan deposit and repayment movements in terms of amount and date, which requires the addition of revolving loan amounts to Zakat base. It was also found that the short-term loans were used to finance fixed assets and available-for-sale investments, as there were no other sources of financing for the assets, and the operating results for 2015 and 2016 showed a deficit for Plaintiff. Having taken cognizance of the objection, Plaintiff was asked to provide the trial balance clarifying loan account numbers, loan agreement, bank statements showing loans, purpose of loans, how the assets added throughout the year were financed, as well as an analytical statement showing loan movements (opening balance, movements throughout the year and closing balance) and a breakdown of what assets were financed. However, due to the lack of clarity regarding the purpose of the agreement and Plaintiff's failure to respond to the inquiries regarding the financing of assets and investments throughout the year, and upon reviewing the statements where it was not possible to trace the loan movements, the procedures were based on Article (4), Paragraph (First.5) of the Implementing Regulations for the Collection of Zakat.

#### **Item Second:** Accrued Expenses for 2015, 2016 and 2018:

Plaintiff stated that during the assessment, the item was added to Zakat base due to the passage of a full Zakat year over the accrued expenses, which requires their addition to the base. Having taken cognizance of the objection and examined the analytical statement provided during the assessment phase, and specifically regarding the leave provision for 2015 and 2016, it turned out that, whether the leave was recorded under provisions or accrued expenses, it outlines amounts reserved to cover employee's entitlement to the annual leave compensation. According to Labor Law, such compensation is considered a fixed right of the employee, and thus meets the conditions for allowing deduction of the expense as stated in the Regulations. Since Plaintiff provided the supporting documents, namely an analytical statement for this item, Plaintiff's request regarding the provision for accrued leave was accepted. As for the remaining items, it turned out that ZATCA procedure outlined in adding items upon which the full Zakat year had passed is valid based on the statement provided by Plaintiff during the assessment and in accordance with Article (4), Paragraph (First.5) of the Implementing Regulations for the Collection of Zakat.



### **Item Third:**

It was found during the audit that no provision for doubtful debts appeared under (Provisions) item, and according to Plaintiff's filed declaration, only the end-of-service benefits provision was recorded. Accordingly, ZATCA added the provision for doubtful debts by adding provision amount to net Zakat profit and adding the opening balance less the utilized amount to Zakat base. This action was based on the financial statements and the provision movement statement provided by Zakat Payer, and in accordance with Paragraph (6) of Article (6) of the Implementing Regulations for the Collection of Zakat and Paragraph (First.9) of Article (4) of the Implementing Regulations for the Collection of Zakat.

### **Fourth Item**

ZATCA, during the assessment, did not deduct (Dividends) item from Zakat base, since the distributions were non-cash. Having taken cognizance of the objection, Plaintiff was asked to provide the bank account statement and issued checks to the shareholders corresponding to the value of the dividends, along with the related settlement entries. However, Plaintiff only submitted the Board of Directors' resolution approving profit distribution and the journal entry recording the item's movement, without providing evidence confirming actual distribution date or the deposit into a specific account in accordance with Paragraph (First.11) of Article (4) of the Implementing Regulations for the Collection of Zakat.

### **Fifth:**

ZATCA stated that, during the assessment, (Advance Payments from Customers) item was added to Zakat base due to variances found in the related parties account and advances from customers, which required its addition to the base. Having taken cognizance of the objection, Plaintiff was asked to provide an analytical statement for the item showing the opening balance, the movement throughout the year, and the closing balance, generated from the accounting system and consistent with the financial statements' balances. However, Plaintiff did not provide the required statement as requested during the hearing session, instead providing an analytical statement for the total amount only, as indicated in the objection letter.

## **Committee's Response to Defenses.**

### **Item First: Estimate Zakat assessment for 1440.**

As such, and given that loans are considered one of the components of Zakat base regardless of their type, source or classification, provided that a full Zakat year has passed over such loans or they have been used to finance assets deducted from Zakat base without requiring the lapse of a full Zakat year. Having taken cognizance of the documents included in Case file, it turned out that Plaintiff attached a manually prepared movement of short-term loans and overdrafts for the years in question and provided only the financial statements for 2017. Since Plaintiff did not provide detailed movements supporting its claim that such loans had not completed a full Zakat year, and due to the lack of detailed movements showing whether the opening balances were repaid during the year or that the closing balances were created during the year. Therefore, the proper procedure is to add the balance of this item as a source of funding, being one of Zakat base components, by taking the lower of the opening or closing balance to add the balances over which a full Zakat year has passed. Thereupon, the Department dismisses Plaintiff's objection regarding this item for years from 2015 to 2018.





**Item Second:** Accrued Expenses for 2015, 2016 and 2018:

As such, and considering that the accrued expenses are one of the components of Zakat base provided that a full Zakat year has passed over such expenses, and since the dispute regarding the accrued leave provision for 2015 and 2016, in the amount of SAR 7,425,901, has been resolved when Defendant accepted Plaintiff's objection as stated in Defendant's answer dated .././..., which includes: "It turned out after review that (Leave) item, whether recorded as a provision or as accrued expenses, outlines amounts reserved to cover employees' entitlement to annual leave compensation, and such compensation, according to Labor Law, constitutes an established right for the employee. Therefore, it meets the conditions for expense deductibility as stated in the Regulations. Since Plaintiff provided the supporting documents, namely a detailed statement of the item, Plaintiff's request regarding the accrued leave provision was accepted". Regarding the remaining accrued expenses in the amount of SAR 15,518,037, and upon reviewing the documents attached to Case file, and given that Plaintiff did not provide a detailed movement of the accrued expenses for 2015, 2016 and 2018 to prove that a full Zakat year had not passed over such expenses, and did not provide the supporting documents. Therefore, the Department established resolution of the dispute regarding "Accrued Expenses within Limits of Accrued Leave Provision" item and dismisses Plaintiff's objection regarding "Remaining Accrued Expenses" item.

**Item Third:** Provision for Doubtful Debts for Years from 2015 to 2017:

As such, and since the dispute regarding this item is a document-based, and having taken cognizance of Case file, arguments and documents included therein. Given that Plaintiff did not provide the movement of the provision for doubtful debts, through which it would have been possible to verify the balance of the provision over which a full Zakat year had passed and which must be added to Zakat base. Since the Zakat calculation of provisions consists of adding provision amount to the accounting net profit and adding opening balance, after deducting the utilized portion, to the elements that increase Zakat base to determine the amount over which a full Zakat year has passed. Therefore, the Department dismisses Plaintiff's objection.

**Fourth Item** Dividends for Years from 2015 to 2017:

Since, in principle, retained earnings at year-end are to be added to Zakat base after deducting dividends. Since the dispute over this item is document-based. Having taken cognizance of Case file, arguments and documents included therein, the Department found that Plaintiff attached the following: (Board of Directors' resolution on dividends for the years in question – journal entries confirming such dividends – a list of the partners' names). Since these documents are insufficient and cannot be relied upon, as Plaintiff did not provide payment receipts or bank statements evidencing that such amounts were discharged from Company's liability, which is necessary to verify Plaintiff's claim. Therefore, the Department dismisses Plaintiff's objection.

**Fifth:** Advance Payments from Customers for 2016:

Advance payments from customers are considered a source of financing, and the amount on which a full Zakat year has passed is added to Zakat base. Having taken cognizance of Case file and since the dispute is document-based, and having reviewed the documents provided by Plaintiff, it turned out that Plaintiff presented a manually prepared statement showing the account activity throughout the year. Since Plaintiff did not provide an account statement generated from the accounting system indicating that the opening balances were closed in revenue account during the period, or that the closing balances were formed throughout the year. Therefore, the Department dismisses Plaintiff's objection.



### Decision:

**First:** In Form: In form: Accept the objection filed by Plaintiff ... Company, C.R. No. (...), against the Defendant's Decision.

**Second: On Merits:**

1. Establish resolution of the dispute regarding (Accrued Expenses within Limits of Accrued Leave Provision) item.
2. Establish resolution of the dispute regarding (Insurance Expenses for 2018) item.
3. Dismiss Plaintiff's other objections.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





## Committee for Determination of Tax Violations and Disputes Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No.: IFR-2022-4461  
Case No.: 37381-2021-Z

### Key words:

**Zakat - Objection to Zakat Assessment - Travel Ticket Provisions - Leave Provision - Material Error in Calculating Zakat Base**

### Abstract

Zakat Payer requests annulling ZATCA Decision regarding Zakat assessment for 2016 regarding (Travel Ticket Provisions) item, (Leave Provision) item and (Material Error in Calculating Zakat Base) item. The Department found, regarding (Travel Ticket Provision) item, that the due travel ticket expenses are considered allowable deductions from net profit as they are ordinary and necessary expenses related to the business activity and do not outline provisions. Regarding (Leave Provision) item, the Department found that the due leave expenses are considered as an accrued expense that is due for payment and not as provisions, regardless of the timing of their payment. These expenses are deductible. Regarding (Material Error in Calculating Zakat Base) item, the Department found that the memorandum did not include any argument against what was presented by Plaintiff. Therefore, the Department found that there is a material error. Thereupon, the Department accepts Plaintiff's objection and annuls defendant's procedure.

### Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(4\) and Paragraph \(1\) of Article \(5\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

### Parties' Defenses

#### The Plaintiff's defenses

**Item First:** Travel Ticket Provision:

Plaintiff stated that travel tickets are not considered provisions, but rather an accrued expense that is settled in the next year, as evident from the account movement. In addition, such expense is an actual expense supported by documents, and it is one of the necessary expenses to generate taxable income, whether it has been paid or is accrued, and it meets the conditions stipulated the Regulations.

**Item Second: Leave Provision:**

Plaintiff stated that travel tickets are not considered provisions, but rather an accrued expense that is settled in the next year, as evident from the account movement attached. In addition, such expense is an actual expense supported by documents. Furthermore, Plaintiff is ready to provide the supporting documents if requested. In addition, such expense is necessary to generate taxable income, whether it has been paid or is accrued, and it meets the conditions stipulated the Regulations.

**Item Third: Material Error in Calculating Zakat Base:**

Plaintiff stated that there is a material error in calculating Zakat base on its site amounting to SAR 605,075, which results in an increase in Zakat by SAR 15,127.

**Defendant's Defenses****Item First: Travel Ticket Provision:**

Plaintiff stated that the assessment Decision was made in accordance with Paragraph (1) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, which stipulates: “The following expenses can be deducted to determine the net result of activity: 1. Expenses ordinary and necessary for an entity to engage in business activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years. b. Expenses should be related to Zakat Payer’s business activity rather than personal expenses or other than Zakat Payer’s own activities. c. Expenses may not be of capital nature. Where a capital expenditure is included in the expenses such expenditure shall be adjusted against the result of activity added to fixed assets and accordingly depreciated as applicable”.

**Item Second: Leave Provision:**

Paragraph (1) of Article (5) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, related to the deductible expenses, stipulates: “The following expenses can be deducted to determine the net result of activity: 1. Expenses ordinary and necessary for an entity to engage in business activity, subject to meeting the following criteria: a. Expenses should be actual expenses as supported by relevant documents and other evidential matter to enable the Authority to verify the accuracy of expenses, even if related to prior years. b. Expenses should be related to Zakat Payer’s business activity rather than personal expenses or other than Zakat Payer’s own activities. c. Expenses may not be of capital nature. Where a capital expenditure is included in the expenses such expenditure shall be adjusted against the result of activity added to fixed assets and accordingly depreciated as applicable”.

**Item Third: Material Error in Calculating Zakat Base:**

Plaintiff stated that the accounting profit was adjusted by the component of provisions during the year, and if the amount paid exceeds the component, the adjustment is made based on the rule: (carried forward balance + accrued balance) - the paid balance. When calculating Zakat base, the carried forward balance at the beginning of the year is added to Zakat base after deducting the payments made throughout the year, according to the ownership percentage, provided that the payment does not exceed the carried forward balance at the beginning of the year. ZATCA based its procedure on Article (4) and Article (5) of the Implementing Regulations for the Collection of Zakat. In addition, Defendant’s procedure is upheld by Appellate Decision No. (1510). Thereupon, ZATCA insists on validity and correctness of its procedure. ZATCA the Defendant concluded its plea moving to dismiss the case, while reserving its right to submit further responses and clarifications to the Plaintiff’s objection before the Committee.



## Committee's Response to Defenses.

### **Item First:** Travel Ticket Provision:

Having taken cognizance of documents included in Case file, and since Plaintiff provided the movement for the account of accrued travel tickets supporting its position, it turns out that (Accrued Travel Tickets) item is considered a deductible expense from the net profit, as it is an ordinary and necessary expense related to the business activity and does not outline provisions. Therefore, the Department annuls Defendant's Decision regarding (Travel Ticket Provision) item.

### **Item Second:** Leave Provision:

As such, and since (Accrued Leave) item is considered a fixed right for the employee, whether classified as provisions or accrued expenses, it outlines compensation for employee's annual leave entitlements. It meets the conditions for deductible expenses as it satisfies the conditions of accrual and accurate estimation. Since there is no future possibility of the employee not being entitled to this compensation. In addition, the amount is fixed and known, meaning it cannot be paid less than what was estimated. Since (Accrued Leave) item is considered an accrued expense that is due for payment, regardless of the timing of its disbursement, and it qualifies as a deductible expense. Therefore, after considering addition of any amount that has completed a full Zakat year for the accrued leave balance to Zakat base. Therefore, the Department annuls Defendant's Decision regarding (Leave Provision) item.

### **Item Third:** Material Error in Calculating Zakat Base:

As such, and having taken cognizance of the documents provided by both parties, and considering that Plaintiff's representative provided in the hearing a copy from Defendant's website clarifying material error in the calculation. Since Defendant's representative decided to rely solely on the answer attached, which did not address the arguments raised by Plaintiff. Since the Department found that there is a material error. Therefore, the Department annuls Defendant's Decision.

## Decision:

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision regarding Zakat assessment subject matter of the Case in form and overturn Defendant's Decision on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-4462  
Case No.: Z-43199-2021

**Key words:**

**Zakat – Objection to Zakat Assessment - Loans - Suppliers - Dividends**

**Abstract**

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 2017. The Zakat Payer objects to the Zakat assessment issued by the Defendant for the year 2017, specifically with regard to Item (Loans 2017) which totaled SAR 8,262,851, Item (Suppliers 2017) which totaled 8,262,851, and Item (Dividends) which totaled SAR 5,000,000 for the year 2017. The Department established that as for the Loans item, the Defendant has provided evidence of the validity of its action, and as for Item (Suppliers), it was found that the Plaintiff had used that amount to import equipment and machinery in the amount of SAR 1,054,680, while for Item (Dividends), it is established that Zakat obligation applies only to the funds held in possession of the Plaintiff until the end of the lunar year. Accordingly, the Department decided to dismiss the case.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article 20.1 of the Tax Disputes and Violations Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles 55 and 56 of the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(First/5\), and Paragraph \(First/8\) of Article \(4\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's defenses

#### **Item First: Loans:**

The Plaintiff stated that an amount of SAR 8,262,581 was imposed concerning this item, and that the financing was granted on 19/10/2017. By the date of Zakat calculation at the end of the year, one full lunar year had not yet passed on it. The Plaintiff also stated that these loans were added to Zakat base in the following year (2018). Furthermore, it added that the adjusted amount in the draft is larger than the financing granted to the Company, which amounts to SAR 7,453,495. The Zakat Payer argued that the bank commission was not added to the full value of asset, and the part due upon operation of the project was added to financing expenses and liabilities.

#### **Item Second: Suppliers:**

The Plaintiff objected against ZATCA's calculation of SAR 8,262,851 because the transaction was recorded on 22/11/2017. One full lunar year had not yet passed on it by the date of Zakat allocation on 31/12/2017.

#### **Item Third: Dividends**

The Plaintiff stated that an amount of SAR 5,000,000 for 2017 was paid upon availability of liquidity and before the end of the fiscal year on 31/12/2017, based on which all Zakat items were calculated. The Plaintiff clarified that these dividends are not calculated in Zakat base for 2017, and they are supposed to be deducted from the next financial base of 2018, which did not happen.

### Defendant's Defenses

#### **Item First: Loans:**

The Defendant stated that during the assessment, the item was added to Zakat base because it was used to finance the import of equipment, machinery, and projects under construction, based on the Plaintiff's statement in response to ZATCA's inquiries. Through review and examination, it became clear that Zakat Payer claims that one full lunar year had not passed on the loan and requests its exclusion, while ZATCA added it against the financing of equipment in 2015. Similarly, in 2017, it was added against projects under construction. By referring to the cash flow statement, additions to fixed assets amounting to SAR 4,629,596 in 2017 were evident. Therefore, since the purpose of the loans was to finance items that are deductible from Zakat base, and based on Zakat Payer's provided information, and in accordance with Article (4.5) of the Zakat Collection Regulations issued in 1438 AH, which states: "1. The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 5. Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it"

#### **Item Second: Suppliers:**

The Defendant stated that upon assessment, it added that item to Zakat base amounting to SAR 1,054,680, for being used to import equipment and machinery amounting to SAR 1,054,680. Through due examination, it was found that the Plaintiff claims that a full lunar year has not passed over the item, while the added amount was added on account of projects under implementation based on the statements provided, which is an element that should be deducted from Zakat base.



### **Item Third: Dividends**

The Defendant argued that the withdrawals occurred after the completion of one full lunar year. Having perused and examining the provided data, the validity of ZATCA's procedure became apparent, as the withdrawals made were added due to the completion of the lunar year. This is because the collection of Zakat is done according to Sharia rules and the Fatwas issued by the competent authority. The Council of Senior Scholars issued Fatwa No. 222 on 29/07/1426 AH stipulating that the lunar calendar shall be adopted for calculation of Zakat. Moreover, the Grand Mufti of the Kingdom also sent Letter No. 1043/2 of 20/08/1428 AH to His Excellency the Minister of Finance directing that all companies must be called for making a Zakat budget according to Hijri year as per Sharia provisions. In issuance of its Decision regarding this item, ZATCA relied on paragraphs (8 & 11) of Article (4) of the Implementing Regulations for Zakat Collection issued in 1438 AH, which states: "**First:** The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 8. The balance of profits carried forward from previous years at the end of the year. 11. Dividends under distribution excluding the dividends announced for distribution but their owners have not received them, provided that they are deposited in a special account that the company is not allowed to dispose of". Accordingly, ZATCA rejected the Plaintiff's objection regarding the above item. ZATCA the Defendant concluded its plea moving to dismiss the case, while reserving its right to submit further responses and clarifications to the Plaintiff's objection before the Committee.

### **Committee's Response to Defenses.**

#### **Item First: Loans:**

Loans are one of the components of Zakat base, regardless of their type, source or classification, provided that a year has passed on them or that they are used to finance assets deducted from Zakat base without requiring that a year has passed on them, and upon reviewing the documents attached to the case file, and since the Defendant has provided evidence of the validity of its procedure, as the transfer document proves that equipment was purchased from abroad in the amount of SAR 7,382,760.00 on 19/10/2017 which indicates that those loans have been used to finance fixed assets, therefore, the Department concludes by rejecting the Plaintiff's objection.

#### **Item Second: Suppliers:**

Based on the above, and since the amounts withheld from suppliers to ensure good performance are considered a component of the Zakat base provided that a year has passed on them or they are used to finance assets deducted from the Zakat base, and having reviewed the transfers contained in the case file, and since the Plaintiff used the amount to import equipment and machinery in the amount of SAR 1,054,680, therefore, this Department decides to reject the Plaintiff's objection.

#### **Item Third: Dividends**

Since the legal obligation of Zakat is contingent upon Zakatable funds being held in Zakat Payer for a full lunar year while allowing Zakat payers to adopt Georgian calendar for fiscal years aims at facilitating their financial and accounting work without having any effect on the obligation to pay Zakat when falls due and given that the Plaintiff argued that the dividends realized during the year should be deducted from Zakat base on grounds that the calendar adopted for preparing its financial statements is the Gregorian calendar and not the lunar calendar, therefore, the Department decided to reject the Plaintiff's objection.



### Decision:

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision regarding Zakat assessment subject matter of the Case in form and dismiss Plaintiff's Case on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Committee for Determination of Tax Violations and  
Disputes  
Third Circuit for Settling Income Tax Violations and  
Disputes In Riyadh

Decision No.: IFR-2022-4495  
Case No.: Z-34464-2021

**Key words:**

**Zakat - Objection to Zakat Assessment - Deduction of Foreign Investments**

**Abstract**

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 2016. The dispute involves Defendant's procedure outlined in issuing Zakat assessment for 2016. The Department found, regarding Defendant's procedure outlined in issuing Zakat assessment for 2016, that Zakat Payer did not provide financial statements of the company in which Zakat Payer has investments outside the Kingdom from a chartered accountant, and did not attach evidence on paying Zakat on such investment. Therefore, the Department dismisses Zakat Payer's objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(20.3\) of the Implementing Regulations for the Collection of Zakat issued by Ministry of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's defenses

#### **Item First:** Deduction of Foreign Investments:

The Plaintiff stated that these foreign investments are represented by an investment in a company in the Arab Republic of Egypt, and that financial statements issued by a certified legal accountant in the Arab Republic of Egypt have been submitted. Zakat Payer added that Ministerial Resolution (1005) did not stipulate that for the deduction of a foreign investment from Zakat base to be accepted, audited financial statements certified by official authorities must be submitted. Rather, the aforementioned resolution stipulated that proof of Zakat payment for this investment by the foreign invested company or audited financial data must be provided, by supplying the Defendant with a copy of the financial statements to calculate Zakat due on the invested company outside the Kingdom. Moreover, Plaintiff elaborated that the movement in sale/valuation variances related to the investment resulted from the following: Financial or economic circumstances that compelled the Company to liquidate some investments in order to obtain the necessary liquidity to fulfill its obligations. In addition, Plaintiff stated that at the time of purchase, the investments were not necessarily intended for acquisition, as this Decision was made due to an unforeseeable emergency.

### Defendant's Defenses

#### **Item First:** Deduction of Foreign Investments:

The Defendant argued that the assessment Decision was based on Ministerial Resolution No. (1005) dated 28/04/1428 AH. **Second:** Investments in entities outside the Kingdom, in partnership with others, shall be deducted from Zakat Payer's declaration, provided that Zakat Payer submits audited accounts from a certified public accountant in the country of investment in order to calculate Zakat due on these investments and to remit them to ZATCA. Alternatively, Zakat Payer may provide proof that Zakat has been paid in the country of investment, and accordingly deducting such investment from Zakat base of the Saudi investing company to avoid double payment of Zakat on these companies. If Zakat Payer does not provide the required documents above-mentioned, the investments shall not be deducted from Zakat base". In accordance with Article (20.3) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH that states: "The Zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the Zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it".



## Committee's Response to Defenses.



### **Item First: Deduction of Foreign Investments:**

Based on the foregoing, and in accordance with provisions of Ministerial Resolution No. (1005) above-mentioned, since Plaintiff is entitled to deduct external investment from Zakat base, provided that Plaintiff abides by provisions of such resolution, by providing Defendant with accounts audited by a chartered accountant in the country of investment in order to calculate Zakat due on these investments and to remit them to Defendant. Alternatively, Zakat Payer may provide proof that Zakat has been paid in the country of investment and accordingly deducting such investments from Zakat base of the investing company to avoid double payment of Zakat. If Zakat Payer does not provide the above-mentioned documents, such investments shall not be deducted from its Zakat base. Since the dispute in connection with this item is document-based. Having reviewed the documents included in Case file, and since Plaintiff did not provide the financial statements of the company in which Plaintiff has investments outside the Kingdom audited by a chartered accountant, and that Plaintiff did not attach documents that prove paying Zakat on such investment. Therefore, the Department dismisses Plaintiff's objection.

### **Decision:**

Accept objection filed by Plaintiff (... Company), C.R. No. (...), to Defendant (ZATCA) Decision in form and dismiss the objection on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.**



## Committee for Determination of Tax Violations and Disputes Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No.: IFR-2022-4508  
Case No.: 25217-2020-Z

### Key words:

**Zakat – Objection to Estimated Zakat Assessment**

### Abstract

Zakat Payer instituted this case requesting cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1439 AH. The dispute lies in the Defendant's issuance of Zakat assessment for 1439 AH. It was established for the Department that the Zakat assessment for 1439AH was conducted-. Zakat Payer attached a copy of the CR for (...) Company, and a copy of the CR for (...) Establishment. Furthermore, Zakat Payer stated that sales occurred through the Establishment and were transferred to the Company's account. Therefore, the Department dismisses Zakat Payer's objection.

### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article 20.1 of the Tax Disputes and Violations Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles 55 and 56 of the Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### The Plaintiff's defenses

**Item First:** Estimate Zakat assessment for 1440.

The Plaintiff stated that the assessment was in the amount of SAR 215,554.06, and that the main branch of the establishment had been converted into a company and is registered with ZATCA as an independent company. The differences arose because ZATCA relied on VAT data, where the total sales amounted to SAR 3,357,612.33, which pertain to the Company. The matter has already been addressed by transferring the amounts to the Company's balance. The amount calculated by ZATCA on the establishment represents Zakat due on the Company, not the establishment, and the Company submits its Zakat declaration and pays Zakat due.



## Defendant's Defenses

**Item First:** Estimate Zakat assessment for 1440.

ZATCA stated that its Decision was in accordance with Article (13) of the Zakat Collection Regulations issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. Accordingly, ZATCA exercised its powers granted to it under this regulation, which authorizes it to assess Zakat Payer on an estimated basis according to the information and data obtained. ZATCA, according to its legally granted powers, has the right to refer to this information and data to be able to calculate Zakat base that fairly reflects the true nature of Zakat Payer's activity in light of the circumstances and facts related to the case and the information available about Zakat Payer at ZATCA. This is done either through documented evidence and indications provided by Zakat Payer, or through direct and continuous reference to any information directly related to Zakat Payer that is held by a third party, indicating the volume of their imports.

## Committee's Response to Defenses.

**Item First:** Estimate Zakat assessment for 1440.

In addition, Paragraph (3) of the Rules of Calculating Zakat for Estimate Taxpayers issued by Minister of Finance Resolution No. (852) dated 28/02/1441 AH stipulates: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that appropriate to the size of Zakat Payer's activity, according to the following equation:  $(\text{Sales}/8) + [\text{Sales} \times 15\%]$  and not less than capital set forth in the commercial registration, required license or other documents enabling the Authority from quantifying the capital". Moreover, Article (20.3) of the same states: "The Zakat payer bears the burden of proving the validity of the items stated in the declaration and any additional data, and if he is unable to do so, the Authority may reject the item that the Zakat payer cannot prove its validity or make an estimate assessment as per its discretion in light of the relevant circumstances and facts as well as the data available to it". Having perused the data presented by both parties, and having examined the documents submitted in the case file, and considering that the Plaintiff has attached a copy of the commercial registration for the company and a copy of the registration number for the establishment, and based on the two letters addressed by the Plaintiff to the Defendant wherein the Plaintiff affirmed the existence of a company registered with the Defendant, and as the Plaintiff mentioned that sales occurred through the establishment and were transferred to the company's account, the Department is therefore decides to cancel the Defendant's Decision.

## Decision:

Accept objection filed by Plaintiff (...), holder of National ID No. (...), to the Decision issued by the Defendant (ZATCA) in form, and cancel the Defendant's Decision on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Committee for Determination of Tax Violations and Disputes Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No.: IFR-2022-4568  
Case No.: Z-26792-2020

### Key words:

**Zakat - Objection to Zakat Assessment - Owner's Current Account**

### Abstract

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 2018. Since the dispute involves Defendant's procedure outlined in issuing Zakat assessment for 2018. Since the Department found, regarding Defendant's procedure outlined in issuing Zakat assessment for 2018, that Defendant did not challenge matching movement in the financial statements. Therefore, the Department dismisses Zakat Payer's objection.

### Instruments:

- [Article 42 of the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(56\) of the Law of Civil Procedures issued by Royal Decree No. \(M/1\) dated 22/01/1435 AH.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.6.A\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)

### Parties' Defenses

#### The Plaintiff's defenses

**Item First:** Owner's current account for 2018:

The Plaintiff stated that the opening balance and the profits of the previous year were fully withdrawn. Therefore, there are no balances from the previous year that have completed a full lunar year to be subject to Zakat calculation. The basis for determining Zakat base is the balances that have completed a full lunar year. Clarifying the analysis of the owner's current account movement shows that the owner's current account balance at the beginning of the year was SAR 2,166,521, the retained earnings from the previous year were SAR 2,919,857, and the owner's withdrawals during the year amounted to SAR 11,689,717.



## Defendant's Defenses

### Item First: Owner's current account for 2018:

ZATCA stated that the balance of this item was added to Zakat base in the amount of SAR (2,166,521) by including the owner's current account item in the amount of SAR (2,166,521). This is because it is one of the positive components of Zakat base and is considered at the beginning or end of the period, whichever is lower. This is based on paragraph (First/5) of Article (4) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, which states: "The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: ... 5. Government and commercial loans and similar other sources of financing such as creditors, payment papers, and overdraft accounts owed by the Zakat payer which: A. remained in cash and had a year passed on it. B. were used to finance acquisition assets. C. were used in trade assets and had a year passed on it".

## Committee's Response to Defenses.

### Item First: Owner's current account for 2018:

Based on the foregoing, since owner's current account is considered one of the financing sources and handled as equity in terms of Zakat calculation. Accordingly, the amounts that completed a full year shall be added to Zakat base. Having taken cognizance of documents included in Case file, the Department found that Plaintiff attached the detailed movement of the account. Since the Department found that the balance of retained earnings was closed in owner's current account in the amount of SAR 2,919,857 and that the opening balance of owner's current account is amounting to SAR 2,166,521. In addition, there are withdrawals by owner amounting to SAR 11,689,717. Moreover, the current account was financed in the amount of SAR 9,001,111, and the closing balance was financed in the amount of SAR 2,397,772. Since Defendant did not challenge matching of the movement in the financial statements. Therefore, the Department overturns Defendant's Decision.

## Decision:

Accept objection filed by Plaintiff (...), holder of National ID No. (...), to Defendant (ZATCA) Decision regarding Zakat assessment subject matter of the Case in form and overturn Defendant's Decision on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection





## Committee for Determination of Tax Violations and Disputes Third Circuit for Settling Income Tax Violations and Disputes In Riyadh

Decision No.: IFR-2022-4570  
Case No.: 31700-2020-Z

### Key words:

**Zakat - Objection to Zakat Assessment - End-of-Service Benefit Provision**

### Abstract

Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding Zakat assessment for 2018, specifically concerning the item (End-of-Service Benefit Provision). It was established that the Plaintiff attached a clarification of the provision in the financial statements and a statement of the movement of provisions, clarifying the value of the provisions created during the year, which proves that the provision expense is not deductible. Therefore, the Department concluded by accepting the objection.

### Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(4.First.9\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

### Parties' Defenses

#### The Plaintiff's defenses

**Item First:** End-of-Service Benefit Provision:

The Plaintiff stated that the component created during the year was added to the adjusted net profit when preparing Zakat base in the Zakat declaration.

#### Defendant's Defenses

**Item First:** End-of-Service Benefit Provision:

ZATCA stated that the assessment Decision was based on Article (4.First.9) of the Zakat Collection Regulations, which stipulates: "Beginning of year provisions (except for the questionable provisions collected by banks) after deducting the provisions used during the Zakat year". ZATCA requests the Esteemed Department to rule to reject the case and uphold ZATCA's action that is the subject of the case. ZATCA also reserves the right to submit further responses and clarifications before the closing of pleadings.



## Committee's Response to Defenses.



### **Item First:** End-of-Service Benefit Provision:

Based on the foregoing, and whereas the dispute regarding this item is a documentary dispute, and having referred to the case file and its contents of defenses and documents, and considering that the Plaintiff attached a clarification of the provision in the financial statements and a statement of the movement of provisions, clarifying the value of the provisions created during the year, including Zakat provision, which proves that the non-deductible provision expense is SAR 40,957, which the Plaintiff stated it included within the adjustments to profit in its Zakat declaration, and whereas the defendant did not challenge this in its reply memorandum, the Department therefore decided to cancel the Defendant's Decision.

### **Decision:**

Accept objection filed by Plaintiff ..... Company, CR. No. (...), to Defendant (ZATCA) Decision in form and dismiss the objection on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and upon his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: ISR-2022-50  
Case No.: 22039-2020-Z

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment - Bank Account Statement Transactions**

**Abstract**

The Zakat Payer instituted this case requesting to cancel ZATCA's Decision regarding the Zakat assessment for the year 1439. The dispute involves Plaintiff's objection to Defendant's procedure outlined in estimate assessment. The Department found, regarding estimate Zakat assessment, that Zakat Payer is assessed based on estimate method, rather than accounts. In addition, Plaintiff did not submit to ZATCA its declaration for the year in question, and did not provide the financial statements approved by a chartered accountant. Therefore, Defendant accordingly exercised its right stipulated by the law with regard to accounting Zakat Payer based on estimate method. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13\) and Paragraph \(2\) of Article \(20\) and Paragraph \(8/b\) of Article \(21\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1439 AH:

The Plaintiff stated that the assessment included exaggerated figures compared to the estimated assessments for 1438 AH and 1440 AH, which do not reflect the true nature and reality of its business activity. Furthermore, the assessment was determined based on the bank account statement transactions, even though most of the purchase inflows are on credit from suppliers and are not considered private capital, and the bank account movement circulates between the Plaintiff, suppliers, and customers in the market.



## Defendant's Defenses

**Item First:** Estimated Zakat Assessment Item for 1439 AH:

ZATCA stated that the assessment on the Plaintiff was based on a notification, and a physical inspection and examination were conducted. The Central Bank was also addressed to request the Plaintiff's bank account statements, in addition to VAT sales data, based on Article (13) of the Implementing Regulations for Zakat Collection, issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. Article (20.2), related to declarations, of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH states: "2. The Zakat payer shall provide the Zakat declaration and its attachments after filling out all the blanks, and paying the Zakat according thereto following the end of the fiscal year. Zakat payer may be delayed only within the limits of his accounting procedures, provided that such delay must not exceed (120) days".

## Committee's Response to Defenses.

**Item First:** Estimated Zakat Assessment Item for 1439 AH:

Since it is found that Plaintiff is accounted on estimate basis, rather than accounts, and did not provide Defendant with its declaration for the year in question. In addition, Plaintiff did not submit the financial statements approved by a chartered accountant. Thereupon, Defendant exercised its right stipulated by the law, by accounting Plaintiff on estimate basis. Therefore, Defendant's procedure is valid and aligns with provisions of Articles (20), (21) and (13) of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

## Decision:

For these grounds and after deliberation, the Department unanimously decided to:  
Accept the Case filed by Plaintiff (...), holder of National ID No. (...), owner of (... Enterprise), C.R No. (...), against Defendant (ZATCA) in form and dismiss it on merits.  
This Decision was delivered in presence of both parties. The Department set Wednesday, 02/03/2022 for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not appeal it.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: ISR-2022-78  
Case No.: Z-40558-2021

**Key words:**

**Zakat - Objection to estimated Zakat assessment - Calculation of Zakat base - According to Capital Set Forth in Commercial Register - Did not Practice any Activity**

**Abstract**

Zakat Payer requests cancellation of ZATCA's Decision regarding estimated Zakat assessment for 1432 AH-. The dispute involves Plaintiff's objection to Defendant's procedure outlined in calculating Zakat base based on capital set forth in the commercial register despite the fact that capital-related expenses were not deducted. The Department found, regarding calculation of Zakat base based on capital set forth in the commercial register, that Zakat Payer is accounted on estimate basis, rather than accounts, and did not provide Defendant with its declaration for the year in question. Therefore, Defendant exercised its right stipulated by the law, by accounting Zakat Payer on estimate basis. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Articles \(10\) and \(11\)](#)

**Parties' Defenses**

**Defendant's Defenses**

**Item First:** Estimated Zakat Assessment for 1432 AH:

The Plaintiff stated that the assessment included exaggerated figures that do not reflect the true nature and reality of its activity, as he joined a government job in t1438 AH and did not practice any activity after that date. The estimated accounting was carried out despite not engaging in any activity, the absence of employees and licenses, and the commercial register having been cancelled.



## Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1432 AH:

The Defendant stated that its Decision was in accordance with Articles (3) and (4) of the Rules for Calculating Zakat for Taxpayers Subject to Estimation, issued by His Excellency the Minister of Finance's Resolution No. (852) dated 28/02/1441 AH, and that it exercised its authority granted to it under that resolution, which authorizes it to assess the Plaintiff's Zakat on an estimated basis according to the information and data obtained. Article (10) of the same regulations also stipulates that: "The Authority shall account on deemed basis for each Zakat Payer with no commercial books to reflect the reality of business activity and under no obligation to issue financial statements in accordance with applicable regulations, related Bye- Laws and rules ...". Furthermore, Article (3) of Rules of Calculating Zakat for Estimate Taxpayers issued by Ministerial Resolution No. (852) dated 28/02/1441 AH states: "The Zakat base of Zakat Payer subject to these rules shall be evaluated by identifying capital that is appropriate to the size of Zakat Payer's activity, according to the following equation:  $(\text{Sales} \setminus 8) + (\text{Sales} \times 15\%)$ , and not less than capital set forth in the commercial registration, required license, or other documents enabling the Authority from quantifying the capital."

## Committee's Response to Defenses.

**Item First:** Estimated Zakat Assessment for 1432 AH:

Since it is found that Plaintiff is accounted on estimate basis, rather than accounts, and that Plaintiff did not file its declaration to Defendant for the year in question. Therefore, Defendant exercised its right stipulated by the law, by accounting Plaintiff on estimate basis. Thereupon, it turns out that Defendant's procedure is valid and aligns with provisions of Articles (11) and (10) of the said Implementing Regulations for the Collection of Zakat and Articles (3) and (4) of the said Rules of Calculating Zakat for Estimate Taxpayers. This is not affected by Plaintiff's argument that the assessment was made regarding a cancelled commercial register, as the cancellation was on a date following assessment date for the year subject matter of the Case. Therefore, the Department dismisses Plaintiff's objection and upholds Defendant's procedure subject matter of the Case.

## Decision:

For these grounds and after deliberation, the Department unanimously decided to:  
Accept the Case filed by Plaintiff (...), holder of National ID No. (...), owner of (... Enterprise), C.R No. (...), against Defendant (ZATCA) in form and dismiss it on merits.  
This Decision was delivered in presence of both parties and was read publicly in the session. The Department set Thursday, 17/03/2022 AD for receiving a copy of the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Dammam

Decision No.: IZD-2022-187  
Case No.: Z-28172-2020

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer filed this case requesting cancellation of ZATCA Decision with regard to estimated Zakat assessment for 1441 AH, claiming that ZATCA estimated Zakat based on a capital exceeding one million riyals, while the actual capital of the workshop was SAR 10,000. It is worth noting that Zakat Payer belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1441 AH:

The Plaintiff stated that the actual capital of the workshop is SAR 10,000, and that Zakat was calculated based on a capital exceeding one million Riyals. Given that Zakat for previous years was only SAR 1,000, the calculated amount exceeds the amounts paid during previous years.

**Defendant's Defenses**

**Item First:** Estimated Zakat Assessment for 1441 AH:

ZATCA stated that the assessment Decision was in accordance with the provisions of Articles (3 and 4) of the Rules of Calculating Zakat for Estimate Taxpayers, and that it carried out the assessment based on the capital registered in the commercial register before the amendment.





### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1441 AH:

Based on the above, having perused the Case file and the documents and defenses submitted by litigants, and since Plaintiff belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, ZATCA had the right to collect information and calculate Zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns and estimating capital by dividing such sales by (8). Having reviewed the Zakat assessment under dispute, the Department found that ZATCA applied the abovementioned equation and Plaintiff failed to submit any documents supporting its claim. Therefore, the Department decided to reject the Plaintiff's objection.

### Decision:

Dismiss objection filed by Plaintiff (...), (ID No...) related to the estimated Zakat assessment for the disputed year.

This Decision was delivered in the presence of both litigants and shall be deemed final and enforceable as per Article 42 of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Dammam

Decision No.: IZD-2022-528  
Case No.: Z-49806-2021

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer requests canceling ZATCA's Decision regarding estimated Zakat assessment for 1441 AH. Zakat Payer mentioned that ZATCA made its assessment based on VAT returns and ignored obligations and expenses incurred by the institution and business activity. It is also worth noting that Zakat Payer belongs to categories that are subject to Rules of calculating Estimate Taxpayers. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1441 AH:

The Plaintiff stated that the assessment was based on VAT returns, and that ZATCA, in its Zakat calculation, did not take into account the obligations and expenses borne by the establishment, and that it disregarded the financial statements submitted to the Ministry of Commerce.

**Defendant's Defenses**

**Item First:** Estimated Zakat Assessment for 1441 AH:

ZATCA stated that it calculated Zakat base based on VAT sales, and that the assessment Decision was in accordance with the provisions of the Zakat Collection Regulations for 1438 AH and the Rules for Calculating Zakat for Taxpayers Subject to Estimation.



### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1441 AH:

Based on the above, having perused the Case file along with documents and defenses submitted by litigants, and since Plaintiff belongs to categories that are subject to Rules of Calculating Zakat for Estimate Taxpayers, ZATCA had the right to collect information and calculate Zakat base using the estimate method based on such Rules, which stipulate that profits of Plaintiff activity are estimated at (15%) of the sales declared in the VAT returns. Therefore, Defendant concluded sales based on available evidences, such as (commercial register, employee number, VAT returns, and purchases) and estimated capital by dividing such sales by (8). When reviewed the Zakat assessment under dispute, the Department found that ZATCA applied the abovementioned equation. Therefore, the Department decided to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff objection to the estimate Zakat assessment for the year 1441 A.H.  
This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Dammam

Decision No.: IZD-2022-532  
Case No.: Z-28362-2020

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer instituted this case requesting cancellation of ZATCA's Decision with regard to estimated Zakat assessment for 1438 AH. Zakat Payer stated that they sold the establishment to the new owner, and that the assessments are issued in the name of both the old and new owners. They also mentioned that they had submitted several complaints and the claims were finalized, and they were surprised that the remaining amounts were still due on them because the new owner does not possess a TIN. It has been established that the commercial register under objection was transferred to the new owner in 1439 AH, while the year under objection, 1438 AH, the commercial register was still in Zakat Payer's name. Therefore, it is evident that the assessment predates the transfer of ownership. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1438 AH:

The Plaintiff stated that the establishment was sold and that the assessments are issued in the name of both the old and new owners together. Furthermore, the remaining amounts are still due on them because the new owner does not possess a TIN.



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1438 AH:

ZATCA stated that it carried out the calculation based on the imports rule. It was found that the value of the goods during the years 1434 AH to 1438 AH was estimated at SAR (11,530,990), and the estimated Zakat due was SAR (80,166). Furthermore, after studying the objection, it became clear that there was a total overestimation of the amount imposed on Zakat Payer, exceeding the objected amount by SAR 8,594,30.

### Committee's Response to Defenses.

**Item First:** Estimated Zakat Assessment for 1438 AH:

Upon reviewing the case file and the submitted documents and defenses, and whereas it has been established that the commercial register under objection was transferred to the new owner in 1439 AH, while in the year under objection, 1438 AH, the commercial register was still in Zakat Payer's name, thus indicating that the assessment predates the transfer of ownership. Consequently, the Department concludes to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff objection to the estimate Zakat assessment for the year 1438A.H.

This Decision was delivered in presence of the parties. The Department set 30-day period for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty days from the day following the date set for receiving the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Dammam

Decision No.: IZD-2022-591  
Case No.: Z-29409-2020

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer filed this case requesting cancellation of the estimate Zakat assessment for the year 1439 AH, claiming that revenues recognized in VAT returns were estimated at (SAR 9,027.621), not as amended by ZATCA, that the percentage of revenues in VAT returns for that Hijri year was estimated at (90%), while it should be (70%), and that the net profit was less than (10%). Since Zakat Payer is engaged in transportation activity, i.e., Zakat Payer does not belong to categories for which the Regulations specified a profit percentage, ZATCA shall have the right to estimate the business activity profit. With regard to Zakat Payer claim that VAT returns for the Gregorian year corresponding to the Hijri year are not correct, Zakat Payer failed to provide any documents proving the validity of the same. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH-](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(13.6\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1439 AH:

Zakat Payer stated that VAT revenues are (SAR 9,027.621), not as amended by ZATCA, that the percentage of revenues in VAT returns for that Hijri year was estimated at (90%), while it should be (70%), and that the net profit was less than (10%).



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1439 AH:

ZATCA stated that it calculated Zakat base based on the sales declared by the Plaintiff in their VAT returns, and that the Decision is in accordance with the provisions of Article (13) of the Zakat Collection Regulations.

### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1439 AH:

Based on the above and having perused the commercial register, it turned out that Plaintiff is engaged in the transportation activity, i.e., Plaintiff does not belong to categories for which the Regulations specified a profit percentage; therefore, so ZATCA shall have the right to estimate the business activity profit. With regard to Plaintiff claim that the VAT returns for the Gregorian year corresponding to the Hijri year are not valid, Plaintiff failed to provide any documents proving the validity of the same. Accordingly, the Department decided to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff objection with regard to the estimate Zakat assessment for the year 1439 A.H. This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Income Tax Violations and Disputes In Dammam

Decision No.: IZD-2022-623  
Case No.: Z-50298-2021

#### Key words:

**Zakat – Objection to Estimated Zakat Assessment**

#### Abstract

Plaintiff (Zakat Payer) filed this Case to abolish Defendant's (ZATCA) Decision, as it included Plaintiff's objection to Defendant's Decision regarding the Estimated Zakat Assessment of 1441 AH, wherein Plaintiff stated that the method of calculation of Zakat is applied to contracting and trading activities, as these activities have an open profit margin, considering that the purchase and sale prices are not specified, unlike Plaintiff's current activity, as its main activity is gas distribution, which is a service activity more than it is profitable. The Department found that Defendant has applied the above equation to the sales declared in VAT Returns, which renders Defendant's procedure valid and sound. Therefore, the Department dismisses objection filed by Zakat Payer.

#### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

#### Parties' Defenses

##### The Plaintiff's defenses

**Item First:** Estimated Zakat Assessment for 1441 AH:

The Plaintiff stated that these activities have an open profit margin, considering that purchase and selling prices are not fixed for them, unlike their existing activity. It also mentioned that its gross profit margin is only 13.2%, and that is before deducting all expenses.



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1441 AH:

ZATCA stated that Zakat base was calculated based on VAT sales amounting to SAR 4,012,249, and that the Decision is in accordance with Articles (3) and (4) of the Rules for Calculating Zakat for Taxpayers Subject to Estimation, issued by His Excellency the Minister of Finance's Resolution No. (852) dated 28/02/1441 AH.

### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1441 AH:

Upon reviewing the disputed estimated assessment, it is evident that ZATCA applied the aforementioned equation to the sales declared in VAT returns submitted by the Plaintiff, thus demonstrating the correctness of ZATCA's procedure. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's Zakat on an estimated profit margin of (15%) implies that their estimated expenses constitute (85%) of their revenues. Consequently, the Department concludes to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff objection with regard to the estimate Zakat assessment for the year 1441 A.H. This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Dammam

Decision No.: IZD-2022-702  
Case No.: Z-2021-55480

**Key words:**

**Zakat – Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer filed this case requesting cancellation of ZATCA Decision with regard to the estimate Zakat assessment for the year 1441 AH, claiming that ZATCA estimated the annual revenues based on VAT returns. Zakat Payer declared that revenues recognized in VAT returns did not actually belong to Zakat Payer in whole, but only a small part thereof. The Department found that Defendant applied the prescribed equation to the sales declared in the VAT returns submitted by Zakat Payer. Therefore, the Department confirmed the validity of ZATCA action. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1441 AH:

The Plaintiff stated that ZATCA estimated its annual sales based on VAT returns, and that it incorrectly recorded the total sales at the retail price in VAT return instead of its share only of the total sales, which represents the difference between the wholesale price and the retail price. Consequently, the same amount was subjected to Zakat twice, leading to a doubling of the Zakat.



### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1441 AH:

Having perused the disputed estimated assessment, it is evident that ZATCA applied the aforementioned equation to the sales declared in the VAT returns submitted by the Plaintiff, thus demonstrating the correctness of ZATCA's procedure. Regarding the Plaintiff's objection concerning the subjection of a portion of the amount to Zakat by the suppliers, which allegedly leads to a doubling of Zakat, and considering that the Plaintiff has not provided any evidence to substantiate this claim, the Department finds grounds to reject this objection. As for the Plaintiff's request to consider expenses when conducting the estimated assessment, calculating the Plaintiff's Zakat on an estimated profit margin of (15%) implies that their estimated expenses constitute (85%) of their revenues. Consequently, the Department concludes by rejecting the Plaintiff's objection.

### Decision:

Reject the Plaintiff's objection with regard to estimated Zakat assessment for 1441 A.H. This Decision was delivered in the presence of both litigants, and shall be deemed final and enforceable as per Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-217  
Case No.: 21925-2020-Z

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer requests overturning ZATCA Decision regarding Zakat assessment for 1440. Plaintiff objects to Defendant's procedure outlined in making estimate assessment due to the fact that ZATCA made an estimate assessment for 1440 in the amounting to SAR 92,683.5. Plaintiff stated, in the statement of claim, that it has statutory accounts and entered into a contract with a chartered accountant office. In addition, Zakat was calculated on the required Zakat amount in accordance with the Implementing Regulations for the Collection of Zakat. Since the Department found, regarding Defendant's estimate Zakat assessment for 1440, that Zakat Payer adopted accounting on estimate basis in the declaration and only requested to be accounted based on the financial statements after Defendant made estimate assessment for the year in question. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(6\) of Article \(11\) of Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2216\) dated 07/07/1440 AH](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1440 AH:

The Plaintiff stated that ZATCA conducted an estimated assessment for (1440 AH) (in the amount of SAR 92,683.5), and that it possesses accounts and has contracted with a licensed accounting firm, and that Zakat was calculated according to the Zakat Collection Regulations on the required Zakat amount.



## Defendant's Defenses

### **Item First:** Estimated Zakat Assessment for 1440 AH:

ZATCA stated that assessment was based on the capital recorded in the commercial register. Therefore, ZATCA exercised its powers granted to it by these rules, which authorize it to assess Zakat Payers on an estimated basis based on the information and data available. ZATCA has the right, under its powers granted by the law, to refer to this information to calculate Zakat base that fairly reflects Zakat Payer's actual activity in light of the circumstances, facts related to the case, and information available to ZACAT about Zakat Payer. The Decision is in accordance with Articles (3) and (4) of the Rules for Calculating Zakat for Taxpayers Subject to Estimation, issued by His Excellency the Minister of Finance's Resolution No. (852) dated 28/02/1441 AH.

## Committee's Response to Defenses.

### **Item First:** Estimated Zakat Assessment for 1440 AH:

Having taken cognizance of Case file, arguments and documents therein included, it was found that the Plaintiff filed declaration on estimate basis and did not request to be accounted based on the financial statements before Defendant made estimate assessment, which give ZATCA the right to make estimate assessment when having access to data or information reflecting reality of Plaintiff's business activity. Since ZATCA is entitled to collect information and calculate Zakat on estimate basis. In addition, one of the significant evidential matters that can be utilized when calculating Zakat is VAT returns provided by Plaintiff and that are adopted by ZATCA as a basis for calculating Zakat base on estimate basis. Therefore, ZATCA procedure is valid. Since Plaintiff declared, in the statement of claim, preparing financial statements due to being accounted on estimate basis by ZATCA based on VAT returns, this is not deemed an acceptable excuse to consider the financial statements. Since Plaintiff chose to be accounted on estimate basis in its declaration and only requested to be accounted based on the financial statements after ZATCA made estimate assessment for the year in question. Therefore, the Department dismisses Plaintiff's objection to estimate Zakat assessment for 1440.

## Decision:

Dismiss objection filed by Plaintiff (...), holder of National ID No. (...), to estimate Zakat assessment for 1440.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-317  
Case No.: Z-40558-2021

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment - Capital Stated in Commercial Register - Calculation of Zakat Base on VAT Sales**

**Abstract**

Zakat Payer requests canceling ZATCA Decision regarding estimate Zakat assessment for 1436. Zakat Payer contests the Defendant's action of conducting an estimated assessment, demanding that this action be amended, given that ZATCA has calculated the estimated Zakat for 1436 AH at (SAR 2,500) instead of (SAR 500). The Department has established that the Defendant issued the estimated Zakat assessment for 1436 AH, and that Zakat Payer has not submitted supporting documents for his claim that he did not practice the activity. Additionally, it has been found that the capital, according to the commercial register, is (SAR 20,000), and therefore due Zakat is (SAR 500). Therefore, the Department decided to amend the Defendant's action.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1438 AH:

The Plaintiff stated that there were no sales during the period of 1436 AH and that it had no commercial activity on electronic platforms during 1436 AH. Furthermore, it had no employees during 1436 AH, noting that the estimated Zakat was SAR 500 from 1434 AH up to 1440 AH.





### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1438 AH:

The Defendant stated that the assessment Decision was based on the provisions of paragraph (6/a) of Article (13) of the Implementing Regulations for Zakat Collection, according to which the estimated Zakat base can consist of working capital unless Zakat Payer's declaration shows a larger base. And based on paragraph (3) of Article (20) thereof: "The burden of proof regarding the accuracy of the items listed in the Zakat payer's declaration, as well as any other data, lies with the Tax Payer. In case of the Zakat Payer's failure to prove the accuracy of the information reported, ZATCA may disallow such item not proven to be correct by Zakat Payer, or otherwise raise assessment on deemed basis at ZATCA's discretion in view of the surrounding circumstances, facts and information available with ZATCA".

### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1438 AH:

Based on the foregoing, and upon reviewing the documents in the case file, it is evident that the Plaintiff submitted a copy of the commercial register. However, The Plaintiff did not submit documents supporting its non-exercise of the activity, nor did it provide anything to prove the absence of sales and revenue for that year. Furthermore, upon reviewing the estimated assessment issued by ZATCA, it appears that the Plaintiff was accounted for based on the capital appearing in the C.R., and it also appears that the capital based on the C.R. is (SAR 20,000), and therefore the due Zakat is (SAR 500). As such, the Department decided to amend the Defendant's procedure regarding the estimated Zakat assessment for 1436 AH.

### Decision:

Amend the Defendant's procedure regarding the estimated Zakat assessment for 1436 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-318  
Case No.: 25035-2020-Z

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1440 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, as an income amount of (SAR 80,571) was calculated, while the Enterprise did not operate in that year. Since it has been proven to the Department that the Defendant issued an estimated Zakat assessment for 1440 AH, and since Zakat Payer falls into the category of Zakat Payers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate Zakat Payer's Zakat using the estimated method. Regarding Zakat Payer's claim of not conducting any business activities, it has failed to provide sufficient evidence to support its claim. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1440 AH:

The Plaintiff stated that the establishment did not operate in that year, and that capital was calculated as SAR (310,000), whereas the actual capital is SAR (10,000). Consequently, a Zakat base of SAR (310,000) was calculated, resulting in an amount due of SAR (7,750).



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1440 AH:

ZATCA stated that Zakat base was calculated based on VAT sales. Accordingly, it exercised its authority granted to it under the relevant regulations, which entitles it to assess Zakat Payer on an estimated basis according to the information and data obtained, as permitted by its legally granted powers. Furthermore, its Decision was in accordance with Articles (3) and (4) of the Rules for Calculating Zakat for Taxpayers Subject to Estimation, issued by His Excellency the Minister of Finance's Resolution No. (852) dated 28/02/1441 AH.

### Committee's Response to Defenses.

**Item First:** Estimated Zakat Assessment for 1440 AH:

Based on the foregoing, and upon reviewing the documents and facts of the Case, and since the Plaintiff falls into the category of Taxpayers subject to Rules of Calculating Zakat for Estimate Taxpayers, the Defendant has the right to collect information and calculate the Plaintiff's Zakat using the estimated method in accordance with the provisions of Article (3), which indicated that the assessment of the Plaintiff's Zakat base is according to the equation stated in the aforementioned article. In the absence of accurate information reflecting the size of the Plaintiff's activity, the Defendant has the right to assess or reassess on an estimated basis if data or information appears that reflects the actual size of the Plaintiff's activity, such as through the sales declared in VAT returns. Regarding the Plaintiff's claim of not conducting any business activities, it has failed to provide sufficient evidence to support its claim. Therefore, it has been proven that ZATCA's procedure is valid, and based on the foregoing, the Department has decided to reject the Plaintiff's objection to the estimated Zakat assessment for 1440 AH.

### Decision:

Dismiss objection filed by Plaintiff (...), (ID No. ....), regarding the estimated Zakat assessment for 1440 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-319  
Case No.: 26126-2020-Z

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1439 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that the Defendant incorrectly applied a 15% rate to the VAT sales, adding to it a capital amount of (SAR 4,340,000) as per the commercial records. The Plaintiff asserts that this is incorrect and adds that it has additional records showing a total capital of (SAR 12,400,000). The Department has established that the Defendant issued an estimated Zakat assessment for 1439 AH. It also appears that Zakat Payer belongs to categories not required to keep systematic books and records, as such, the Defendant has the right to collect information and calculate Zakat for Zakat Payer using the estimated method. As such, the Department, hereby, ruled to dismiss Zakat Payer's objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Article \(13.6/B\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1439 AH:

The Plaintiff stated that ZATCA took 15% of VAT sales in addition to the capital according to the commercial registers, amounting to SAR (4,340,000), and that it has several registers with a total capital of SAR (12,400,000) according to them.



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1439 AH:

ZATCA stated that Zakat base was calculated by applying a profit margin of (15%) to Zakat Payer's VAT sales, in addition to the total capital in the commercial registers, and that its Decision was in accordance with the provisions of Article (13) of the Zakat Collection Regulations issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH.

### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1439 AH:

Based on the foregoing, and upon reviewing the data submitted by both parties, and since the Plaintiff belongs to categories not required to keep systematic books and records, ZATCA has the right to collect information and calculate Zakat for the Plaintiff using the estimated method, pursuant to paragraph (6/b) of Article 13 of the Regulations. According to the information that reflects the true nature and reality of the Plaintiff's activity, upon reviewing the estimated assessment that is the subject of the objection, it is clear that ZATCA has applied an estimated profit margin of 15%, which indicates the correctness of the Defendant's procedure regarding the profit margin applied in the disputed estimated assessment. Therefore, the Department decided to reject the Plaintiff's objection.

### Decision:

Dismiss objection filed by Plaintiff (...), (ID No. ....), regarding the estimated Zakat assessment for 1439AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-320  
Case No.: 26755-2020-I

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1438 AH. Zakat Payer objects to the Defendant's action of conducted an estimated assessment, arguing that the establishment is small with only (6) employees and that the overall economy has declined among customers, resulting in a lack of sufficient income for the establishment, as its annual income does not exceed one hundred thousand Riyals. Additionally, Zakat Payer cites increases in taxes on manufactured goods, passports, and work permits. The Department has established that the Defendant issued an estimated Zakat assessment for 1438 AH. It also appears that the Defendant has estimated Zakat base according to the rule for factories and by taking into account the capital recorded in the commercial register, and that Zakat Payer belongs to categories not required to keep systematic books and records. As such, the Defendant has the right to collect information and calculate Zakat payer's Zakat using the estimated method. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(8\) and Paragraph \(2\) of Clause \(Third\) of Article \(13\) and Paragraph \(3\) of Article \(20\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1438 AH:

The Plaintiff stated that establishment is small with only (6) employees and that the overall economy has declined among customers, resulting in a lack of sufficient income for the establishment, as its annual income . does not exceed one hundred thousand Riyals. Additionally, Zakat Payer cites increases in taxes on manufactured goods, passports, and work permits.



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1438 AH:

the Defendant responded by stating that Zakat Payer was assessed in accordance with the industrial financing amounts up until 1437 AH, based on a rate of 25% of the paid-up capital, as per Paragraph (10) of Clause (3) of Article (13) of the Implementing Regulations for Zakat Collection. , a field inspection committee was formed on 25/08/1438 AH to finalize Zakat Payer's status based on the actual situation as per Zakat Payer's request. A detailed report was prepared on the activities and their full status, and the committee concluded that the assessment should be amended for the period from 1434 AH to 1437 AH based on the committee's estimation.

### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1438 AH:

Upon reviewing the data submitted by both parties, and through the details of ZATCA's response, it is evident that ZATCA estimated Zakat base according to the factories rule, and considering that the Plaintiff is among the categories not obligated to maintain regular books and records, ZATCA is entitled to collect information and calculate Zakat for the Plaintiff using the estimated method, based on paragraph (6/b) of Article (13) of the Regulations, and in accordance with the information that reflects the true nature and reality of the Plaintiff's activity. Consequently, the correctness of the Defendant's procedure is established, and the Plaintiff's objection is rejected.

### Decision:

Dismiss objection filed by Plaintiff (...), (ID No. ....), regarding the estimated Zakat assessment for 1438 AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Income Tax Violations and Disputes In Jeddah

Decision No.: IZJ-2022-374  
Case No.: 19495-2020-Z

#### Key words:

**Zakat- Objection to Estimated Zakat Assessment**

#### Abstract

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding estimated Zakat assessment for the 2018, Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that ZATCA modified Zakat Payer's declaration without its knowledge and that the data provided in the declaration was incorrect. Zakat Payer further claims that it submitted its own correct declaration on 17/06/2020 and requests that this declaration be accepted. Regarding the issuance of the estimated Zakat assessment for 2018 by the Defendant, it has been established that the Defendant issued an estimated assessment on 20/4/2020. Zakat Payer filed an objection and submitted systematic accounts and audited financial statements on 17/06/2020. This means that Zakat Payer did not submit its declaration within the prescribed period. Therefore, the Department dismisses objection filed by Zakat Payer.

#### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(5/a\) of Article \(13\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

#### Parties' Defenses

##### The Plaintiff's defenses

**Item First:** Estimated Zakat Assessment for 2018AH:

The Plaintiff stated that ZATCA amended the declaration on its behalf without its knowledge of the amendment, and that the data provided in the declaration is incorrect.



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 2018AH:

ZATCA stated that Zakat Payer was assessed on an estimated basis due to the failure to submit the declaration and financial statements within the statutory period, and that its Decision was based on Article (13), Paragraph (5) of the Zakat Collection Regulations.

### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 2018AH:

Based on all of the above, and upon reviewing the case file and its contents, including the defenses and documents, it is evident that ZATCA issued an estimated assessment on 20/04/2020. The Plaintiff filed an objection and submitted systematic accounts and audited financial statements, which means that the Plaintiff did not submit its declaration within the prescribed period. Upon reviewing the reasons for the dispute, it became clear that the Plaintiff did not provide any justification for failing to comply with the prescribed period, which made the estimated assessment against it valid. Therefore, the Department decided to reject the Plaintiff's objection to the estimated Zakat assessment for 2018.

### Decision:

Dismiss the objection filed by the Plaintiff (... Company), C.R. No. (...), to estimate Zakat assessment for 2018.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No. IZJ-2022-378  
Case No. 75198-2021-Z

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding the estimated Zakat assessment for 1432 AH. Zakat Payer is objecting to the Defendant's action of conducted an estimated assessment, arguing that Zakat Payer had canceled all commercial records in 1432 AH. Upon verification, the Department found that the Defendant had indeed issued the estimated Zakat assessment for 1432 AH. However, Zakat Payer had canceled its commercial records in the same year. Additionally, the Department determined that the current commercial records were issued in 1440 AH and 1441 AH. Therefore, the Department dismisses Zakat Payer's objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minster of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1432 AH:

The Plaintiff stated that all its registers were cancelled in 1432 AH. Upon issuing a new commercial register in 1440 AH with a new activity, it discovered outstanding amounts for the years after 1432 AH that it was not notified of, as it had no activity during those years.



### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1432 AH:

ZATCA stated that the case is inadmissible from a procedural standpoint due to the expiry of the statutory period for objection.

### Committee's Response to Defenses.

**Item First:** Estimated Zakat Assessment for 1432 AH:

Upon reviewing the case file, it became clear to the Department that the Plaintiff had cancelled the commercial registers in 1432 AH. As for the active commercial registers, it became clear to the Department that their issuance dates were in the years 1440 AH and 1441 AH. Consequently, the panel concludes to accept the Plaintiff's objection to the estimated Zakat assessment.

### Decision:

Accept the objection filed by the Plaintiff (.....) (ID No. ....), regarding the estimated Zakat assessment for 1432.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-391  
Case No.: 52892-2021-Z

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer is requesting cancellation of ZATCA's Decision regarding estimated Zakat assessment for 1439 AH. Zakat Payer is objecting to the Defendant's action of conducting an estimated assessment, arguing that it does not align with the capital amounts recorded in its commercial records. Furthermore, Zakat Payer claims that ZATCA's Decision was issued without a valid reason, rendering it null and void. It was established before the Department that the Defendant issued an estimated Zakat assessment for 1439 AH. Furthermore, Zakat Payer stated that the capital amounts in the commercial records were not adjusted until after Zakat assessment was conducted by the Defendant (ZATCA). Moreover, it became evident that the Defendant relied on the capital amounts recorded in the commercial records for its Zakat assessment. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Article \(13.6\) and Article \(20.3\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1439 AH:

The Plaintiff stated that the estimated assessment does not align with the capital in its owned commercial registers, and that ZATCA's Decision was not issued with reasons, rendering it invalid. Furthermore, the establishment has not practiced any activity since its founding.



### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1439 AH:

Based on the foregoing, and since the Plaintiff stated that the capital amounts in the commercial registers were not amended until after Zakat assessment was conducted by the Defendant (ZATCA), and as it became clear that ZATCA relied on the capital amounts recorded in the commercial registers for its Zakat assessment; consequently, the Department concludes by rejecting the Plaintiff's objection to the estimated Zakat assessment.

### Decision:

Dismiss objection filed by Plaintiff (...), (ID No. ....), regarding the estimated Zakat assessment. The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-411  
Case No.: 2020-22373-Z

**Key words:**

**Zakat - Objection to Zakat Assessment - Revenue Difference**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding Zakat assessment for 2018. Zakat Payer is objecting to the Defendant's action of including profits from revenue differences to the adjusted net income. Zakat Payer claims that ZATCA has added undeclared revenue differences to the adjusted net profit for the year. Regarding item revenue difference, the Department found that Zakat Payer has not provided supporting documentation to substantiate its position regarding the disputed revenues. Therefore, the Department ruled to reject Zakat Payer's objection regarding item (revenue difference).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Article \(20.3\) of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Revenue Difference:

The Plaintiff stated that ZATCA added profits from discrepancies, representing undeclared revenues, to the adjusted net profit for the year. It argued that these sales do not belong to the Company and were not declared within its specific financial statements. Consequently, a difference arises between the revenues reported in the financial statements and VAT returns.





## Defendant's Defenses

### Item First: Revenue Difference:

ZATCA stated that during the assessment, it added the difference resulting from a comparison between the sales listed in the VAT returns and the sales stated in the financial statements, amounting to the adjusted profit. It further stated that the assessment was based on the data provided by Zakat Payer.

## Committee's Response to Defenses.



### Item First: Revenue Difference:

Based on the foregoing, and considering that the dispute over this item is a documentary dispute, and upon reviewing the Case file and its contents of defenses and documents, it is evidence that the Plaintiff has not provided supporting documents to its position regarding the disputed revenues. The Plaintiff has not provided reconciliations of VAT returns with sales of leased sections, nor has it provided evidence that it is collecting the tax on their behalf, as the lease contracts submitted do not contain any agreement regarding VAT. Accordingly, the Department decided to reject the Plaintiff's objection to item (revenue difference).

## Decision:

Dismiss objection filed by Plaintiff (... Company), (CR No. ...) Regarding item (revenue difference).

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-415  
Case No: 24237-2020-Z

**Key words:**

**Zakat - Objection to Zakat Assessment - End-of-Service Benefit Provision - Gratuities**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding Zakat assessment for 2016. Zakat Payer's objection is limited to two items. Regarding the First **Item:** End-of-service gratuity provision, Zakat Payer is objecting to the inclusion of the end-of-service gratuity provision in Zakat base. Zakat Payer is claiming that expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to Zakat base in the following year. As for Item Second (Suppliers): Gratuities, Zakat Payer is objecting to the non-deduction of gratuities. Zakat Payer is claiming that these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore, they are considered business expenses and should be deducted from Zakat base. Considering item (end-of-service gratuity provision), the Department has determined that Zakat Payer has failed to provide the provision movement. Regarding item (gratuities), it is evident that Zakat Payer has not submitted supporting documents for the disputed expenses. Therefore, the Department decided to reject Zakat Payer's objection regarding items (End-of-Service Gratuity Provision) and (Gratuities).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(9\) of Clause \(First\) of Article \(4\), Paragraph \(1/A\) of Article \(5\), Paragraph \(2\) of Article \(6\), and Paragraph \(3\) of Article \(20\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's defenses

**Item First:** End of Service Benefit Provision:

The Plaintiff stated that expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to Zakat base in the following year.

**Item Second:** Gratuities:

The Plaintiff stated that this item consists of gifts given to trainees in the form of shields and certificates of appreciation. Therefore, these are considered expenses of the activity and should be deducted from Zakat base.

### Defendant's Defenses

**Item First:** End of Service Benefit Provision:

ZATCA stated that the total amount accrued during 2016 was SAR (209,932), and the accrued expense for the end-of-service benefit provision was not reversed in the net profit for 2016. For 2017, the accrued expense for the end-of-service benefit provision was reversed in the net profit as it is considered a non-deductible expense. Therefore, Zakat Payer's objection was rejected based on Article (6) of the Zakat Collection Regulations.

**Item Second:** Gratuities:

ZATCA stated that during the assessment, this item was added to the adjusted net profit based on the data available in the financial statements. As the expense pertains to general miscellaneous expenses, Zakat Payer's objection was rejected based on Article (6) of the Zakat Collection Regulations.

## Committee's Response to Defenses.

**Item First:** End of Service Benefit Provision:

Based on the foregoing, it is evident that the dispute regarding this item is a documentary one. Upon reviewing the Case file, including the pleadings and documents, it is clear that the Plaintiff has failed to provide the provision movement, which would allow verification of the balance of provisions that have been held for a full lunar year and must be added to Zakat base. Therefore, the Department decided to reject the Plaintiff's objection to the end-of-service benefit provision.

**Item Second:** Gratuities:

Upon reviewing the documents in the case file, it is evident that the Plaintiff did not provide supporting documentation for the disputed expenses. Accordingly, the Department decided to reject the Plaintiff's objection regarding the item of gratuities.

### Decision:

**First:** Reject the Plaintiff's objection to item (end-of-service gratuity provision).

**Second:** Reject Plaintiff's objection to item (gratuities).

This Decision was issued in the presence of both parties in accordance with the provisions of Article 56 of the Law of Civil Procedures. The Department has set a thirty-day period for receiving a copy of the Decision via the website of the General Secretariat of the Zakat, Tax and Customs Committees. This Decision is considered final and enforceable as per Article 42 of the Tax Dispute and Violation Committee Procedures

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-416  
Case No.: 24241-2020-Z

**Key words:**

**Zakat - Objection to Zakat Assessment - End-of-Service Benefit Provision - Gratuities - Rents - Loans**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding Zakat assessment for 2017. Zakat Payer's objection is limited to four items. Regarding the First **Item:** end-of-service gratuity provision, Zakat Payer is objecting to the inclusion of the end-of-service gratuity provision in Zakat base. Zakat Payer is claiming that expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to Zakat base in the following year. As for Item Second (Suppliers): Gratuities, Zakat Payer is objecting to the non-deduction of gratuities. Zakat Payer is claiming that these are gifts given to trainees in the form of trophies and certificates of appreciation upon successful completion of training courses. Therefore, they are considered business expenses and should be deducted from Zakat base. **Third:** Item (Profit/Loss of the Year): Leases. Zakat Payer is objecting to the inclusion of accrued leases in Zakat base for 2017, arguing that they are current liabilities that have already been settled. Regarding the fourth **Item:** Loans. Zakat Payer is objecting to the inclusion of accrued loans in Zakat base for 2017, arguing that these are not loans but rather non-current related creditors. It intends to adjust this label in the financial statements for future years to be related creditors. With respect to item (end-of-service gratuity provision), the Department found that Zakat Payer failed to provide the provision movement, which is necessary to verify the balance of provisions that have been held for a full lunar year and must be added to Zakat base. Regarding item (gratuities), it is evident that Zakat Payer failed to provide supporting documents for the disputed expenses. As for item (leases), Zakat Payer has not provided supporting documents to substantiate its objection. With regard to item (loans), the Department determined that the accrued loans, which Zakat Payer claimed to be balances of related creditors, are a source of financing and are treated as equity in terms of Zakat treatment. Therefore, the Department ruled to reject the Defendant's objection regarding all items.



## Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(5\) and Paragraph \(9\) of Clause \(First\) of Article \(4\), Paragraph \(1/a\) of Article \(5\), Paragraph \(2\) of Article \(6\), and Paragraph \(3\) of Article \(20\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

## Parties' Defenses

### The Plaintiff's defenses

#### **Item First:** End-of-Service Benefit Provision:

The Plaintiff stated that expenses are recorded on an accrual basis, and if they are not paid or settled during the year, they are added to Zakat base in the following year.

#### **Item Second:** Gratuities:

The Plaintiff stated that this item consists of gifts given to trainees in the form of shields and certificates of appreciation. Therefore, these are considered expenses of the activity and should be deducted from Zakat base.

#### **Item Third:** Rents:

The Plaintiff stated that this item represents current liabilities that have been settled.

#### **Fourth Item** Loans:

The Plaintiff stated that these are not loans but rather non-current related party payables.

### Defendant's Defenses

#### **Item First:** End-of-Service Benefit Provision:

ZATCA stated that the total provision created during 2017 amounted to (SAR 74,750). and the non-deductible expense for the end-of-service benefit provision for 2016 was not reversed in the adjusted net profit and was added to Zakat base. For 2017, the expense created for the end-of-service gratuity provision was deducted from the adjusted net profit as it was considered a non-deductible expense. Consequently, Zakat Payer's objection is rejected based on Article (6.6) of the Implementing Regulations for Zakat Collection.

#### **Item Second:** Gratuities:

ZATCA stated that it added this item to the adjusted net profit based on the data available in the financial statements. As the expense pertains to general miscellaneous expenses, Zakat Payer's objection was rejected based on Article (6) of the Zakat Collection Regulations.

Given that the expense pertains to general miscellaneous expenses, Zakat Payer's objection was rejected based on Article (6) of the Zakat Collection Regulations.

#### **Item Third:** Rents:

ZATCA stated that Zakat year had passed on this item, and that Zakat Payer paid the outstanding amount. Therefore, Zakat Payer's objection was rejected based on Article (4), Clause First of the Zakat Collection Regulations.

#### **Fourth Item** Loans:



ZATCA stated that Zakat year had passed on this item. Therefore, Zakat Payer's objection was rejected based on Article (4), Clause First, Paragraph (3) of Zakat Collection Regulations, in addition to Article (4), Clause First, Paragraph (5) of Zakat Collection Regulations.

### Committee's Response to Defenses.

#### **Item First:** End-of-Service Benefit Provision:

Upon reviewing the Case file, including the pleadings and documents, it is clear that the Plaintiff has failed to provide the provision movement, which would allow verification of the balance of provisions that have been held for a full lunar year and must be added to Zakat base. Therefore, the Department decided to reject the Plaintiff's objection to the end-of-service benefit provision.

#### **Item Second:** Gratuities:

Upon reviewing the documents in the case file, it is evident that the Plaintiff did not provide supporting documentation for the disputed expenses. Accordingly, the Department decided to reject the Plaintiff's objection regarding the item of gratuities.

#### **Item Third:** Rents:

Based on the foregoing, the balances of accrued expenses are considered a component of Zakat base, provided that a lunar year has passed on these balances. Since the dispute over this item is a documentary dispute, and since the Plaintiff has not provided supporting documents for its objection, the Department has decided to reject the Plaintiff's objection to item (Leases).

#### **Fourth Item** Loans:

Based on the foregoing, the accrued loans that the Plaintiff claimed to be balances of related creditors are considered a source of financing and are treated as equity in terms of Zakat treatment. Consequently, the portion that has completed a full lunar year must be added to Zakat base. The Plaintiff's argument that these are balances of related creditors does not negate the correctness of ZATCA's Zakat assessment for the disputed year, as the condition of a full lunar year has been met, thus requiring its inclusion in Zakat base. Therefore, the Department decided to reject the Plaintiff's objection to item (loans).

### Decision:

**First:** Reject the Plaintiff's objection to item (end-of-service gratuity provision).

**Second:** Reject Plaintiff's objection to item (gratuities).

**Third:** Reject the Plaintiff's objection to item (Leases).

**Fourth:** Reject the Plaintiff's objection to item (Loans).

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-429  
Case No.: 45704-2021-Z

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding estimated Zakat assessment for 1432 AH. The Plaintiff is objecting to the Defendant's action of conducting an estimated assessment based on the commercial register recorded in its name without being notified by the Ministry of Commerce of the TIN and resulting obligations. The Department has found that the commercial register was canceled on 14/05/1442 AH, i.e. years after the estimated Zakat assessment. Additionally, the Plaintiff is objecting to the fact that the Defendant relied on the capital recorded in the commercial register for its Zakat assessment. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Estimated Zakat Assessment for 1432 AH:

The Plaintiff stated that it obtained the commercial register but did not engage in trade at all; as it joined a government job less than two months after the date of opening the commercial register and was fully occupied with the job. Furthermore, it was sent on scholarship during that period and inadvertently and ignorantly neglected to cancel the commercial register. It also stated that it was unaware of the obligations associated with the unique identification number and was not notified by the Ministry of Commerce.





### Defendant's Defenses

**Item First:** Estimated Zakat Assessment for 1432 AH:

ZATCA stated that Zakat base was calculated based on the capital recorded in the commercial register, and that its Decision was in accordance with what is stated in the Rules for Calculating Zakat for Taxpayers Subject to Estimation, issued by His Excellency the Minister of Finance's Resolution No. (852) dated 28/02/1441 AH.

### Committee's Response to Defenses.



**Item First:** Estimated Zakat Assessment for 1432 AH:

Based on the foregoing, the Department has found that the commercial register was canceled on 14/05/1442 AH, i.e. years after the estimated Zakat assessment, and that the Defendant relied on the capital recorded in the commercial register for its Zakat assessment. As such, the Department decided to reject the Plaintiff's objection to estimated Zakat assessment for 1432 AH.

### Decision:

Dismiss objection filed by Plaintiff (...), (ID No. ....), regarding the estimated Zakat assessment for 1432AH.

The Decision was delivered in presence of both parties in accordance with Article (56) of the Law of Civil Procedure. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-685  
Case No.: Z-25411-2020

**Key words:**

**Zakat - Objection to Estimated Zakat Assessment - Import Differences**

**Abstract**

Zakat Payer is requesting cancellation of ZATCA's Decision regarding item (import difference) for 1438 AH. Zakat Payer claims that the value of external purchases was (SAR 13,274,007) and the value of customs duties was (SAR 662,862), making the total cost of external purchases (SAR 13,909,869). ZATCA excluded the amount of customs duties and considered it import profits, stating in its response that Zakat Payer had overstated the cost of purchases by this amount without providing a clear reason for rejecting the customs duty expense and considering its value an addition to the cost. All it mentioned in the reason for rejection were provisions of articles whose content is undisputed but do not apply to the subject matter of the Case, as they apply in cases where there is a difference between the amounts submitted by Zakat Payer and the amounts stated in the customs declaration, which does not apply to this situation. The Department has established that Zakat Payer has submitted supporting documents for the import differences regarding the disputed year. Therefore, the Department dismisses Zakat Payer's objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article \(42\) of Tax Dispute and Violation Department Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(6/a\) of Article \(5\) of of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Import Difference for 1438 AH:

The Plaintiff stated that the value of foreign purchases was SAR (13,274,007), and the value of customs duties was SAR (662,862), making the total cost of external purchases an amount of SAR (13,909,869). However, ZATCA excluded the amount of customs duties and considered it as import profits.



### Defendant's Defenses

**Item First:** Import Difference for 1438 AH:

ZATCA stated that the Plaintiff declared external purchases in their declaration amounting to: (SAR 13,247,007) and customs duties of (SAR 662,862), for a total of (SAR 13,909,869). External purchases recorded in ZATCA's system amounted to (SAR 13,247,007), with a difference of (SAR 662,862). Therefore, ZATCA did not accept the Plaintiff's argument, comparing what was stated in the Plaintiff's declaration regarding customs duties with what was recorded in ZATCA's system and adding the entire difference of (SAR 662,862), claiming that the Plaintiff had overstated the costs of purchases.

### Committee's Response to Defenses.



**Item First:** Import Difference for 1438 AH:

Upon reviewing the documents submitted by the Plaintiff, it is evident that the imports amounted to SAR (13,247,007) and the customs duties amounted to SAR (662,862), which is correct and consistent with what was stated in the Plaintiff's declaration. Given that the Plaintiff has provided supporting documentary evidence for the import differences for the year under objection, the Department decided to accept the Plaintiff's objection regarding the item of import differences for 1438 AH.

### Decision:

Accept the objection filed by the Plaintiff (.....) ID No. (...), regarding the estimated Zakat assessment for 1438 AH.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-749  
Case No.: 54649-2021-I

**Key words:**

**Zakat - Objection to Zakat Assessment - Advance Payments from Clients**

**Abstract**

Zakat Payer is requesting cancellation of ZATCA's Decision regarding Zakat assessment for 2019. Zakat Payer contests the inclusion of item (advance payments from clients) in Zakat base amounting to (SAR 3,265,681). However, since the Implementing Regulations for Zakat Collection clarified that what is added from advance payments is the beginning-of-the-period balance or the end-of-the-period balance, whichever is less, it is clear that the Defendant's action of adding the end-of-the-period balance of (SAR 3,265,681) is valid. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Article \(4.2\)](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Advance Payments from Clients:

The Plaintiff stated that the balance is not carried over and is generated during the year from January to the end of December each year. Based on this, the Company calculates the revenues specific to the fiscal year only, and the excess amount is accumulated in an advance payments from client account. Subsequently, the amount carried forward from the advance payments is directly recognized as revenue for the year.



## Defendant's Defenses

### **Item First:** Advance Payments from Clients:

ZATCA stated that the amount added to Zakat base is correct, being the ending balance of SAR 3,265,681. This is the lower balance as shown in the statement of financial position within the financial statements, which indicated that other credit balances were SAR 3,265,681 at the beginning of the period and SAR 3,464,439 at the end of the period.

## Committee's Response to Defenses.



### **Item First:** Advance Payments from Clients:

Upon reviewing the data submitted by both parties, and given that the Implementing Regulations for Zakat Collection, issued by Ministerial Decree No. (2216), dated 07/07/1440 AH, clarified that what is added from advance payments is the beginning-of-the-period balance or the end-of-the-period balance, whichever is less, it is clear that the Defendant's action of adding the end-of-the-period balance of (SAR 3,265,681) is correct. Accordingly, the Department rejects the Plaintiff's objection to the advance payments item.

## Decision:

Dismiss objection filed by Plaintiff (... Company), CR No. (...), regarding item (advance payments).

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-757  
Case No.: 24724-2020-Z

**Key words:**

**Zakat - Objection to Zakat Assessment - Undeclared Contract Profits**

**Abstract**

Zakat Payer is requesting cancellation of ZATCA's Decision regarding Zakat assessment for 2018. Zakat Payer contests the inclusion of item (undeclared contract profits), amounting to (SAR 1,198,875), stating that there were no profits from any undeclared contracts in its accounts. The Department, upon examination, found that only the total value was established and that Zakat Payer had submitted supporting documents to substantiate its claim. Therefore, the Department dismisses Zakat Payer's objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(5\) of Clause \(Two\) of Article \(4\) and Article \(20.3\)](#)

**Parties' Defenses**

**The Plaintiff's defenses**

**Item First:** Undeclared Contract Revenue:

The Plaintiff stated that there were no undeclared contract profits in its accounts, and no invoices related to this contract have been issued after the date: (16/10/2017) up to the present date. Furthermore, the remaining quantity of fuel under the contract has not been transferred due to the company not receiving any transportation requests for the remaining quantity in the contract from the client.



## Defendant's Defenses

### **Item First: Undeclared Contract Revenue:**

ZATCA stated that it added contract profits amounting to SAR (1,198,875), as Zakat Payer did not disclose them in its financial statements. Upon reviewing the contract, it became clear that it was concluded in 2018, which is the same year as the assessment, and it involves a contract with a total value of SAR (7,992,500), which was marked up by (15%). ZATCA's procedure is based on Paragraph (3) of Article (20) of Zakat Collection Regulations.

## Committee's Response to Defenses.

### **Item First: Undeclared Contract Revenue:**

Upon reviewing the submitted documents, it is clear that the contract was concluded on 27/11/2016, with a term of 3 years starting from 01/06/2016, which contradicts what ZATCA stated regarding its review of the contract, indicating that it was concluded in 2018. Since the Plaintiff has submitted supporting documentary evidence, as stated in the establishment's letter regarding not issuing any invoice after (16/10/2017) 16/10/2017, stating that: "According to information provided by competent personnel from the General Supply Directorate, the contract was not completed due to the plant being out of service", In addition to the accredited chartered accountant's certificate, which included a declaration of the invoices issued within the Plaintiff's revenue in the audited financial statements for the two fiscal years ending on 31/03/2017 and 31/03/2018, and given that ZATCA has not provided a sufficient explanation for its actions, the Department shall accept the Plaintiff's objection to item (contract profits) for the disputed year.

## Decision:

Accept the objection filed by the Plaintiff (...) Company, CR No. (...), regarding item (contract profits) for the disputed year.

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-766  
Case No.: 30129-2020-Z

**Key words:**

**Zakat - Objection to Zakat Assessment - Profits Carried Forward Difference – Capital**

**Abstract**

Zakat Payer is requesting the cancellation of ZATCA's Decision regarding Zakat assessment for 2018. Zakat Payer's objection is limited to two items. Regarding the First **Item:** Difference of Profits Carried Forward: Zakat Payer is objecting to adding item (difference of profits carried forward for 2018), stating that profits were used to offset losses in the contracting business and to repay debts. As for Item Second (Suppliers): Capital: Zakat Payer is objecting to adding item (capital), stating that the amount included in Zakat declaration, which is (SAR 50,000), is the same as that in the balance sheet, and it is not adjusted. Regarding item (difference of profits carried forward), the Department has established that Zakat Payer has not attached the detailed transactions during the year for the disputed carried forward profit account. As for item (capital), Zakat Payer has not submitted supporting documents to prove that a full lunar year period has not elapsed on the increase in capital. As such, the Department, hereby, ruled to dismiss Zakat Payer's objection regarding item (difference of profits carried forward) and item (capital) for 2018.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(8\) of Clause \(First\), Clause \(First/1\) of Article \(4\), and Paragraph \(3\) of Article \(20\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)



## Parties' Defenses

### The Plaintiff's defenses

**Item First: Profits Carried Forward Difference:**

The Plaintiff stated that the item was used to offset losses from contracting activities and to repay debts.

**Item Second: Capital for 2018:**

The Plaintiff stated that the amount listed in the declaration is the same as that in the balance sheet, amounting to SAR (50,000), and there are no adjustments to it.

### Defendant's Defenses

**Item First: Profits Carried Forward Difference:**

ZATCA stated that it assessed Zakat Payer's Zakat by calculating the balance of carried forward profits at the beginning of the period after deducting settlements, as Article (4.8) of the Implementing Regulations for Zakat Collection issued in 1438 AH provides that: "**First:** The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 8. The balance of profits carried forward from previous years at the end of the year". As such, the objection was rejected.

**Item Second: Capital for 2018:**

ZATCA stated that Zakat Payer declared the capital value in their return as SAR (25,000). However, upon reviewing the audited financial statements as of 31/12/2018, it appeared that the opening balance was (SAR 50,000), and there was no increase or decrease change in capital during the year until 31/12/2018. This was based on the provisions of Paragraph (1) of Article (4) of Zakat Collection Regulations, which states: "**First:** The Zakat base shall comprise all Zakat Payer's funds subject to Zakat, including: 1. The capital that has completed one year as well as any increase therein, even if such increase do not complete a year, as long as it is attributed to an equity element or aimed at financing an acquisition asset deductible from Zakat base". As such, the objection was rejected.

## Committee's Response to Defenses.

**Item First: Profits Carried Forward Difference:**

Referring to the case file and its included defenses and documents, it is evident that the Plaintiff did not attach a detailed statement of the movement during the year for the disputed carried forward profits account. The Plaintiff did not provide a breakdown of the retained earnings account components nor a clearly reasoned statement of objection and submitted some documents that do not support the Plaintiff's viewpoint. Accordingly, the Department decided to reject the Plaintiff's objection regarding the carried forward profits difference.

**Item Second: Capital for 2018:**

Upon reviewing the documents submitted in the case file, it is clear that the Plaintiff did not provide supporting documents to prove that a Zakat year had not passed on the increase in capital, nor a clearly reasoned statement of objection, and submitted some documents that do not support the Plaintiff's viewpoint. This entails upholding ZATCA's procedure in adding that increase to Zakat base. Accordingly, the Department decided to reject the Plaintiff's objection regarding the item of capital for 2018.



### Decision:

**First:** Reject Plaintiff objection to Item (Difference of Profits Carried Forward for the Year 2018 AD).

**Second:** Dismiss Plaintiff objection to Item (2018 Capital).

The Decision was delivered in presence of both parties. The Department set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision shall be deemed final and enforceable as stipulated by Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



# Income Tax



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Jeddah

Decision No.: IZJ-2022-1446  
Case No.: I-51290-2021

**Key words:**

**Income tax - Objection to Tax Assessment - Estimated Assessment - - Late Payment Fine**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding tax assessment for 2019, specifically concerning the item of (Income Tax). The Taxpayer objects to the imposition of income tax and the estimated assessment for 2019. The Department finds it appropriate to uphold the Defendant's procedure in conducting the estimated assessment and to amend its procedure by applying a rate of 40% to the Taxpayer's expenses and costs as an estimated profit for calculating the tax due. Regarding the item of (Late Payment fine), the Taxpayer objects to the Defendant's procedure of imposing a late payment fine. The Department finds that the Taxpayer was unable to pay the difference in the tax due under the estimated assessment until the Defendant issued the contested assessment. As such, the Defendant's procedure is to be amended in all the disputed items.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(b\) of Article \(63\), Paragraph \(a\) of Article \(77\) of Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph No. \(3/b\), \(4\) of Article \(16\), Paragraph \(3\) of Article \(57\), Paragraph \(a\) of Article \(58\), Paragraph \(1\) of Article \(68\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defense

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Estimated Assessment:

The Plaintiff objected to ZATCA's procedure of imposing income tax and the estimated assessment for the year 2019. The Plaintiff did not accept the Defendant's action based on the premise that (the Plaintiff) does not maintain its accounts, books, and records within the Kingdom. The Plaintiff wishes to present its viewpoint as follows: It pointed out that according to Article (58) of the Income Tax Law, which requires every Taxpayer to maintain the necessary books and records that accurately reflect their financial position, the company has appointed a licensed independent auditor to audit its books and records in accordance with the prevailing accounting principles in the Kingdom of Saudi Arabia for the years under objection. The Committee will note that the independent auditors issued an unqualified opinion on audited financial statements belonging to (...) Company Based on Article (63) of the Income Tax Law, (...) does not meet all the criteria mentioned in that Article, and therefore the issue of conducting an estimated assessment should not arise. Furthermore, the Company submitted its tax returns within the statutory deadline. The Plaintiff states that it is a non-profit company, a cooperative established by (...) companies. It explained the purposes and objectives of (...), and accordingly, based on the foregoing, the need for shared services that ensure the safety of air transport in all countries necessitated the establishment of ... as a non-profit cooperative institution founded by members in the air transport industry. It mentioned that, as detailed above and in its submitted reply memorandum, the estimated tax rate of (40%) as revenue does not apply to its situation. Furthermore, the Defendant considered the reimbursement of expenses and costs from the head office as other revenues and added them to the estimated profits on which the tax was calculated. Given that these costs are incurred by the Plaintiff because the company is non-profit, the amounts added to the estimated profit as other revenues are unjustified. Therefore, based on the foregoing, the Plaintiff requests cancellation of the aforementioned assessment because (...) is a non-profit entity and the cancellation of the tax imposed on the reimbursed amounts (reimbursed costs and expenses) by the head office.

### Defendant (ZATCA) Defenses

#### **Item First:** Estimated Assessment:

The Defendant stated that it conducted the assessment using the estimated method based on the procedure followed in previous years, as the Plaintiff submits tax returns without any revenues related to its activity. According to its statement that it is a non-profit cooperative society, an estimated profit margin of (40%) of the total expenses was added, and the Company's activity is providing special services to (...) companies operating in the Kingdom of Saudi Arabia in the field of wireless services. The Company's accounts were audited on-site for the years 2013 - 2015, and the minutes of the audit stated that the head office records all accounting transactions and that the branch cannot access the automated accounting system. It was also found that the original expense documents related to asset purchases are kept at the head office. Based on the on-site audit, the following was revealed: The Plaintiff does not maintain systematic accounts, books, and records within the Kingdom that reflect the true nature of its activity, and all original documents supporting all values recorded on the computer locally were not kept in a manner that allows access in accordance with Paragraph (3/b) of Article (16) of the Implementing Regulations of the Income Tax Law. The Plaintiff did not provide any supporting documents for the revenue item or what the company calls participation with airline companies. Therefore, the Plaintiff was assessed on an estimated basis at 40% of its revenues in accordance with Article



(63), Paragraph (b) of the Implementing Regulations of the Income Tax Law. It is noted that the company was audited on-site for the previous years from 2003 to 2012, and the same reasons mentioned above were concluded. The Appeal Committee also upheld this in its Decision No. (1097) for 2003 and 2004, and the Administrative Court of Appeal in Riyadh upheld it under Nos. 600/Q of 1437 AH, (1098) of 2005, 2648/Q of 1436 AH, and 1682 for the period from 2006 to 2009. Regarding the Plaintiff's claim that the Company is a cooperative, upon reviewing the articles of association and the Ministry of Commerce's Decision, it was found that the Company provides special services to (...) companies and that the articles of association or the Ministry of Commerce's Decision did not state that the company is non-profit or exempt from tax, as is the practice with similar companies.

### Committee's Response to Defenses.

#### **Item First:** Estimated Assessment:

It is clear to the Committee that the Plaintiff acknowledged not meeting all the criteria mentioned in Paragraph (a) of Article (58), referred to above, concerning books and records, while also requesting that its accounts submitted by the legal accountant not be disregarded. This indicates that the Plaintiff forfeited its right to be assessed based on systematic accounts by not fulfilling all the requirements specified by the law and its regulations. Given that the Income Tax Law and its regulations grant the Defendant the right to conduct an estimated assessment in the event of not maintaining accurate accounts, books, and records within the Kingdom that reflect the true nature and reality of the Taxpayer's operations, which is what the Defendant acted upon in accordance with Article (63) of the Tax Law and Article (16) of the Implementing Regulations of the Income Tax Law, the Defendant is entitled to conduct an estimated assessment for the two years under dispute. Referring to the reply memorandum, the Defendant stated that it calculated an estimated profit at a rate of (40%). However, upon reviewing the amendment letter for 2019, it is evident that ZATCA calculated (140%) as an estimated profit margin on the Plaintiff's costs and expenses for the period in question, with the tax base for 2019, according to the amendment letter, being SAR (2,779,375). Regarding the Plaintiff's claim of being non-profit, the Plaintiff did not provide a Decision exempting it from income tax to prove the validity of its claim. Therefore, the Department finds it appropriate to uphold the Defendant's procedure in conducting the estimated assessment and to amend its procedure by applying a rate of 40% to the Plaintiff's expenses and costs as an estimated profit for calculating the tax due, and to reject the Plaintiff's objection to not disregarding its accounts.

#### **Decision:**

**First:** Amend the Defendant's action regarding Income Tax.

**Second:** Amend the Defendant's action regarding Late Payment Fine.

This Decision was delivered in presence of the parties in accordance with Article (56) of the Law of Civil Procedure. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Either party to the Case may appeal against the Decision within (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





**Key words:**

**Income Tax - Objection to Tax Assessment - Withholding Tax - Late Payment Fine**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for 2019, specifically concerning the item of (Withholding Tax). The Taxpayer objects to the imposition of withholding tax on the deemed profit. The Department finds that this constitutes a profit distribution to the head office, thus supporting the Defendant's action in assuming profit distributions due to the existence of amounts transferred to the head office. Regarding the item of (Late Payment fine), the Taxpayer objects to the imposition of a late payment fine. The Department finds that the late payment fine is calculated from the date of the deadline for submitting the tax return until the date of payment of the tax due arising from the application of the provisions of the law and the adjustments made by the Defendant.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(77.a\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(1\) of Article \(63\), Paragraph \(3\) of Article \(57\), Paragraph \(1\) of Article \(68\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**Defenses of Plaintiff (Zakat Payer):**

**Item First: Withholding Tax:**

The Plaintiff objected to ZATCA's action of imposing withholding tax on the deemed profit. ZATCA assumed that the Plaintiff had distributed profits. However, according to the Income Tax Law, withholding tax is imposed on amounts paid to non-resident parties and is not imposed based on the assumption that profits must eventually be distributed or on a deemed distribution basis.

**Item Second: Late Payment Fine:**

The Plaintiff objected to ZATCA's action of imposing a late payment fine on the taxes imposed in the items above. The reason for the difference is not due to intentional failure to pay the tax on the due date for submitting the return. The Plaintiff stated that the fine should not be imposed until the amounts due become final, based on Article (71) of the Implementing Regulations of the Income Tax Law.

**Defendant (ZATCA) Defenses****Item First: Withholding Tax:**

ZATCA stated that it imposed withholding tax on profit distribution at a rate of (5%), as the Plaintiff submits tax returns without any revenues related to its activity. The same procedure was followed in previous years and the assessment was made as a result of an on-site audit, where an estimated profit margin of (40%) was calculated on expenses and (5%) as withholding tax on distributed profits. The same procedure was followed in the assessment for the period under litigation. Furthermore, it was evident from review that the branch transferred amounts to its head office through clearing, which is one of the methods of settling rights and fulfilling obligations and has the same implications as a payment method, thus being subject to withholding tax.

**Item Second: Late Payment Fine:**

ZATCA stated that late payment penalties were imposed on the resulting tax differences due to non-payment within the legally specified time. This is based on Article (77), Paragraph (a) of the Income Tax Law and Article (68), Paragraph (1/b) of the Implementing Regulations of the Income Tax Law.

**Committee's Response to Defenses.****Item First: Withholding Tax:**

It became clear to the Committee during review that the branch transferred amounts to its head office through clearing, which is one of the methods of settling rights and fulfilling obligations and has the same implications as a payment method, thus being subject to withholding tax. In addition, Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law states: "A non-resident ( 2 ) is subject to tax for any amount realized from a source within the Kingdom, and the tax is withheld from the total amount at the following rates: Dividends at (5%)". In addition, Paragraph (3) of Article (57) thereof states follows: "The burden of proof regarding the accuracy of the items listed in the Zakat payer's declaration, as well as any other data, lies with the Tax Payer. In case of the Zakat Payer's failure to prove the accuracy of the information reported, the Authority may disallow such item not proven to be correct by Zakat Payer, or otherwise raise assessment on deemed basis at the Authority's discretion in view of the surrounding circumstances facts and information available with the Authority" Based on the foregoing, it is clear from the statutory provisions that the imposition of withholding tax is linked to the payment process and its equivalents, such as the settlement between accounts and clearing. Given that ZATCA's procedure of imposing withholding tax on the estimated profit distributions of the branch resulted from the branch transferring amounts to its head office through clearing, which is one of the methods of settling rights and fulfilling obligations, and upon reviewing the documents submitted in the case file, it is evident that the Plaintiff submitted the financial statements for the year, through which, in the head office account, Note (18) shows amounts received by the head office on behalf of the branch, and since this constitutes a profit distribution to the head office, it supports the Defendant's assumption that there were profit distributions due to the existence of amounts transferred to the head office. Consequently, the Department concludes to reject the Plaintiff's objection regarding withholding tax.



**Item Second: Late Payment Fine:**

It became clear to the Committee that the late payment fine is calculated from the date of the deadline for submitting the tax return until the date of payment of the tax due arising from the application of the provisions of the law and the amendments made by the Defendant. Given that the dispute between the parties arises from items governed by clear statutory provisions and is not a matter of technical disagreement, nor did it originate from a significant difference in the interpretation of the statutory texts, the panel found ZATCA's procedure of imposing the late payment fine from the due date on the item for which the Plaintiff's objection was rejected to be correct. Accordingly, the Department decided to reject the Plaintiff's objection regarding the late payment fine.

**Decision:**

**First:** Reject the Plaintiff's objection to Withholding Tax.

**Second:** Reject the Plaintiff's objection to the Late Payment Fine.

This Decision was delivered in presence of the parties in accordance with Article (56) of the Law of Civil Procedure. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Any litigant Case may appeal against the Decision within (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Interest transfers with external shipping intermediaries - Late Payment Fine**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding tax assessment for January, February, March, April, May, June, July, October, and November of 2010, and January of 2011, specifically concerning the item of (Interest remittances to foreign shipping agents). The Taxpayer objects to subjecting commission remittances to foreign shipping agents to withholding tax at a rate of 15% as other payments. The Department finds that the Taxpayer did not provide supporting documentation for its viewpoint to prove that the service constitutes shipping costs and not commissions. Regarding the item of (Late payment fine), the Taxpayer objects to the imposition of a late payment fine in the event of any delay in the payment of withholding tax. The Department finds that the fine arises from the contested item, and what pertains to it follows its ruling. This resulted in rejection of Taxpayer's objection in all the items in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(a\) and \(b\) of Article \(77\) of Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(3\) of Article \(57\), Paragraph \(1\) and Paragraph \(7\) of Article \(63\) of the Implementing Regulations of Income Tax Law issued by Minister of Finance Decision No. \(1535\) dated 11/6/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**Defenses of Plaintiff (Zakat Payer):**

**Item First:** Interest transfers with external shipping intermediaries:

The Plaintiff challenges ZATCA's Decision to apply a 15% withholding tax on commission transfers to external shipping intermediaries as other payments. The Plaintiff asserts that during the examination stage, they informed ZATCA via email about nature of the amounts transferred to the shipping intermediaries.



### Defendant (ZATCA) Defenses

**Item First:** Interest transfers with external shipping intermediaries:

It stated that commission transfers to external shipping intermediaries were subjected to a 15% withholding tax as "other payments," as it was evident from Taxpayer's response via email that these amounts were transferred as service commissions to the external shipping intermediary.

### Committee's Response to Defenses.

**Item First:** Interest transfers with external shipping intermediaries:

It became clear to the Committee that the Plaintiff did not provide supporting documentation for its viewpoint to prove that the service constitutes shipping costs and not commissions. Consequently, the Department concludes to reject the Plaintiff's objection.

### Decision:

**First:** Reject the Plaintiff's objection regarding the item of Interest transfers with external shipping intermediaries for January, February, March, April, May, June, July, October, and November of the year 2010, and January of 2011.

**Second:** Reject the Plaintiff's objection regarding Late Payment Fine.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Failure to Clarify Reasons for Adjustments - Employee Benefits - Salaries - Revenues and Expenses - Joint Venture Losses - Revenues from Joint Venture - Carried Forward Accumulated Losses - Late Payment Fine**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding tax assessment for 2016 and 2017, specifically concerning the item (losses of the joint venture), where the Taxpayer objects to the adjustment of the branch's business results without providing any other reasons. The Department found that ZATCA refused to deduct the carried-forward losses on the basis that the joint venture is not registered with it, and the Taxpayer responded that the joint venture has been registered with ZATCA. Consequently, the reason for refusal no longer exists. Regarding the item (revenues from the joint venture), the Taxpayer objects to the addition of an estimated net profit based on the assessment at a rate of 40% of the total revenues of the joint venture. The Department found that the Taxpayer has declared this joint venture and its characteristics, and invoices related to the joint venture are submitted based on the specified mechanism. Regarding the item (carried forward accumulated losses), the Taxpayer objects to the refusal to deduct the accumulated losses according to the financial statements, given that the losses are offset against retained earnings. The Department found, upon reviewing the Taxpayer's return, that the Taxpayer had declared a loss in their declarations submitted to ZATCA. Regarding the item (late payment fine), the Taxpayer objects to the calculation of a late payment fine on the disputed items. The Department found that the late payment fine is calculated from the date of the end of the specified period for submitting the declaration until the date of payment of the resulting tax due. Therefore, the Department decided to cancel the Defendant's Decision with respect to the item (losses of the joint venture), the item (revenues from the joint venture), and the item (carried forward accumulated losses), amend the Defendant's Decision with respect to the item (late payment fine), and reject Taxpayer's objection regarding the remaining items.



## Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(a, b\) of Article \(21\), Paragraph \(a\) of Article \(62\), and Paragraph \(a\) of Article \(77\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(1\) of Article \(9\), Paragraph \(1\) of Article \(11\), Paragraph \(3\) of Article \(57\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/6/1425AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Failure to Clarify Reasons for Adjustments According to the Adjustment Letter:

The Plaintiff objected to ZATCA's action of not providing justification for the disputed assessment. In its statement of claim, it indicated that ZATCA issued the assessment without conducting a proper examination of the branch's books and accounts and did not take into account the declaration submitted by the branch for 2016 and 2017. Furthermore, ZATCA did not clarify the details and reasons for the adjustments it made to the branch's account, thereby violating the provisions of Article (62). Accordingly, the Plaintiff requests cancellation of ZATCA's action.

#### **Item Second:** Employee Benefits for 2016:

The Plaintiff objected to ZATCA's action of adjusting the branch's business results regarding employee benefits for 2016 on the basis that they were not supported by documentation. In its statement of claim, it mentioned that the Taxpayer did not submit the documents, which is incorrect. The Taxpayer submitted the documents requested by ZATCA and requests a review of the emails issued by ZATCA on October 11 and 22, 2020, according to which the details of employee benefits were provided (attached Appendix 2), as well as a sample of employment/renewal contracts (attached Appendix 3). It states that it had previously submitted a detailed statement of employee benefits with samples of employment contracts and renewed contracts in its email dated October 11, 2020. Therefore, a review is requested, and accordingly, the Plaintiff requests cancellation of ZATCA's action.

#### **Item Third:** Salaries:

The Plaintiff objected to ZATCA's action of refusing to deduct salaries and wages for 2016 and 2017 due to insufficient supporting documentation. In its statement of claim, it indicated that the supporting documents were previously attached to ZATCA, as mentioned in the emails dated October 11 and 22, 2020 (attached Appendices 4 and 5), in addition to the employee benefits schedule (attached Appendix 6) and a sample of employee contracts (attached Appendix 3). Accordingly, the Plaintiff requests cancellation of ZATCA's action.

#### **Fourth Item** Revenues and Expenses from/Due to Related Parties:

The Plaintiff objected to ZATCA's action of not allowing the deduction of expenses amounting to SAR 3,665,326 for 2016 and SAR 5,514,177 for 2017, on the basis that the branch had not previously declared the corresponding revenues for these expenses. The branch clarifies that ZATCA only calculated the difference between revenues and expenses from related parties for the purposes of the adjustment.





**Fifth: Losses of the Joint Venture:**

The Plaintiff objected to ZATCA's action of adjusting the branch's business results by SAR 2,058,915 for 2016 and SAR 390,238 for 2017 without providing any other reasons. In its statement of claim, it wished to confirm that the profits and losses of the joint venture are shared between (...) Regarding the fiscal years 2016 and 2017, it refers to Note 8 of the branch's financial statements, where the amounts represent 50% of the joint venture's losses for 2016 and 2017. It attached a copy of the joint venture's financial statements for 2016 and 2017, which were previously submitted to ZATCA during the examination and assessment period and again when the objection was filed. Accordingly, Taxpayer requests cancellation of ZATCA's action.

**With regard to Item (6), Revenues from the Joint Venture:**

The Plaintiff objected to ZATCA's action of adding an estimated net profit based on the assessment at a rate of 40% of the total revenues of the joint venture, amounting to SAR 6,109,083 for 2016 and SAR 6,148,090 for 2017 for each party of the joint venture. In its statement of claim, it indicated that the details for this item had already been sent and that the TIN for (...) Company is (...) In addition, it states that (...) Company's share of the joint venture's result was disclosed in the declaration, and the company paid the tax on it. The Company calculated its share of the joint venture for 2016 at SAR 2,058,915, which represents 50% of the total loss recorded by the joint venture (amounting to SAR 4,054,990). For 2017, the Company calculated its share of the joint venture at SAR 390,238, which represents 50% of the total loss recorded by the joint venture (amounting to SAR 780,472). These amounts are declared under other indirect expenses in the submitted declarations for the years under review. Accordingly, the Plaintiff requests cancellation of ZATCA's action.

**Concerning Item (7): Carried Forward Accumulated Losses:**

The Plaintiff objected to ZATCA's action of refusing to deduct the accumulated losses according to the financial statements, as the losses are offset against retained earnings, and therefore, there are no accumulated losses in the financial statements. In its statement of claim, it indicated that ZATCA's action is inconsistent with the tax regulations because the losses to be carried forward are not related to the losses mentioned in the financial statements, but rather the tax losses are determined according to the declaration submitted by the Taxpayer. ZATCA erred in interpreting its argument because the branch is not requesting the deduction of losses but is requesting permission to carry forward the losses to future years. Accordingly, the Plaintiff requests cancellation of ZATCA's action.

As for Item (8): Late Payment Fine:

The Plaintiff objects to ZATCA's action of calculating a delay fine on the aforementioned disputed items. In its statement of claim, Plaintiff asserted that tax returns were filed within the legal deadlines and that the late payment fines related to the tax discrepancy resulted from mistakes and differing interpretations, not from any deliberate attempt to avoid paying the tax on time. Consequently, the Plaintiff seeks cancellation of any additional tax liability arising from this, arguing that it should not be subject to late payment fine.

### Defendant (ZATCA) Defenses

**Item First: Failure to Clarify Reasons for Adjustments According to the Adjustment Letter:**

ZATCA stated that it issued a preliminary assessment and notified the Plaintiff thereof, granting them a period to respond to the preliminary assessment while detailing the non-resident entities and the amounts subject to withholding tax. Furthermore, the Plaintiff responded to the preliminary assessment and submitted documents that were studied, based on which ZATCA issued the final assessment. Therefore, ZATCA complied with the legal procedures.

**Item Second: Employee Benefits for 2016:**

ZATCA stated that during the assessment, it disallowed salaries and benefits paid by the branch due to the Plaintiff's failure to provide supporting documentation for their viewpoint. On March 17, 2021, ZATCA clarified to the Plaintiff that the disallowed amount was not documented. The detailed statement submitted during the assessment period did not accurately show the amounts, and the statement submitted during the objection phase was identical to what was previously submitted. However, the total amounts in both statements did not match what was stated in the attached reconciliation. ZATCA requested the Plaintiff again to provide a detailed statement clarifying the amounts mentioned in the reconciliation and the reasons for the discrepancies between it and what was stated in the previously submitted statements. Upon reviewing what the Plaintiff submitted, which clarified the amounts and their connection to the aforementioned reconciliation, this statement also showed that the total for overtime and other employee-related expenses differed from what was stated in the Plaintiff's previously submitted statements, and the reasons for these discrepancies were not clarified.

**Item Third: Salaries:**

ZATCA stated that during the assessment, it disallowed the difference between the Taxpayer's analytical statement and the salaries listed in the declaration for accounting net profit due to the Plaintiff's failure to clarify the reasons for the discrepancies. On March 17, 2021, ZATCA clarified to the Plaintiff that the statements detailing salaries and benefits submitted during the examination period did not accurately show the amounts and did not match what was submitted during the objection period. Furthermore, the total amounts in both statements did not match what was stated in the attached reconciliation. ZATCA requested the Plaintiff to provide a detailed statement clarifying the amounts in the reconciliation and the reasons for the discrepancies between it and what was stated in the previously submitted statements. Upon reviewing what the Plaintiff submitted, which clarified the amounts and their connection to the aforementioned reconciliation, this statement also showed that the total for basic salaries and other employee-related expenses differed from what was stated in the Plaintiff's previously submitted statements, and the reasons for these discrepancies were not clarified.

**Fourth Item Losses of the Joint Venture:**

ZATCA stated that during the assessment, it did not accept the deduction of the joint venture's losses because the Plaintiff did not submit a declaration for the joint venture. Therefore, it was assessed on an estimated basis in accordance with Article (17) of the Implementing Regulations of the Income Tax Law. On March 17, 2021, ZATCA clarified to the Plaintiff that the joint venture must be registered with ZATCA to be assessed based on its accounts according to Article (57/A) of the Tax Law.

**Fifth: Revenues from the Joint Venture:**

ZATCA stated that during the assessment, it added profit to the joint venture's revenues because the Plaintiff did not submit a declaration for the joint venture. Therefore, it was assessed on an estimated basis, and accordingly, ZATCA maintains the validity of its action.

**With regard to Item (6), Carried Forward Accumulated Losses:**

ZATCA stated that after reviewing the financial statements, it became clear that the losses are offset against retained earnings. Consequently, there are no accumulated losses in the financial statements. Upon reviewing the Plaintiff's previously submitted declarations for 2016 and 2017, it was found that the Plaintiff did not deduct any losses. Furthermore, the deductible losses are those based on ZATCA's assessments, and there are no carried-forward losses according to ZATCA's assessments. Therefore, ZATCA considers its action to be correct based on Article (11/1) of the Tax Regulations.

**Concerning Item (7): Late Payment Fine:**

The Defendant stated ZATCA did not rely on that the late payment fine was imposed on unpaid tax differences after the due date, and the Defendant maintains the correctness of its procedure.



## Committee's Response to Defenses.

### **Item First:** Failure to Clarify Reasons for Adjustments According to the Adjustment Letter:

The Committee found that the assessment was sufficiently reasoned to enable the Taxpayer to object. Consequently, the Committee concludes to reject the Plaintiff's objection on this item.

### **Item Second:** Employee Benefits for 2016:

The Committee found that the Taxpayer did indeed attach the emails exchanged between them and ZATCA and referred therein to the supporting documents related to this item, such as details of employee benefits and a sample of contracts. However, the Taxpayer did not attach these documents correctly in their claim before the committees. Therefore, it is difficult to verify the Plaintiff's claims. Consequently, the committee concludes to reject the Plaintiff's objection on this item.

### **Item Third:** Salaries:

The Committee found that the Taxpayer did indeed attach the emails exchanged between them and ZATCA and referred therein to the supporting documents related to this item, such as details of employee benefits and a sample of contracts. However, the Taxpayer did not attach these documents correctly in their claim before the committees. Therefore, it is difficult to verify the Plaintiff's claims. Consequently, the committee concludes to reject the Plaintiff's objection on this item.

### **Fourth Item** Revenues and Expenses from/Due to Related Parties:

The Committee found that the Plaintiff did not provide the documents supporting its view that these expenses were incurred. Therefore, and since the Plaintiff did not provide sufficient documentary evidence, the committee concludes to reject the Plaintiff's objection on this item.

### **Fifth:** Losses of the Joint Venture:

The Committee found that ZATCA refused to deduct the carried-forward losses on the basis that the joint venture was not registered with it, and the Taxpayer responded that the joint venture was registered with ZATCA under TIN (...) Consequently, since the reason for refusal no longer exists, the committee concludes to cancel the Defendant's Decision on this item.

With regard to Item (6), Revenues from the Joint Venture:

The Committee found that the Taxpayer declared this joint venture and its characteristics, and invoices related to the joint venture are submitted based on the specified mechanism. However, profits are shared at a rate of 50% for each partner, as stated in Note 8 of the financial statements for 2016 and 2017. The movement of the share in the joint venture for the same years was also included. Accordingly, the Department unanimously decided to cancel the Defendant's Decision Concerning Item (7): Carried Forward Accumulated Losses:

The Committee found that the Plaintiff declared a loss in its declarations submitted to ZATCA. Therefore, and in application of paragraph (1) of Article (11) of the Implementing Regulations of the Income Tax Law, it is entitled to claim the carry-forward of losses for the disputed future years. Accordingly, the Committee unanimously decided to cancel the Defendant's Decision regarding this item.

### **As for Item (8): Late Payment Fine:**

It was found that the late payment fine is calculated from the deadline for filing return until the date of paying due tax resulting pursuant to provisions of the Law and any subsequent amendments made by Defendant. Since the dispute between the parties is document-based and did not arise from a significant discrepancy in interpreting statutory provisions. Therefore, the Department upholds Defendant's procedure outlined in imposing late payment fine from the due date regarding the items for which Plaintiff's objection was dismissed. In addition, the late payment fine is deemed null and void for the items where ZATCA Decision was nullified, as the basis for imposing tax itself was nullified.



### Decision:

1. Reject Plaintiff's objection to item failure to clarify the reasons for adjustments for 2016 and 2017.
2. Reject Plaintiff's objection to item employee benefits for 2016.
3. Reject Plaintiff's objection regarding item salaries for 2016 and 2017.
4. Reject Plaintiff's objection to item accrued revenues and expenses for related parties for 2016 and 2017.
5. Cancel Defendant's Decision concerning item joint venture losses for 2016 and 2017.
6. Cancel Defendant's Decision concerning item revenues from the joint venture for 2016 and 2017.
7. Cancel Defendant's Decision concerning item accumulated carried-forward losses for 2016 and 2017.
8. Amend Defendant's Decision on item late payment fine.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Dammam

Decision No.: IZD-2022-1925  
Case No.: I-2021-69510

**Key words:**

**Income Tax – Objection to Tax Assessment – External Purchases – Purchases Recorded Based on Percentage of Completion – Overstated Social Insurance – Amounts Paid According to the Return – Late Payment Fine**

**Abstract**

The Taxpayer requested cancellation of ZATCA's Decision regarding 2015 tax assessment, specifically concerning the items (external purchases" and (purchases recorded by percentage of completion). The Taxpayer objected to addition of import discrepancies to the net profit and provided documents to support their position on these discrepancies. Regarding the item (social insurance charged with excess), the Taxpayer objected to addition of an inflated social insurance expense to the net profit but failed to submit supporting documents for this dispute. For the item (amounts paid under the return), the dispute was resolved with acceptance of Defendant's requests on behalf of the Taxpayer. Finally, concerning the item (delay fine), the Taxpayer objected to calculation method, while the Department found that the fine was correctly calculated from the deadline for submitting the return to the date the due tax was paid, in accordance with the law and the amendments made by the Plaintiff. This entails overturning Defendant's Decision regarding the items (external purchases) and (purchases recorded by percentage of completion), dismissing Taxpayer's objection concerning the (social insurance charged with excess), acknowledging resolution of the dispute over the (amounts paid under the return) and amending Defendant's Decision concerning the (delay fine).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(a\) and \(b\) of Article \(77\) of Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Article \(70\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Paragraph \(1\) of Article \(9\), Paragraph \(3\) of Article \(57\), Paragraph \(1\) of Article \(68\), Paragraph \(3\) of Article \(67\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/6/1425AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(70\) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)



## Parties' Defenses



### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** External Purchases:

The Plaintiff objects to Defendant's procedure of adding import differences to the net profit, as it indicated in its statement of claim that it was classified as an internal purchase by mistake in the tax return for 2015. Accordingly, the Plaintiff claims not to add it to the net profit.

#### **Item Second:** Purchases Recorded Based on Percentage of Completion:

The Plaintiff objects to Defendant's procedure of adding import differences to the net profit. In its statement of claim, the company clarified that purchase invoices were issued, and the related sales and costs were recorded in 2014, while the purchases were cleared from customs in 2015. As a result, the company included this item in its 2015 settlement as a reconciliation of purchases for that year. Accordingly, the Plaintiff claims not to add it to the net profit.

#### **Item Third:** Social insurance charged with excess:

The Plaintiff objects to Defendant's procedure of adding a social insurance expense charged with excess of SAR (444,663) to the net profit. It explained in its statement of claim that the increase in social insurance expenses is represented in expenses for retirement funds for foreign employees of (...) Company. The company emphasizes that this expense is essential because these employees would receive the same benefits if they were working in their home countries. Therefore, to attract them, the company must offer comparable benefits, making this expense necessary for its operations in accordance with Article (9) of the Implementing Regulations of Income Tax Law.

#### **Fourth Item** Late Payment Fine:

The Plaintiff objects to Defendant's procedure of imposing the late payment fine, and requests that these fines not be calculated against them.





## Defendant (ZATCA) Defenses

### **Item First:** External Purchases:

ZATCA stated that it added the amount to the net profit. It is clear from Plaintiff's explanation of this item that these purchases are already included in the customs declaration for the year 2015, but were not included in the declaration. The Plaintiff provided a statement of these purchases with samples of the 5 largest invoices. The Plaintiff submitted its tax return and calculated the net profit based on the revenues and expenses reported in the return. The adjustment raised by the Plaintiff indicates that the net profit, as per the return, would decrease by the corresponding amount. However, it did not provide any supporting documents for the other items listed in the return that it acknowledged. Accordingly, objection of the Taxpayer has been rejected and ZATCA asserts validity of its action.

### **Item Second:** Purchases Recorded Based on Percentage of Completion:

ZATCA stated that it added the amount to the net profit. The Plaintiff pointed out that these purchases were only invoices issued in 2014 and the 2014 purchases included these invoices, while these goods were only cleared customs in 2015. It is clear from the invoices that the dates were in late 2014, but the Plaintiff did not provide any proof that these goods were cleared in 2015. Accordingly, objection of the Taxpayer has been rejected and ZATCA asserts validity of its action.

### **Item Third:** Social insurance charged with excess:

ZATCA stated that it compared the social insurance expense charged in the return with the social insurance expense according to the social insurance certificate, as the Plaintiff indicated that the difference is due to insurance expenses paid abroad, but it did not submit any supporting documents. Accordingly, objection of the Taxpayer has been rejected and ZATCA asserts validity of its action.

### **Fourth Item** Amounts paid under the Return of 2015:

ZATCA stated that a meeting was held with the Taxpayer, during which it was discovered, upon reviewing Taxpayer's account statement, that certain payments for 2015 were not reflected in the initial assessment. As a result, the Taxpayer is advised to contact the relevant Department to ensure these payments are added, and to be informed accordingly.

### **Fifth:** Late Payment Fine:

It stated that it imposed a delay fine for non-payment of tax differences on the regular date based on Article (77), Paragraph (A) of the Income Tax Law, and Article (67), Paragraph (3) of the Implementing Regulations of Income Tax Law. ZATCA's action was supported by Appeal Decision No. (1774) of 1438 AH and by the judgment of the Second Administrative Department of the Appellate Court in Riyadh in Case No. (3404/Q) of 1439 AH, in respect of which the judgment of the Nineteenth Administrative Department of the Administrative Court in Riyadh was issued in Case No. (5245/1/Q) of 1438AH. Accordingly, ZATCA confirms validity and regularity of its procedure.





## Committee's Response to Defenses.



### **Item First:** External Purchases:

The Committee found that the plaintiff provided reasons and justifications for the differences in imports, which consisted of an error in classifying purchases. The plaintiff acknowledged the external purchases under domestic purchases in the tax declaration by mistake and provided supporting documents such as: (Settlement of external purchases and return – external purchases that were included with internal purchases by mistake - daily restrictions) through which it becomes clear that the external procurement differences represent an actual expense that is allowed to be deducted and declared, and accordingly, since the Plaintiff attached documents supporting validity of its point of view on import discrepancies, which ends with the Department canceling ZATCA's Decision on this item.

### **Item Second:** Purchases Recorded Based on Percentage of Completion:

The Committee found that the plaintiff provided reasons and justifications for the import differences, which consisted of purchase invoices being issued, and the related sales and costs being recorded in 2014. However, these purchases were cleared from customs in 2015. The plaintiff provided supporting documents such as: (Settlement of external purchases – customs statement – purchase invoices) demonstrates that discrepancies in external purchases represent an actual deductible expense, which was duly reported. Given that the Plaintiff has provided supporting documents to validate its position regarding import discrepancies, the Department concludes that ZATCA's Decision on this matter shall be overturned.

### **Item Third:** Social insurance charged with excess:

The Committee found that ZATCA added back the overstated social insurance expense, and the plaintiff objects to this. The Plaintiff indicated that the differences represent expenses for pension funds specifically for the Company's foreign employees, namely employees from Finland. However, the Plaintiff did not provide supporting documents for the disputed item, such as: (Social insurance certificate - a statement of the names of employees benefiting from the pension fund program in Finland with a statement of their salaries and deductions - samples of employment contracts that indicate these benefits). Accordingly, the court concludes to reject Plaintiff's objection on this item.



**Fourth Item** Amounts paid under the Return of 2015:

It was proven that the dispute over the item "Amounts paid under the return of 2015 " has ended with the acceptance by the Defendant of Plaintiff's requests as stated in the letter it issued in the response memorandum dated 30/11/2021, which includes: "It is evident from reviewing Taxpayer's account statement that there are payments related to the year 2015 that were not reflected in the assessment when it was issued. Therefore, the relevant department shall be contacted to reconcile these payments and notify the Taxpayer accordingly." Accordingly, the Department concludes that the dispute over this item has been resolved.

**Fifth: Late Payment Fine:**

Based on the above, and after reviewing case file and its included defenses and documents, since the late payment fine is calculated as of end of the deadline for submitting the return to the date of payment of due tax, in accordance with application of Law provisions and the adjustments made by the Defendant, and considering that the dispute between the parties is based on documentation rather than a significant difference in the interpretation of the legal provisions, the Department decided to amend Defendant's Decision by imposing the late payment fine as of the due date on the items for which Plaintiff's objection was rejected, And cancel the late payment fine on the items in which Defendant's Decision was canceled.

**Decision:**

1. Cancel Defendant's Decision regarding the item of other external purchases.
2. Cancel Defendant's Decision in respect of the item of purchases recorded by percentage of completion.
3. Reject Plaintiff's objection regarding the item of social insurance charged with excess.
4. Confirm end of the dispute regarding the item of amounts paid under the return.
5. Amend Defendant's Decision regarding late payment fine.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Key words:**

**Income tax - Objection to Tax Assessment - Salaries and Wages - Expenses Not Supported by Documents - Expenses Not Acceptable for Deduction**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for the period 2015 through 2017, specifically concerning the item (salaries and wages), where the Taxpayer objects to the disallowance of salaries and wages on the grounds that they are not supported by documentation. The Department found that the dispute regarding the salaries of the subcontractor's employees and the salaries of the company's personnel has been resolved, and the Taxpayer has attached supporting documents for their viewpoint regarding the reasons for the discrepancies. Regarding the item (expenses not supported by documentation), the Taxpayer objects to the adjustment of the book profit by disallowing the deduction of certain expenses amounting to SAR (62,250) on the grounds that they do not pertain to the year. The Department found, based on the aforementioned, that these expenses are supported by documentation and do pertain to the year. Regarding the item (expenses not acceptable for deduction), the Taxpayer objects to the disallowance of certain expenses on the basis that they are not deductible. The Department found, concerning cleaning costs, that the Taxpayer provided a statement of expenses and bank receipts. Concerning company fees, the Taxpayer provided a statement of expenses and bank receipts supporting their claim. Concerning car ownership transfer fees for two vehicles, the Taxpayer provided a statement of expenses and bank receipts supporting their claim. Concerning violations, these expenses are considered non-deductible as they are not related to the Company's activity. Therefore, the Department decided to cancel the Defendant's Decision with respect to the item (expenses not supported by documentation), and confirm resolution of the dispute.



### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(70\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Paragraph No. \(1\) of Article \(9\) and Paragraph No. \(3\) of Article \(57\) of the Implementing Regulations of Income Tax Law issued by Minister of Finance Decision No. \(1535\) dated 11/6/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Article \(70.1\) of Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice's Decision No. \(39933\) of 19/05/1435 AH.](#)

### Parties' Defenses

#### Defenses of Plaintiff (Zakat Payer):

##### **Item First:** Salaries and Wages:

The plaintiff objected to ZATCA's action of disallowing salaries and wages on the grounds that they were not supported by documents. In its statement of claim, it indicated that all these salaries were related to the achievement of the realized income, as these personnel were working on the Company's projects that generated the income recorded in the aforementioned tax years. This is supported by documentation, as all these individuals worked for the company and left after receiving their dues without any objection or complaint at the labor office. (Attached is the bank statement for the mentioned period, including transfers to some of the mentioned employees) (Attachment No. 3). Furthermore, the salaries item meets all the necessary conditions for acceptance of its deduction, in accordance with the provisions of the Implementing Regulations of the Income Tax Law. Accordingly, the Plaintiff requests acceptance of its deduction.

##### **Item Second:** Expenses Not Supported by Documents for 2016 and 2017:

The Plaintiff objected to ZATCA's action of adjusting the book profit by disallowing the deduction of certain expenses amounting to SAR 62,250 on the grounds that they do not pertain to the year. The Plaintiff clarified its statement in its statement of claim and, based on the foregoing, confirms that these expenses are supported by documents, pertain to the year, and meet all the conditions of Article (9), Paragraph 1 of the Implementing Regulations of the Income Tax Law, which stipulates (Expenses that may be deducted to determine taxable income). Since all the expenses whose deduction was disallowed by ZATCA from the tax base meet the provisions of Article (9), and the Plaintiff has attached the supporting documents for these expenses, it requests approval to adjust the book profit by accepting the deduction of the amount of SAR 62,250 from the tax base for the fiscal years from 2015 to 2017.

##### **Item Third:** Expenses Not Acceptable for Deduction for the period from 2015 to 2017:

The Plaintiff objected to ZATCA's action of disallowing certain expenses on the grounds that they are not deductible. In its statement of claim, it indicated that these expenses are divided into cleaning expenses, fees for (...) Company, car ownership transfer fees, and various car violations, with a total expense for the aforementioned years of SAR 27,439.24. Accordingly, the Plaintiff requests acceptance of the deduction of these expenses.



## Defendant (ZATCA) Defenses

### **Item First:** Salaries and Wages:

ZATCA stated that the contract between the Taxpayer and the subcontractor was reviewed, and the Taxpayer's claim of providing employees with specific specializations to carry out the work detailed in the third clause of the contract and the contract amount was found to be correct. The Taxpayer also attached a final clearance with this entity. In addition, a detailed analytical statement of these amounts for the years 2015 to 2017 was provided, showing the amounts transferred to the subcontractor for their work. Based on this, the Taxpayer's request was accepted during the objection phase with ZATCA. Second Part: Salaries of Company Personnel amounting to SAR 666,559: It was stated that the detailed analytical statement submitted by the Taxpayer was reviewed. This statement was submitted during the examination phase but was not taken into account because the Taxpayer did not attach the relevant supporting documents and did not provide proof of payment for these amounts during the objection phase. Therefore, the Taxpayer's objection was rejected on this part. Partial acceptance of the Taxpayer's objection was made, accepting the amount of SAR 1,766,000 and rejecting the amount of SAR 559,666, which is the remainder of the total salary expense after deducting the amount of the First part. ZATCA maintains its correctness and validity.

### **Item Second:** Expenses Not Supported by Documents for 2016 and 2017:

ZATCA stated that these expenses were added back to the tax base, and the other expenses were verified, revealing that they were paid, pertained to the year, were eligible for deduction, and were mostly government payments. Accordingly, the Taxpayer's objection was partially accepted, and expenses amounting to SAR 62,250 were not accepted and were added back to the tax base, while the remaining expenses for the years 2015 to 2017 were accepted.

### **Item Third:** Expenses Not Acceptable for Deduction for the period from 2015 to 2017:

ZATCA stated that upon reviewing what the Taxpayer attached in their objection, it was found that there were no supporting documents for these expenses in the form of invoices and payment transfers, unlike what the Taxpayer provided in the second item. Therefore, ZATCA was unable to verify the nature of these expenses. Accordingly, the objection was rejected.

## Committee's Response to Defenses.

### **Item First:** Salaries and Wages:

It was established for the Committee that the dispute has ended with ZATCA accepting the Plaintiff's requests, as stated in its letter within the defense memorandum, which includes: "Based on this, the Taxpayer's request was accepted during the objection phase with ZATCA, which means the objection regarding this matter is considered resolved." As a result, the Department concludes that dispute over this item has been resolved.

### Salaries of Company Personnel amounting to SAR 559,666:

It was established for the Committee that the Plaintiff attached a social insurance certificate and a list of subscribers with a statement of salaries and the like charged to the accounts and salaries and wages, according to the social insurance certificate. The Plaintiff also provided a statement of payments (salaries + end-of-service benefits) to the company's personnel that were not deducted for the years 2015-2017, and a bank statement including transfers to some of the mentioned employees. Since the Plaintiff attached supporting documents confirming its viewpoint regarding the reasons for the discrepancies, and that they represent actual expenses related to the activity, the committee concludes to cancel ZATCA's Decision.

### **Item Second:** Expenses Not Supported by Documents for 2016 and 2017:

The Committee found that the Taxpayer attached a copy of the Company's bank statement, highlighting the transfer to the Investment Authority amounting to SAR 2,000 on 29/11/2016, which is an annual expense that foreign investment companies must pay to the Investment



Authority (Attachment No. 4). The Plaintiff also attached a copy of the sales offer from (...) Company dated 2016 and a purchase order dated 02/01/2017. Therefore, the transaction was accounted for in 2017 and not 2016, as the purchase itself took place in 2017 (Attachment No. 5), and a copy of the purchase invoice for the scanners dated 08/11/2017 (Attachment No. 8). Based on the foregoing, these expenses are considered supported by documentation, pertain to the year, and fall under the provisions of Article (9) of the Implementing Regulations of the Income Tax Law. Therefore, the Department concluded by cancelling the Defendant's Decision regarding this item.

**Item Third: Expenses Not Acceptable for Deduction for the period from 2015 to 2017:**

The Committee found that the plaintiff clarified the importance of the cleaning contract in its operations. Regarding the fees for (...) Company, the plaintiff attached copies of payment receipts for 2015 and 2017 (Attached Documents 10 and 11). As for the car ownership transfer fees for the two vehicles, the Plaintiff claims they are necessary fees paid to transfer ownership to the company and are not capital in nature but necessary to complete the purchase process. Regarding the traffic violations, the Plaintiff claims they were committed by the Company's employees, making them operational expenses. Given the above, the committee concludes the following regarding the aforementioned expenses: A - Cleaning Costs: The Plaintiff provided a statement of expenses and bank receipts. Therefore, the Committee concludes to accept the Plaintiff's claim regarding this item. B - Fees for ... Company: The Plaintiff provided a statement of expenses and bank receipts supporting its claim. Therefore, the committee concludes to accept the Plaintiff's claim regarding this item. C - Car Ownership Transfer Fees for the Two Vehicles: The Plaintiff provided a statement of expenses and bank receipts supporting its claim. Therefore, the Committee concludes to accept the Plaintiff's claim regarding this item. D - Violations: These expenses are considered non-deductible as they are not related to the Company's activity. Therefore, the committee concludes to reject the Plaintiff's claim regarding this item.

**Decision:**

1. As for salaries and wages:
  - A. Confirm resolution of the dispute concerning the salaries of the subcontractor's employees, (...) Establishment, for years from 2015 to 2017.
  - B. Cancel the Defendant's Decision regarding salaries of the company's personnel for the years 2015 to 2017.
2. Regarding the item of Expenses Not Supported by Documentation for 2016 and 2017:
  - A - Cancel Defendant's Decision concerning the Ministry of Investment expense.
  - A. Cancel Defendant's Decision related to (...) Company's expense.
  - B. Cancel Defendant's Decision regarding the scanner machine expense.
3. Regarding the item of Expenses Not Acceptable for Deduction for the years 2015 to 2017:
  - A. Cancel Defendant's Decision related to cleaning costs.
  - B. Cancel Defendant's Decision related to Company's fees.
  - C. Cancel Defendant's Decision concerning the car ownership transfer fees for the two vehicles.
  - D. Reject Plaintiff's objection concerning the violations.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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### Keywords:

**Income Tax - Objection to Tax Assessment - Recharged Expenses Not Supported by Documents**

### Abstract

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for 2015, specifically concerning the item (recharged expenses not supported by documentation), where the objection lies with the remaining part, as withholding tax was actually paid. The Department found that there was discussion and debate on determining the cost, which proves that the parent company distributed the cost on an estimated basis and not according to the requirements of each branch, as it claims in its statement of claim. As such; the Taxpayer's objection regarding the item (recharged expenses not supported by documents) is rejected.

### Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph No. \(10/c\) of Article \(10\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

### Parties' Defenses

#### Defenses of Plaintiff (Zakat Payer):

#### **Item First: Recharged Expenses Not Supported by Documents:**

The Plaintiff stated that the recharged expenses are subject to withholding tax at a rate of 15%, and income tax of 20% was paid on part of the amount. The remaining part was objected to, as the withholding tax had already been paid.





### Defendant (ZATCA) Defenses

#### **Item First: Recharged Expenses Not Supported by Documents:**

ZATCA stated that it added the listed expenses on an estimated basis according to the Taxpayer's response, and these expenses resulted from transactions with related parties. The value was adjusted after the initial assessment based on the statement submitted by the plaintiff. It stated that during the study of the objection, a meeting was held with the Taxpayer on Wednesday, August 18, 2021, and the Taxpayer submitted an analytical statement with details of these expenses along with supporting documents (invoices). Upon reviewing the invoices provided by the Taxpayer, it became clear that the invoices were in the name of the foreign related party and not in the Taxpayer's name. The invoices also showed the address and details of the foreign related party. Furthermore, it stated that it became clear that the Taxpayer submitted an analytical statement explaining how these expenses were charged to the Company's branches in Saudi Arabia, Qatar, and the UAE on an estimated basis.

### Committee's Response to Defenses.



#### **Item First: Recharged Expenses Not Supported by Documents:**

The Committee found that there was a series of emails between the parent company and the subsidiaries, which showed discussion and debate on determining the cost. This proves that the parent company distributed the cost on an estimated basis and not according to the requirements of each branch, as the Plaintiff claims in its statement of claim. Consequently, the Committee concludes to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff's objection to item (Unsupported Recharged Expenses of 2015).

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Dammam

Decision No.: IZD-2022-2093  
Case No.: I-51945-2021

**Key words:**

**Income Tax - Objection to Tax Assessment - Refusal to Deduct Other Benefits from Net Profit - Employee Salaries – Employee Overtime Pay - Employee Bonuses**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for 2016, specifically concerning the item (other benefits item), where the Taxpayer objects to the refusal to deduct other benefits from the net profit for 2016. The Department found that the documents submitted by the Taxpayer are insufficient and do not allow for verification of the expense's validity, as they were prepared manually. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(1\) of Article \(9\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First: Other Benefits:**

The Plaintiff objects to Defendant's procedure outlined in disallowing deduction of other benefits from the net profit for 2016, arguing that the detailed item consists of employee salaries under work visit visas amounting to SAR 3,341,823.75. b. Overtime pay for employees under work visit visas amounting to SAR 667,906.66. c. Bonuses for employees under work visit visas amounting to SAR 210,000. d. Overtime pay for Company's employees amounting to SAR 542,108.86. So that the total amounts to SAR 4,761,839.27. In addition, Plaintiff stated that Income Tax Law, as well as the Implementing Regulations as amended, allows deduction of all normal and necessary expenses for business activity, provided that: 1. The expense is actual and not intended for covering potential costs, such as provisions and reserves. 2. Supported by documents. 3. Related to earning income and not personal expenses or related to other business activities. 4. Be of non-capital nature, such purchasing fixed assets. All the above-mentioned



conditions are met in the contested expenses. Therefore, such expenses should be deducted from tax base. Plaintiff emphasized that if ZATCA examines such items, ZATCA will find that they are necessary for business activity. The temporary worker costs, including salaries, overtime pay and bonuses, outline expenses incurred by the Company throughout the year for temporary workers not under sponsorship, and for which official work visit visas were issued. As is well known, Company's business activities require such workers, making such expenses necessary for the business and specific to the year in question. Accordingly, they meet all conditions stipulated by the law.

### Defendant (ZATCA) Defenses

#### **Item First: Other Benefits:**

ZATCA stated that it became clear after examination that these benefits pertained to temporary workers. For this expense to be accepted according to regulations, the Taxpayer must provide proof that the workers belong to the company, whether through their sponsorship or through contracts with entities supplying these workers. ZATCA requested additional information from the Taxpayer on .././..., requesting the submission of an analytical statement for the temporary labor and employee benefits item for 2016, along with the contracts concluded with the contracting entities for the supply of labor. Due to the lack of response to ZATCA's request to provide the required data, the objection was rejected.

### Committee's Response to Defenses.

#### **Item First: Other Benefits:**

The Committee found that the documents submitted by the Plaintiff are insufficient and do not allow for verification of the expense's validity, as they were prepared manually. The Plaintiff did not provide any supporting documents extracted from the accounting system, such as (daily entries or payment statements), nor did they provide a certificate from the legal accountant clarifying the value of salaries and wages subject to social insurance and other employee allowances and benefits not subject to social insurance. Consequently, the Committee concludes to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff's objection regarding (Other Benefits) item.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Key words:**

**Income Tax – Objection to Tax Assessment – Sales Difference**

**Abstract**

The Taxpayer is requesting annulment of ZATCA's Decision regarding the 2019 tax assessment, specifically concerning the item (sales discrepancy). The Taxpayer objects to addition of a VAT sales discrepancy compared to what was reported in the financial statements. The Department found that the Taxpayer did not provide a reconciliation between revenues declared in the financial statements and sales in the VAT returns to clarify reasons for discrepancies and provide supporting documents for these differences. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(3\) of Article \(57\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties Defenses:**

**Defenses of Plaintiff (Zakat Payer):**

**Item First:** Sales Difference:

The Plaintiff objects to Defendant's action to add value-added sales discrepancy to what was recorded in the financial statements, and claims that the amount recorded in the financial statements is SAR 42,897,454, not SAR 53,267,732.



### Defendant (ZATCA) Defenses

#### **Item First: Sales Difference:**

ZATCA stated that it had requested additional information from the Plaintiff on .../.../..., including an explanation for the discrepancy between VAT sales and the financial statements. The Taxpayer indicated that the discrepancy was due to advance payments. ZATCA compared sales according to VAT returns and revenues according to the financial statements, taking into account the advance payments, and adjusted year's result for the undeclared discrepancies. After reviewing the objection and examining VAT returns, ZATCA determined that their action was correct, as they compared the sales reported in VAT returns for both Saudi and non-Saudi sales, which should be declared as revenue in the financial statements. ZATCA also accounted for the advance payments to determine the undeclared discrepancy. However, the Taxpayer argued in their objection that the revenues reported in VAT returns amounted to SAR 42,848,846, which they claimed matched the financial statements. ZATCA found this to be incorrect and thus rejected Plaintiff's objection.

### Committee's Response to Defenses.



#### **Item First: Sales Difference:**

The Committee found that the Plaintiff did not provide a reconciliation between the revenues declared in the financial statements and the sales in the VAT declarations to ascertain the reasons for the differences and the supporting documents for those differences. Consequently, the Committee concludes to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff's objection regarding the item of sales discrepancy for 2019. This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Dammam

Decision No.: IZD-2022-2099  
Case No.: W-2021-48794

**Key words:**

**Withholding Tax - Objection to Withholding Tax Assessment - Software License fees Paid to offshore Companies**

**Abstract**

The Taxpayer requested that ZATCA's Decision regarding the assessment of withholding tax for July 2019 be canceled. That assessment was related to (Software License Fees paid to Offshore Company at 15%). The Taxpayer objects to the percentage of 15% imposed on the licenses. The Department found that the Taxpayer did not submit a software purchase agreements to identify the classification of service and that the transactions were not for the purpose of using and exploiting the exclusive intellectual property rights of that upplier in the Kingdom. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(1\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(63\) of Implementing Regulations of Income Tax Law issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First:** Software License Fees paid to Offshore Company:

The Plaintiff objects to the Defendant's Decision to impose the said tax at a rate of 15%. In his statements of claims, the Plaintiff indicated that these amounts are an annual subscription of one of his clients and not new licenses, as the client used to pay that annual subscription in the amount of SAR 737,199.83, and since the establishment has paid the value of the annual subscription in the same amount received from the client and believed that no taxes are applicable to those payments; otherwise it would have taken account of. On that ground, the Plaintiff requested that ZATCA's Decision be canceled in this respect.



### Committee's Response to Defenses.



**Item First:** Software License Fees paid to Offshore Company:

The Committee found that the Plaintiff's classification of the service was incorrect, as subscribing to current computer programs is classified under amounts paid for the right to use property (...), and not a rental of spaces to store digital data. Since the Plaintiff did not submit a purchase agreement for that software to verify the classification of the service and that it is not for the purpose of using and exploiting the exclusive intellectual property rights of that seller in the Kingdom, the Department concludes to reject the Plaintiff's objection.

### Decision:

Reject Plaintiff's objection to (Paid Software Licenses Abroad of 15%).

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Key words:**

**Income Tax - Objection to Tax Assessment - Salary Difference - Bad Debts**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for 2015 and 2018, specifically concerning the item (salary difference). The Taxpayer objects to the adjustment of the taxable net profit by adding salaries in excess of what is stated in the social insurance certificate. The Department found that the Taxpayer attached proof that it has leased labor and that these represent actual expenses related to the activity. Regarding the item (bad debts), the Taxpayer objects to the adjustment of the net profit by adding back bad debts during the year. The Department found that the Taxpayer did not provide the documents proving that it met the conditions for deducting bad debts. Consequently; the Defendant's Decision regarding the item (salary difference) is cancelled, and the Taxpayer's objection regarding the item (bad debts) is rejected.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(14\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraphs \(1\) and \(3\) of Article \(9\) and Paragraph \(3\) of Article \(57\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**Defenses of Plaintiff (Zakat Payer):**

**Item First: Salary Difference:**

The Plaintiff objected to ZATCA's action of adjusting the taxable net profit by adding salaries in excess of what is stated in the social insurance records. It pointed out that these differences pertain to transportation allowances and overtime pay, to which the provisions of Chapter Five, Article Twelve of the Income Tax Law regarding deductible expenses from the tax base apply. These differences relate to transportation allowances and additional salaries that were actually paid. Accordingly, the Plaintiff requests acceptance of their deduction.

**Item Second: “Bad debts”**

The Plaintiff objected to ZATCA's action of adjusting the net profit by adding back bad debts during the year. It indicated that these receivables were recognized as revenue during 2014 and pertain to the (...) project and Villa (...). These clients refused to pay despite our continuous demands, and the debts were written off from the books. Attached is the journal entry for the write-off of the debts (Attachment No. 1) and the account statement of the clients whose debts were written off (Attachment No. 2). In its keenness to provide further proof, we are attaching a certificate confirming the write-off of these debts from a certified legal accountant (Attachment No. 3). Accordingly, the Plaintiff requests acceptance of the deduction of the bad debts.

**Defendant (ZATCA) Defenses****Item First: Salary Difference:**

ZATCA stated that it compared the basic salaries and housing allowances according to the social insurance certificate with the basic salaries and housing allowances according to the analytical salary statement previously submitted to ZATCA. The comparison revealed an overstatement of salaries amounting to SAR 925,072 and SAR 72,870 for 2015 and 2018, respectively. Therefore, ZATCA considers its action to be correct and valid, as the burden of proof lies with the Taxpayer based on Article 57, Paragraph (3) of the Implementing Regulations of the Income Tax Law.

**Item Second: “Bad debts”**

ZATCA stated that it rejected the objection due to the failure to meet all the regulatory requirements for recognizing bad debts as an expense, as specified by Article (9), Paragraph (3) of the Implementing Regulations of the Income Tax Law.

**Committee's Response to Defenses.****Item First: Salary Difference:**

The Committee found that the Plaintiff attached the social insurance certificate along with a reconciliation of the differences between the salaries and wages charged to the accounts and the salaries and wages according to the social insurance certificate. It also attached a statement of management salaries, a statement of landscaping salaries, a statement of pest control salaries, a statement of shift salaries, and a statement of project salaries. Furthermore, the Plaintiff attached payrolls, account statements, checks, transfers, receipts, and attendance and departure signatures for all months for both the administrative sector and the project sector for all amounts, which were confirmed to be actual salaries. Through these documents, it is evident that the differences represent the salaries of temporary or leased labor. Since the plaintiff attached proof that it has leased labor and that these represent actual expenses related to the activity, the Committee concludes to annul ZATCA's Decision on this item.

**Item Second: “Bad debts”**

The Committee found that the Plaintiff did not provide the documents proving that it met the conditions for deducting bad debts stipulated in Paragraph (3) of Article (9) of the Implementing Regulations of the Income Tax Law referred to above. Specifically, the Plaintiff did not provide convincing evidence of the impossibility of collection, such as a court judgment or proof of the debtor's bankruptcy. Consequently, the Committee concludes to reject the Plaintiff's objection on this item.



### Decision:

1. Cancel Defendant's Decision regarding the item salary difference for 2015 and 2018
2. Reject Plaintiff's objection regarding the Item bad debts for 2015

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Salary Differences - Social Insurance Differences - Subcontractors - Depreciation Difference**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for the years 2015 through 2018, specifically concerning the item (salary difference and social insurance difference), where the Taxpayer objects to their assessment for the years 2015 to 2018 by including a difference in salaries, wages, and social insurance due to the failure to provide ZATCA with bank payments. The Department found that the Taxpayer attached supporting documents for its viewpoint regarding the reasons for the discrepancies. Regarding the item (subcontractors), the Taxpayer objects to the disallowance of a significant portion of the subcontractor amount due to the failure to provide all the documents related to this difference. The Department found that the Taxpayer submitted all supporting documents that corroborate all the differences previously added back to the tax base by ZATCA, thus eliminating the reason for ZATCA's rejection of the Taxpayer's objection. Regarding the item (depreciation difference), the Taxpayer objects to the examiner's adjustment of depreciation, which differs from what appears in the notes to the financial statements for the fixed assets item. The Department found that the burden of proof in this case rests with ZATCA to prove the incorrectness of the Taxpayer's calculation of the depreciation expense, in application of the aforementioned appellate Decision, and due to ZATCA's failure to provide its own calculation of the depreciation expense. The Department decided to cancel Defendant's Decision regarding all items in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(17\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(1\) of Article \(9\), Paragraph \(9\) of Article \(10\), Paragraph \(3\) of Article \(57\) of the Executive Regulations of the Implementing Regulations of Income Tax Law issued by Minister of Finance Decision No. \(1535\) dated 11/6/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Plaintiff (Zakat Payer) Defenses

#### **Item First:** Salary Difference:

The Plaintiff objected to ZATCA's action of assessing for the years 2015 to 2018 by including a difference in salaries, wages, and social insurance due to the failure to provide ZATCA with bank payments. In this regard, it states that the number of payment receipts is very large and it was not possible to upload them via email. It attached the complete payrolls for the aforementioned years and provided a sample to ZATCA from each year. It states that it is fully prepared, if requested by the committees, to provide a hard copy of all payment files at the hearing. It is noted that the company, in support of Saudi employees, bears the full amount paid for social insurance. Accordingly, it requests the cancellation of ZATCA's action.

#### **Item Second:** Subcontractors for 2016:

The Plaintiff objected to ZATCA's action of disallowing a significant portion of the subcontractor amount due to the failure to provide all the documents related to this difference. It states that it provided ZATCA with all supporting documents for this item by sending them via email to the account manager. There may have been an error or deficiency in the sent emails. All supporting documents were attached in the objection memorandum, and for the sake of completeness, all supporting documents for the subcontractor item and a clarifying statement with the names and amounts of the contracted entities are attached. Accordingly, Taxpayer requests cancellation of ZATCA's action.

#### **Item Third:** Depreciation Difference for 2017 and 2018:

The Plaintiff objected to ZATCA's action of adjusting the depreciation by the examiner, which differs from what appears in the notes to the financial statements for the fixed assets item.

### Defendant (ZATCA) Defenses

#### **Item First:** Salary Difference:

ZATCA stated that it rejected the salary and wage difference due to the failure to provide proof of salary payment (bank statements). ZATCA also noted a discrepancy between the detailed salary statements and the summary statements. Furthermore, ZATCA observed the inclusion of the salaries of two partners and two relatives of the partners within the salaries and wages. As for the item of social insurance differences: ZATCA calculated the social insurance expense and added the difference back to the adjusted net profit. ZATCA clarified its procedure by calculating the company's share of the social insurance expense and refusing to deduct the employee's share, even if the company bears it on their behalf.

#### **Item Second:** Subcontractors for 2016:

ZATCA stated that it requested supporting documents from the Plaintiff, which were not fully provided. Consequently, a portion of the expense "supported by documentation" amounting to SAR 1,605,229 was accepted out of a total amount of SAR 6,298,691, and the difference amounting to SAR 4,693,462 was added back. After studying the objection, it became clear that the Taxpayer provided, according to the objection, the invoices that were not previously submitted for the subcontractors. After reviewing what was submitted by the Taxpayer, it became clear that all the differences previously added back to the tax base were supported.



**Item Third: Depreciation Difference for 2017 and 2018:**

ZATCA stated that it adjusted the item by recalculating the depreciation schedule according to the financial statements for the years 2017 and 2018, in application of the provisions of Article (17) of the Income Tax Law. During the objection review phase, ZATCA held a hearing with the plaintiff on March 23, 2021, during which the plaintiff clarified its viewpoint according to its letter of objection. ZATCA clarified its viewpoint regarding the action taken on the above item, and accordingly, ZATCA rejected the objection.

**Committee's Position on the Defenses:**



**Item First: Salary Difference:**

The Committee found that the Plaintiff attached the social insurance certificate along with a reconciliation of the differences between the salaries and wages charged to the accounts and the salaries and wages according to the social insurance certificate. It also attached a statement clarifying the value of salaries and wages for Saudis and non-Saudis, the total salaries subject to social insurance, and other employee allowances and benefits not subject to social insurance for the years in dispute. Additionally, the plaintiff attached salary disbursement notifications and a salary statement for the years in dispute. Since the Plaintiff attached supporting documents confirming its viewpoint regarding the reasons for the discrepancies, and that they represent actual expenses related to the activity, the committee concludes to annul ZATCA's Decision on this item.

**Item Second: Subcontractors for 2016:**

The Committee found that the Taxpayer provided all supporting documents that corroborate all the differences previously added back to the tax base by ZATCA, thus eliminating the reason for ZATCA's rejection of the Taxpayer's objection. Therefore, the Department concluded by cancelling the Defendant's Decision regarding this item.

**Item Third: Depreciation Difference for 2017 and 2018:**

The Committee found that the dispute revolves around the calculation of the depreciation difference. Upon reviewing the documents attached to the case file and ZATCA's memorandum, where ZATCA indicated that it correctly applied the depreciation method without providing details of its calculation or the reasons that led it to adjust the plaintiff's calculation, and considering that the burden of proof in this case rests with ZATCA to prove the incorrectness of the Plaintiff's calculation of the depreciation expense, in application of the aforementioned appellate Decision, and due to ZATCA's failure to provide its own calculation of the depreciation expense, the committee concludes to annul ZATCA's Decision.

**Decision:**

Cancel Defendant's Decision regarding all items in question.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Spare Parts - Coal**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for 2015, specifically concerning the item (spare parts for 2017), where the Taxpayer objects to the non-deduction of the amount of (SAR 46,227,179) as spare parts from Zakat base for 2017. The Department found that the Taxpayer did not attach documents clarifying that the spare parts were used in the maintenance of machinery and equipment related to the factory for which the Taxpayer claims deduction. Regarding the item (coal for 2017), the Taxpayer objects to ZATCA's failure to deduct the value of the coal, amounting to (SAR 27,515,938), from Zakat base. The Department found that the Zakat treatment of coal is as trading inventory and is not deducted from Zakat base. This resulted in rejection of Taxpayer's objection on all the items in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Paragraph \(Second/1\) of Article \(4\) of the Implementing Regulations of Income Tax Law issued by Minister of Finance Decision No. \(2082\) dated 1/6/1438 AH](#)
- [Decision of SOCPA's Board No. \(7/2/2\) dated 09/11/1417 AH corresponding to 18/03/1997, regarding the adoption of the inventory standard.](#)





## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Spare Parts for 2012:

The Plaintiff objects to Defendant's Decision for not deducting the item in question in the amount of (SAR 46,227,179) from Zakat Base of 2017, stating that the amount in question represents the spare parts inventory that appeared within the amount of (SAR 46,227,179) as shown in the financial statements of 2017. In addition, the debit and credit activities during the year, as shown in the account statements, are consistent with the nature of this account. In view of Statement No. (3) to determine the number of non-moving items from the spare parts inventory, the spare parts for the maintenance of fixed assets are among deductible items in accordance with Zakat Law. Moreover, all the supporting documents, such as the account statements and accounting entries, have been submitted to Defendant. During the meeting, it was clarified and confirmed to Defendant that all spare parts are for the maintenance of Plaintiff's fixed assets.

#### **Item Second:** Coal for 2017:

The Plaintiff objected to ZATCA's action of not deducting the value of coal, amounting to SAR 27,515,938, from Zakat base for 2017. The amount of SAR 27,515,938 represents the value of the coal inventory according to the coal account statement. The Plaintiff stated that the coal used is not intended for sale and is used in the taxpayer's activity, which is smelting manganese ore with quartz ore. The role of the coal is for "protection and lining to extend the life of the furnaces and the creation of protective carbon parts" in the factory. The Plaintiff stated that the coal is owned by it and that the nature of its activity requires maintaining quantities of coal for the factory to carry out its usual activity, which is the continuous and regular smelting of manganese ore with quartz ore, as the furnaces operate non-stop around the clock and are subject to damage. Periodic maintenance and the availability of factory spare parts are very necessary and are among the most important factors for the success of the old factory, which is nearly 30 years old and whose maintenance costs increase year after year. Given that coal is not a raw material and does not enter into production but is important for maintaining and lining the furnaces, the rotating carbon openings, and the coating of special electrodes that are considered fixed assets, the plaintiff stated that it is attaching proof that coal does not enter into production because it is considered a carbonaceous material. Customers reject the product if it contains any carbonaceous coal materials in the final product, as this causes damage to the final product. Finally, there are a number of Fatwas that support the fact that auxiliary materials that are not included in the composition of the manufactured material are not subject to Zakat Also, a certificate from an impartial engineering office showing the uses of coal in the factory clarifies that coal is not included in production process and that what applies to spare parts applies to the coal in question.



## Defendant (ZATCA) Defenses

### Item First: Spare Parts for 2012:

ZATCA stated that during the assessment, the item of spare parts was not deducted from Zakat base. It became clear that this account pertains to the inventory of spare parts used in the production process. Due to the significant and frequent movement in the account in terms of additions and deductions, the nature of the account as a current asset (inventory) did not change, making it a non-deductible account from Zakat base. Upon reviewing the objection and examining the financial statements (income statement) and the trial balance, it is evident that spare parts are included within the cost of sales in the income statement, as detailed in Note No. (.٤.٤.) to the financial statements for the years 2015, 2016, and 2017 respectively. A meeting was held with the Plaintiff, and they were requested to provide a clarification of the spare parts, the accounting entries, and the plaintiff clarified that "all spare parts are specific to the company's fixed assets." They provided the account movement, which shows the beginning balance, the movement during the year, and the ending balance, as well as entries for receiving goods and using goods from the warehouse. ZATCA could not ascertain the movement of the accounting cycle for spare parts from the accounting entries. Given that the Plaintiff did not provide any documents supporting its objection to deduct the spare parts inventory, the spare parts inventory is considered non-deductible as it is an operational expense charged to the income statement. Therefore, ZATCA rejected the Plaintiff's objection.

### Item Second: Coal for 2017:

ZATCA stated that during the assessment, the item of coal was not deducted from Zakat base, as it was not among the deductible items from Zakat base in the Zakat declaration submitted by the plaintiff to ZATCA. Upon reviewing the objection and referring to the financial statements for the years 2015, 2016, and 2017, the value of the coal item did not appear as a separate item. Upon referring to the trial balance for those years, it became clear that it was under account number (...) within raw material purchases. Upon reviewing the financial statements (income statement) and the trial balance, it became clear that these materials were within the cost of sales in the income statement. Based on this, ZATCA identified several points: 1. a) The item in question does not represent a portion of the fixed assets; rather, a portion of the inventory and is included within Plaintiff's operating cycle; 2. b) The revolving balance represents a close rate of the balance used during the year hence, it is an operating expense and not a capital expense, which is by nature depleted in more than one operating cycle; and 3. c) The disbursed amount for coal is included in the regular expenses and is not consumed as is the case with spare parts. Accordingly, Defendant rejected Plaintiff's objection pursuant to Article 20.3- of the Implementing Regulations of Royal Decree No. M/40 And of 02/07/1405 AH.

## Committee's Response to Defenses.

### Item First: Spare Parts for 2012:

The Committee found that the Plaintiff did not attach the documents clarifying that the spare parts are used in the maintenance of machinery and equipment related to the factory for which it claims a deduction. Consequently, the Department concludes to reject the Plaintiff's objection.

**Item Second: Coal for 2017:**

The Committee found that the Plaintiff has failed to submit the financial statements referred to in its statement of claim, nor did it provide evidence that coal is an unclassified material within the fixed assets; and since attachment No. 1 a detailed explanation of Plaintiff's activity, which clarifies that the coal inventory is used in the manufacture of the product, yet it appeared within the inventory that includes raw materials prepared for sale and classified as current assets; thus, it is considered a trading asset upon considering the method of its usage; and since Plaintiff has failed to provide evidence supporting its argument regarding on the method of using coal in its activity, nor did it prove that the coal represents a complementary part of the machines and equipment, which determines that the Zakat calculation for the coal in question is as a trading asset and is not deducted from Zakat Base; Therefore, the Department decides to reject Plaintiff's objection to the item in question.

**Decision:**

Reject Plaintiff's objection to the items in question.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment - Expenses Not Supported by Documents–  
Benefits and Bonuses – Late Payment Fine**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding tax assessment for 2015, specifically concerning the item (expenses not supported by documents). Taxpayer objects to its assessment by calculating the total deductible basic salary related to the salary of the Company's General Manager. The Department found that the Taxpayer attached the contract in dispute, and it became clear from it that the disputed amount pertains to the salary of the Company's CEO, and there is no regulatory text that sets a ceiling for deducting the salaries of non-partner employees. Regarding the item (benefits and bonuses), the Taxpayer objects to the rejection of the Company's objection even after submitting the employment benefits policy approved by the Ministry of Labor. The Department found that the Taxpayer did not provide proof of payment of these benefits and bonuses in the form of actual bank transfers. Regarding the item (late payment fine), the Taxpayer objects to the calculation of a late payment fine on the disputed items. The Department found that the late payment fine is calculated from the date of the end of the specified period for submitting the tax return until the date of payment of the due tax arising from the application of the provisions of the law and the adjustments made by the Defendant. Therefore, the Department decided to cancel the Defendant Decision regarding the item (expenses not supported by documents), reject the Taxpayer's objection regarding the item (benefits and bonuses), and amend the Defendant's Decision regarding the item (late payments fines).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(77/A\) of the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(1\) of Article \(9\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

**Item First:** Expenses Not Supported by Documents for 2015:

The Plaintiff objected to ZATCA's action, stating that ZATCA is an executive body tasked with the administrative duty of applying the tax law and its implementing regulations, and it is not within its jurisdiction to legislate the permissible limit for deductible salaries. Therefore, the maximum salary subject to contribution, amounting to SAR 45,000, stipulated in the Social Insurance Law does not represent the upper limit for salaries at any employer and is not related to tax purposes. It should not be relied upon when calculating taxable income and is not considered as exceeding the legally permissible limit, even from the perspective of the Social Insurance Law.

**Item Second:** Benefits and Bonuses:

The Plaintiff objected to ZATCA's action of rejecting the Company's objection even after submitting the employment benefits policy approved by the Ministry of Labor, a copy of which is attached again (Exhibit 2). Although the Ministry of Labor approved the policy during the fiscal year 2016, the Plaintiff would like to draw attention to the fact that neither the tax law nor its implementing regulations stipulate the necessity of having an employment benefits policy approved by the Ministry of Labor as a prerequisite for deducting bonus expenses in the Company's tax return. In this regard, the Plaintiff would like to bring to your attention that the calculation of taxable income is subject to the provisions of the Income Tax Law issued by Royal Decree No. M/1 dated 15/01/1425 AH and its Implementing Regulations. Neither the Income Tax Law nor its Implementing Regulations stipulate the availability of an employment benefits policy approved by the Ministry of Labor for bonus expenses to be deducted for tax purposes. Furthermore, Article (12) of the Tax Law does not stipulate the need to obtain approval from the Ministry of Labor on the employment benefits policy for deducting bonuses for tax purposes. On the contrary, Article (9.1) of the Implementing Regulations of the Tax Law requires expenses to be "actual" expenditures supported by verifiable documentary evidence, which was not requested by the Defendant and therefore is considered a legally acceptable expense.

### Defendant (ZATCA) Defenses

**Item First:** Expenses Not Supported by Documents for 2015:

ZATCA stated that it accepted the General Manager's salary at an amount of (SAR 45,000 \* 12) SAR 540,000 and rejected the amount exceeding that by SAR 450,000, as it is in excess of the permissible limit according to the Social Insurance Law. Upon reviewing the objection, a meeting was held with the Taxpayer on 15/08/2021, to discuss its objection to ZATCA's assessment. The Taxpayer stated that this expense is deductible and supported by documentation. Referring to Appellate Committee Decision No. 1629 of 1438 AH, which upheld the Decision of the Primary Committee and ZATCA in determining that the deductible salary is limited to the equivalent of SAR 45,000 per month, as stated in Article (16) of the Implementing Regulations of the Social Insurance Law.

**Item Second:** Benefits and Bonuses:

ZATCA's reply memorandum indicated that upon assessment, it refunded bonus expenses amounting to SAR 13,257,247 due to the Company's failure to have its remuneration regulations approved by the Ministry of Labor at the time of their approval. When objection was examined, the meeting was held with Taxpayer on 15/08/2021 to discuss his objection regarding ZATCA assessment. During the meeting, Taxpayer was asked to provide us with an analytical statement of the item and a regulation approved by the Ministry of Labor regarding the disbursement of



remunerations to employees and a sample of employment contracts to ensure that it contains the disbursement of such a remuneration. Taxpayer did not provide an analytical statement of the item. Although he provided samples of employment contracts, these were found to lack the relevant remuneration details. As for the labor regulation approved by the Ministry of Labor regarding the disbursement of such remunerations, as Taxpayer stated in the email (Employment Benefits Policy: The Company would like to inform you that until 2014, (...) Company was a joint venture between (...) Company and (...) Group, after that, (...) transitioned from the joint venture and hired a Human Resources Manager, who started working on the employment benefits policy in Kingdom during 2015. Subsequently, the policy was completed and submitted to Ministry of Labor during 2016, and the Company confirms that the policy is applicable to the fiscal year 2015 as well. Accordingly, the Company would like to confirm to your Excellency that the Company has a strong employment policy and all employees have a signed contract before starting work at (...) Company, and are registered with Social Insurance, additionally all expatriates hold local residency in Kingdom). Therefore, Taxpayer's objection has been rejected.

**Item Third: Late Payment Fine:**

ZATCA stated that it had imposed a late payment fine on the tax differences outstanding tax, in accordance with Article (77.A) of the Income Tax Law and Article (68.1/B) of the Implementing Regulations of the Income Tax Law.

ZATCA's action was upheld by Appellate Committee Decision No. (1774) of 1438 AH, Appellate Committee Decision No. (1913) of 1439 AH, and Appellate Committee Decision No. (1925) of 1439 AH. ZATCA's action was also upheld by the final judgment issued in Case No. (5245/1/Q) of 1438 AH issued by the Nineteenth Administrative Department of the Administrative Court in Riyadh and upheld by the Second Administrative Department of the Administrative Court of Appeal in Riyadh in Judgment No. (3404/Q) of 1439 AH.

### Committee's Response to Defenses.

**Item First: Expenses Not Supported by Documents for 2015:**

The Committee notes that the Plaintiff attached the contract in dispute. Therefore, it becomes clear that the amount in dispute pertains to the salary of the Company's CEO, and there is no regulatory text specifying a maximum limit for deducting salaries for employees who are not partners. The Plaintiff has attached documents supporting its point of view regarding the reasons for the differences, as they consist of actual expenses related to the activity. Therefore, the Department concludes by cancelling the Defendant's Decision with regard to this item.

**Item Second: Benefits and Bonuses:**

The Committee notes from the ZATCA's procedure the inadmissibility of deducting bonus expenses due to the non-submission of the internal regulations, which makes it impossible to verify the legality of this expense. ZATCA's refusal to deduct this expense due to its irregularity does not constitute a justification for this procedure, as regular procedures have another purpose that is unrelated to Zakat or tax handling of this expense. Having perused the attachments to the case, since the dispute is documentary and as the Plaintiff did not provide evidence of the payment of these benefits and bonuses through actual bank transfers, the Department concludes by rejecting the Plaintiff objection with regard to this item.

**Item Third: Late Payment Fine:**

Late payment fine is calculated from the deadline for filing return until the date of paying due tax resulting pursuant to provisions of the Law and any subsequent amendments made by Defendant. Since the dispute between the parties is document-based and did not arise from a significant discrepancy in interpreting statutory provisions. Therefore, the Department decides to impose late payment fine from the due date regarding the items for which Plaintiff's objection was dismissed. In addition, the late payment fine is deemed null and void for the items where ZATCA Decision was cancelled, as the basis for imposing tax itself was nullified.



### Decision:

1. Cancel the Defendant's Decision regarding expenses not supported by documents.
2. Reject the Plaintiff's objection regarding benefits and bonuses.
3. Amend the Defendant's Decision regarding late payment fine.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





**Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Dammam**

**Decision No.: IZD-2022-617  
Case No.: I-32728-2020**

**Key words:**

**Income Tax - Objection to Tax Assessment - Permanent Establishment**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the late registration fine, specifically concerning the item (Permanent Establishment), where the Taxpayer objects to its registration in the income tax system, considering it a permanent establishment. The Department finds that the Defendant has not provided evidence to substantiate its claim and has not proven the existence of field visits or the actual presence of the Taxpayer's employees. Regarding the item (Late Registration fine), the Taxpayer objects to the imposition of a late registration fine based on the existence of a permanent establishment for a non-resident. The Department finds that this item is related to the First item of this Decision. Consequently, the Department concludes to cancel the Defendant's Decision, leading to the cancellation of the Defendant's Decision concerning the two disputed items.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(c, d\) of Article \(2\), Article \(3\), and Article \(4\) of the Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH.](#)
- [Paragraph \(1\) of Article \(6\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses



### The Plaintiff's Defenses

#### **Item:** Permanent Establishment:

The Plaintiff stated that ZATCA registered it in the income tax system considering it a permanent establishment. The Plaintiff clarified that its role is limited to providing consultancy services regarding the necessary standards and specifications for the hotel to operate under (...) hotel brand. This includes explaining and clarifying these specifications and standards and answering questions from the hotel owner and its contractors regarding them. The Plaintiff had no role in supervising the construction sites of any hotels in the Kingdom or any activities related to the construction of these hotels. All tasks and responsibilities related to such activities fall solely on the hotel owners and their contractors, as stipulated in the fundamental condition for defining a permanent establishment for a non-resident in the Kingdom, according to Article (4.a) of the Income Tax Law.

### Defendant (ZATCA) Defenses

#### **Item:** Permanent Establishment:

ZATCA stated its pleadings according to Article (4) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which pertains to permanent establishments, and considering paragraphs (c) and (d) of Article (2) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/1/1425 AH.

## Committee's Response to Defenses.



#### **Item:** Permanent Establishment:

Based on the foregoing, and having perused the case file and submitted documents, and considering that the parties did not provide the agreement for the interpretation of the disputed articles, and given that ZATCA based its Decision on the contracts without explicitly stating the provisions of these contracts within the scope of its actions, ZATCA's procedure is not based on evidence that strengthens its claim that the Plaintiff constitutes a permanent establishment. This is further supported by the Plaintiff's acknowledgment that its services are subject to withholding tax and that the services are fully rendered remotely, which does not contradict Article (6.1) of the Implementing Regulations of the Income Tax Law, which considers income to be realized in the Kingdom without requiring the physical presence of the service provider. Furthermore, the dispute is not limited to whether or not the income generated by the Plaintiff is subject to tax, but rather lies in the assumption of a permanent establishment and the application of a (20%) tax rate instead of the withholding tax rate. Additionally, ZATCA registered the Plaintiff in the income tax system with a commercial registration specific to (...) Hotel Establishment, Diplomatic Quarter, Riyadh, owned by King Salman Humanitarian Aid and Relief Centre, which is not related to the Plaintiff. Given that ZATCA has not provided evidence to substantiate its claim and has not proven the existence of field visits or the actual presence of the Plaintiff's employees, the Department concludes to cancel the Defendant's Decision.



### Decision:

Cancel the Defendant's Decision regarding the two items subject matter of the Case. This Decision was delivered in presence of the parties. The Department set Thursday, 02/07/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Jeddah

Decision No.: IZJ-2022-748  
Case No.: I-63255-2021

**Key words:**

**Income Tax - Objection to Tax Assessment - Future Losses - Customs Duties - Carried Forward Losses**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding the tax assessment for the period from 2015 to 2018, specifically concerning the item (Contents of the Assessment). The Taxpayer objects to the Defendant's procedure, alleging that it violated the Implementing Regulations of the Income Tax Law. The Department finds no formal defects in the examination and assessment that would affect the validity of the issued assessment. Regarding the item (Social Insurance Expenses), the Taxpayer objects, stating that the Company mistakenly recorded the total share of the Company in social insurance, including the portion related to Saudi employees, in the tax return as social insurance expenses. The Department finds that the Taxpayer did not provide reasons for the discrepancies between the social insurance value stated in the social insurance certificate and the tax return. Regarding the item (Late Payment fine), the Taxpayer objects to the imposition of a late payment fine resulting from the additional tax. The late payment fine is calculated from the end of the specified period for submitting the return until the date of payment of the due tax arising from the application of the provisions of the Law and the amendments made by the Defendant. As such, the Taxpayer's objection is rejected in all items.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(18\) of the Social insurance Law, issued by Royal Decree No. M/33 dated 03/09/1421 AH](#)
- [Article \(12\), Paragraph \(b\) of Article \(13\), Paragraph \(a, b, c\) of Article \(21\), Paragraph \(a\) of Article \(62\), Paragraph \(a\) of Article \(65\), Paragraph \(b\) of Article \(76\), Paragraph \(a\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(17\) of the Transfer Pricing Bylaws issued by Resolution No. \(6-1-19\) issued by ZATCA's Board of Directors dated 25/05/1440 AH, corresponding to 31/01/2019](#)
- [Paragraph No. \(1\), \(6\), \(6/b\) of Article \(9\), Paragraph \(11\) of Article \(10\), Paragraph No. \(3\) of Article \(57\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), Paragraph \(2\) of Article \(71\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



- [Paragraph \(a\) of Article 7, Paragraph \(2\) of Article \(9\) of the Double Taxation Avoidance Agreement concluded between the Kingdom of Saudi Arabia and Korea, signed on 03/24/2007, and effective as of 12/01/2008.](#)

## Parties' Defenses

### The Plaintiff's Defenses

**Item First:** Future Losses for Construction Contracts for 2018:

The Plaintiff stated that the provision pertains to the period from 2010 to 2014, and the Company attaches the details it submitted to ZATCA via email and the general ledger account reversing the provision.

**Item Second:** Customs Duties for 2018:

The Plaintiff stated that the customs duties expenses meet the conditions for deductible expenses and that there are customs expenses not refunded by the Customs Authority that were reversed in 2018.

**Item Third:** Carried Forward Losses for 2017:

The Plaintiff stated that it did not receive ZATCA's confirmation regarding the tax losses reported in the tax returns for the period from 2012 to 2019, amounting to SAR 1,989,688,589, and that its objection before ZATCA was not limited to the year 2017.

### Defendant (ZATCA) Defenses

**Item First:** Future Losses for Construction Contracts for 2018:

ZATCA stated that it added the difference between the ending balance for 2017 and the beginning balance for 2018, amounting to SAR 18,932,882, to the taxable income in the return because it was not previously taxed. The ending balance of the provision for 2017 was SAR 33,222,028, and this amount was previously taxed in 2017. Since the Company adjusted the opening balance of this provision on 01/01/2018, to become SAR 52,154,910, the difference between the two balances, which is SAR 18,932,882, must be added to the net profit as it was not taxed according to Article (9.6) of the Implementing Regulations of the Income Tax Law. Furthermore, the movement in the provided statement shows that the beginning balance does not match the balance in the financial statements. Upon reviewing the 2018 financial statements, the Taxpayer did not clarify the reasons for adjusting the provision balance for 2017. Due to the inadequacy of the submitted documents and explanations, the Taxpayer's objection was rejected.

**Item Second:** Customs Duties for 2018:

ZATCA stated that during the assessment, it did not accept the deduction of this item because these costs pertain to the client and not the company, and they also relate to previous years. These expenses are not deductible according to Article 9, Paragraph 1 of the Implementing Regulations of the Income Tax Law. The Taxpayer had deducted these expenses in previous years, which the Taxpayer did not clarify with supporting documents to confirm they were not deducted previously. Furthermore, the Taxpayer reversed these expenses due to the possibility of their recovery without confirmation from the Customs Authority, which is an incorrect accounting procedure. Based on all the above observations, ZATCA finds that the Taxpayer's accounting procedures do not comply with accounting standards. Additionally, the Taxpayer is claiming the deduction of expenses from previous years that are not related to the tax year. Therefore, the Taxpayer's objection was rejected.

**Item Third: Carried Forward Losses for 2017:**

ZATCA stated that upon reviewing the losses calculated by the Taxpayer in its letter, it became clear that these are adjusted losses according to its tax returns, and therefore, they are not approved, as previously explained above. Consequently, they were not considered. Furthermore, a review of ZATCA's assessments revealed that the Taxpayer has approved tax losses according to the 2012 assessment, amounting to SAR 61,335,392. As for the remaining years, the Plaintiff limited its objection before ZATCA to that item for the year 2017 only and did not submit its objection to ZATCA for the remaining years.

**Committee's Response to Defenses.****Item First: Future Losses for Construction Contracts for 2018:**

Having perused the case file and its contents of arguments and documents, and through what the two parties to the case presented regarding the movement of the disputed provision, in light of the Plaintiff's failure to provide the financial statements to clarify the movement of the provision, it became apparent that the movement of the provision for 2018, according to the Plaintiff, was as follows: Future Losses Provision: For 01/01/2018: SAR (52,154,910), reversal of the provision during the year: SAR (49,722,541), provision balance at year-end: SAR (2,432,369). Given that the reversed amount from the provision, totaling SAR (49,722,541), may be used by the Taxpayer to reduce its book profits according to paragraph (6/b) of Article (9) of the Implementing Regulations of the Income Tax Law, provided that the provision was previously returned to the taxable base in the year it was created. This is the basis of the dispute, as ZATCA added the difference between the ending balance for 2017 and the beginning balance for 2018, amounting to SAR (18,932,882), to the taxable income in the return because it was not previously taxed. The ending balance of the provision for 2017 was SAR (33,222,028), and this amount was previously taxed in 2017. Since the Company adjusted the opening balance of this provision on 01/01/2018, to become SAR (52,154,910), the difference between the two balances, which is SAR (18,932,882), must be added to the net profit, as it was not taxed according to ZATCA's procedure. The Plaintiff did not prove that the entire reversed amount had been previously taxed and claims that the provision was created in the years from 2010 to 2014, despite the existence of an adjustment increasing the provision in 2017, meaning that the beginning balance for 2018 did not originate from those years. Additionally, the Plaintiff did not provide evidence to prove the accuracy of the provision's movement, contrary to the Defendant's claim that the beginning balance of the provision submitted to it does not match the balance in the financial statements. Therefore, and given that the Plaintiff did not provide evidence that the reversed amount from the provision was previously returned to the taxable base in the year of its creation, according to paragraph (6/b) of Article (9) of the Implementing Regulations of the Income Tax Law, it is concluded to reject the Plaintiff's objection regarding the future losses for construction contracts for 2018.

**Item Second: Customs Duties for 2018:**

Based on the foregoing, and having perused the case file and its contents of arguments and documents, and examining the Taxpayer's tax return for 2018, it became clear that the Plaintiff declared the value of external purchases as only SAR (2,300,560). This indicates that the Plaintiff did not record the materials supplied to (...) Company in its records. Upon reviewing the tax returns for the period from 2015 to 2019, the total external purchases and customs duties declared in the returns were less than the claimed expenses amounting to SAR (14,500,534). Therefore, the submitted documents do not prove the incurrence of the expenses, nor do they prove their reversal or the Saudi Customs Authority's rejection of the refund request for the disputed amount. Accordingly, the Department decided to reject the Plaintiff's objection regarding the customs duties item for 2018.

**Item Third: Carried Forward Losses for 2017:**

Based on the foregoing, the Plaintiff is entitled to deduct operating losses from the taxable profit if the return submitted to ZATCA contains a profit. Given that the Plaintiff declared a loss in its returns submitted to ZATCA for the period from 2015 to 2019, with the exception of 2017, it is not entitled to claim a reduction in taxable profits in accordance with the Income Tax Law and its Regulations. Therefore, ZATCA's procedure is deemed correct. Furthermore, upon reviewing the Plaintiff's objection letter submitted to ZATCA on April 29, 2020, it became clear that the Plaintiff is objecting only for the year 2017. As such, the Department decided to reject the Plaintiff's objection regarding the carried forward losses item for 2017.

**Decision:**

For these grounds and after deliberation, the Department unanimously decided to:  
Accept the case filed by the Plaintiff/ ..... Company..., C.R. No. .... against the Defendant/ ZATCA in form, and dismiss it on merits.

This Decision was delivered in presence of the parties and was read publicly in the hearing. The Department set the date of ..... corresponding to .../.../.... for receiving a copy of the Decision. Either party to the case may appeal against the Decision within thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





**Key words:**

**Income Tax - Objection to Tax Assessment - Statutory Period for Assessment - Import Difference - Withholding Tax - Late Payment Fine**

**Abstract**

Taxpayer requested cancellation of ZATCA Decision with regard to tax assessment for the period (2011-2017 AD) and withholding tax for December 2010, December 2012, and January 2013. With regard to Item (Legally Prescribed Period for Tax Assessment), Taxpayer challenged Defendant action regarding issuance of tax assessments for the period (2011 - 2014 AD). With regard to income tax, the Department found that Defendant made the assessment after expiration of the of the legally prescribed period. As for Item (Withholding Tax), Taxpayer challenged calculation of withholding tax on the grounds that it was paid for the franchise fees according to audited financial statements. The Department found that Taxpayer did not provide any documents demonstrating the nature of services provided by it, the financial statements, and withholding tax returns. Concerning Item (Late Payment Fine), Taxpayer challenged imposing a late payment fine with relation to challenged items. The Department was satisfied with the validity of Defendant action of imposing a fine for late payment of the unpaid tax, and such fine presented the difference between the amount paid on the legally prescribed date in accordance with its declaration and the due tax estimated in accordance with Defendant assessment, and cancellation of the late payment fine imposed on the items for which the Defendant Decision was cancelled due to in validity of tax imposition grounds. Therefore, the Department decided to cancel the Defendant Decisions regarding item (Tax Assessments for the Period 2011 - 2017), reject Taxpayer objection regarding item (Tax Assessments for the Period 2015 - 2017), reject Taxpayer objection regarding item (Withholding Tax for the Period from December 2010 to 2012 and January 2013), and amend Defendant action regarding item (late Payment Fine).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Articles \(65. A\), \(65.B\), and \(77.A\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Article \(57.3\), Article \(67.3\), Article \(68.1\), Article \(59.1\) of Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

**Item First:** Legally Prescribed Period for Tax Assessment for the Period (2011-2014),  
The Plaintiff stated that it is considered unacceptable due to the lapse of more than (5) years from the end of the statutory deadline for submitting the return. Regarding the assessment for 2010, it added that the objection was referred to the General Secretariat of the Tax Committees and is currently under review.

**Item Second:** Import Differences for 2016 and 2017:

The Plaintiff stated that the established differences, amounting to SAR (18,367,305) for 2016 and SAR (13,291,292) for 2017, relate to goods cleared by ((...)), TIN (.....), CR No. (.....) on behalf of the company. Plaintiff also submitted a confirmation letter issued by (.....) to ZATCA stating that purchases were not recognized in books as purchases or in any other form within the list of cleared materials. Defendant also declared that it maintained all supporting documents, like invoices and other related supporting documents, which represented normal and necessary expenses to achieve taxable income.

**Item Third:** Withholding Tax for December 2010, 2012, and January 2013,

The Plaintiff stated that it objects to ZATCA's action represented in calculating withholding tax on the basis that it was paid for franchise fees in accordance with audited financial statements. Plaintiff stated that it did not pay any amount to the related companies or head office during December 2010, December 2012, and January 2013, and that it has imposed withholding tax on all amounts paid to non-resident parties in exchange for provided services. Plaintiff also added that its activities do not include providing franchise services to the head office.

**Fourth Item** Late Payment Fine:

The Plaintiff stated that it submitted the tax returns within the statutory deadlines. It added that the fine arose due to a difference in viewpoints and not due to intentional failure to pay the tax on the statutory date.

### Defendant (ZATCA) Defenses

**Item First:** Legally Prescribed Period for Tax Assessment for the Period (2011-2014),  
ZATCA stated that the Plaintiff's objection was rejected, based on Article (65) of Income Tax Law, and Article (59) of its Implementing Regulations.

**Item Second:** Late Payment Fine:

ZATCA stated that such fine was imposed on the due and unpaid tax difference in accordance with Article (77) of Income Tax Law and Article (68) of its Implementing Regulations.

## Committee's Response to Defenses.

**Item First:** Legally Prescribed Period for Tax Assessment for the Period (2011-2014),  
Based on the above and having perused Case file by the Department, it was established to the Department that, with regard to income tax, Defendant issued tax assessment for the disputed years on 29-31/10/2020, and the legally prescribed period ended on 30/04/2020; therefore, Defendant performed the assessment after the legally prescribed period and failed to present any proper material evidence proving that the submitted declaration was incomplete or incorrect with the intent to evade tax. Accordingly, the Department decided to cancel Defendant Decision with regard to income tax assessments for the period (2011-2014).



**Item Second:** Import Differences for 2016 and 2017:

Having perused Case file, the Department found that Defendant action represented in amending Plaintiff business results was attributed to differences in import values recognized in Plaintiff declaration compared to imports registered in the customs declaration. Since Plaintiff failed to provide the necessary matching clarifying the reasons and justifications for import differences and also failed to provide documents supporting its Case, and since the import statement issued by ZATCA is considered fundamental evidence issued by a third party, the Department decided to reject Plaintiff objection for 2016 and 2017.

**Item Third:** Withholding Tax for December 2010, 2012, and January 2013,

Based on the above, after reviewing Case file by the Department, since Plaintiff did not submit its financial statements and only submitted a copy of the tax returns in English language, after reviewing the same, the Department found that there were technical service expenses, royalties, and loan returns provided by (..... Company) and (..... Company), and since Plaintiff neither provided any documents proving that (..... Company) and (..... Company) are related or unrelated entities, nor has it provided evidence of the nature of the services rendered by them, the financial statements, or the withholding tax declarations, the Department must therefore reject the Plaintiff's objection.

**Fourth Item** Late Payment Fine:

Based on the foregoing, and having reviewed the Case file, the Department finds that the late payment fine is calculated from the end of the prescribed due date for filing the return until the date the outstanding tax is paid, pursuant to the provisions of the law and any subsequent amendments made by the Defendant. Since the dispute between the parties is based on documentation and did not arise from a significant difference in the interpretation of statutory provisions, the Department upholds the Defendant's imposition of late payment fines on the unpaid tax, representing the difference between the amount paid as per the Plaintiff's return within the due date and the due tax assessed by the Defendant. The Department further finds that the late payment fine shall be nullified for the items where the Defendant's Decision was overturned, as the original imposition of the tax was invalidated.

**Decision:**

**First:** Cancel the Defendant's Decision/ ZATCA against Plaintiff/ (...) TIN (...), related to the income tax assessments for the years 2011 to 2014, subject of the Case.

**Second:** Reject the Plaintiff's/ (.....) objection TIN (...), to the Decisions of the Defendant/ ZATCA regarding the income tax assessments for the years 2015 to 2017, subject of the Case.

**Third:** Reject the Plaintiff's/ (.....) objection TIN (...), to the Decisions of the Defendant/ ZATCA regarding the Withholding Tax item for December 2010, December 2012, and January 2013.

Fourth: Amend the Defendant's action/ ZATCA against Plaintiff/ (...) TIN (...), concerning the disputed late payment fine, in accordance with the reasons set forth herein.

This Decision was delivered in presence of the parties. The Department set Sunday, 27/06/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not challenge the Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Statute of Limitations - Payments - Withholding Tax - Late Payment Fine**

**Abstract**

The Taxpayer requests cancellation of ZATCA's Decision regarding tax assessment for 2011, specifically concerning the item (Payments to Head Office), where the Taxpayer objects to adding payments to the head office to the tax base. The Department finds that the Company's head office is located in Riyadh. Regarding the item (Withholding Tax on Payments to Head Office), the Taxpayer objects to the imposition of withholding tax on payments to the head office, which are indirect expenses. Regarding the item (Withholding Tax on Dividends), the Taxpayer objects to subjecting an amount of SAR (59,850) to withholding tax as dividends outside the Kingdom. The Department finds that withholding tax is imposed on dividends made to a non-resident partner in accordance with the provisions of the Income Tax Law and its Implementing Regulations. Regarding the item (Late Payment Fines for Income Tax and Withholding Tax), the Taxpayer objects to the imposition of late payment fines on the differences in income tax and withholding tax. The Department finds that the late payment fine is calculated from the end of the specified period for submitting the return until the date of payment of the due tax arising from the application of the provisions of the Law and the adjustments made by the Defendant. Therefore, the Department decided to cancel Defendant Decision with respect to the item (Payments to Head Office), the item (Withholding Tax on Payments to Head Office), and the item (Withholding Tax on Dividend Distributions). The Defendant's procedure is amended with respect to the item (Late Payment fine), and the Taxpayer's objection is rejected with regard to the remaining items.

**Instrument:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- Paragraphs (a) and (b) of Article (65), Paragraphs (1) and (6) of Article (63), Paragraph (a) and (b) of [the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#).
- Paragraph (1) of Article (9), Paragraph (10) of Article (10), Paragraph (3) of Article (57), Paragraph (3) of Article (67), Paragraph (a) of Article (68), Paragraph (2) of Article (71) of the [Implementing Regulations of Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH](#).



## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Prescription:

The Plaintiff stated that assessment or amendment of the assessment is not permissible except in the event of subsequent data or information emerging that would affect the assessment, based on paragraphs (a) and (b) of Article (65) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH.

#### **Item Second:** Payments to Head Office:

The Plaintiff stated that ZATCA added payments to the head office to the tax base. The Plaintiff clarified that the payments consist of general and administrative expenses such as salaries, wages, and their equivalents related to general management and directly associated with generating income, as stated in its audited financial statements. It added that its head office is located in Riyadh, and it does not have branches outside the Kingdom or represent a branch of a foreign company within the Kingdom.

#### **Item Third:** Withholding Tax on Dividends:

The Plaintiff stated that ZATCA imposed withholding tax on payments to the head office, which are indirect expenses. The Plaintiff clarified that the payments were made within the Kingdom, as its head office is located within the Kingdom and there are no payments outside of it, based on paragraph (a) of Article (68) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH.

#### **Fourth Item** Late Payment Fines for Income Tax and Withholding Tax:

The Plaintiff stated that ZATCA imposed a late payment fine on the differences in income tax and withholding tax. The Plaintiff clarified that the delay begins from the (30th) day after the completion of the objection procedures, based on the appeal procedures specified by the Income Tax Law.

### Defendant (ZATCA) Defenses

#### **Item First:** Payments to Head Office:

ZATCA stated that its procedure was in accordance with the provisions of the Implementing Regulations of the Income Tax Law, due to the Plaintiff's failure to provide justifications and supporting reasons for its objection, based on paragraph (10) of Article (10) of the Implementing Regulations.

#### **Item Second:** Late Payment Fines for Income Tax and Withholding Tax:

ZATCA stated that its procedure was in accordance with the provisions of the Implementing Regulations of the Income Tax Law, due to the Plaintiff's failure to provide justifications and supporting reasons for its objection, based on paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH.

## Committee's Response to Defenses.

#### **Item First:** Prescription:

Based on the foregoing, and after reviewing the case file, and considering that the statutory period for issuing the tax assessment ends on 30/04/ 2017, The Department finds that the Defendant issued the tax assessment after the lapse of (5) years on 29/04/2018. Given that the Plaintiff did not file an objection regarding this item before the Defendant, the Department concludes by rejecting the Plaintiff's objection.



**Item Second: Payments to Head Office:**

Based on the foregoing, and having perused the case file, The Department finds upon examining the articles of association that the Company's head office is located in Riyadh. Considering that paragraph (10) of Article (10) of the Implementing Regulations of the Income Tax Law mentioned above fines to amounts paid to a head office located outside the Kingdom, the Department concludes by cancelling the Defendant's Decision and accepting the Plaintiff's objection.

**Item Third: Withholding Tax on Dividends:**

Based on the foregoing, and having perused the case file, The Department finds upon examining the articles of association that the partners are residents of the Kingdom of Saudi Arabia and possess resident status therein. Considering that withholding tax is imposed on dividend distributions made to a non-resident partner in accordance with the provisions of the Income Tax Law and its Implementing Regulations, the Department concludes by cancelling the Defendant's Decision and accepting the Plaintiff's objection.

**Fourth Item Late Payment Fines for Income Tax and Withholding Tax:**

Based on the foregoing, having perused the case file, and considering that the late payment fine is calculated from the end of the specified period for submitting the return until the date of payment of the due tax arising from the application of the provisions of the Law and the amendments made by the Defendant, and given that the dispute between the two parties is a documentary dispute and did not arise from a significant difference in the interpretation of legal provisions, the Department concludes by amending the Defendant's procedure by cancelling the late payment fine on the items where its Decision resulted in the cancellation of the Defendant's Decision, due to the lapse of the original imposition of the tax, and imposing it on the items where the Department's Decision resulted in the rejection of the Plaintiff's objection.

**Decision:**

**First:** Reject the Plaintiff's/ (.....) objection TIN (...), against ZATCA's Decision regarding the disputed statute of limitations item.

**Second:** Annul Defendant (ZATCA) Decision against Plaintiff (...), TIN (...), regarding the disputed payments to the head office item.

**Third:** Reject the Plaintiff's/ (.....) objection TIN (...), To Defendant(ZATCA) Decision related to the disputed overstated social insurance item.

**Fourth:** Reject the Plaintiff's/ (.....) objection TIN (...), To Defendant(ZATCA) Decision related to the disputed salaries and wages item.

**Fifth:** Annul Defendant (ZATCA) Decision against Plaintiff (...), TIN (...), regarding the disputed withholding tax on payments to the head office item.

**Sixth:** Annul Defendant (ZATCA) Decision against Plaintiff (...), TIN (...), regarding the disputed withholding tax on dividends item.

**Seventh:** Amend the Defendant's action/ ZATCA against Plaintiff/ (...) TIN (...), concerning the disputed late payment fine, in accordance with the reasons set forth herein.

This Decision was delivered in presence of the parties. The Department set Thursday, 02/07/1443 AH for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if both parties do not file an objection.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Undeclared Revenues - Estimated Profit on Support Services - Late Payment Fine.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision regarding the 2015 tax assessment. Whereas, regarding (Undeclared Revenues), Taxpayer challenges Defendant's action of adding undeclared revenues, and the Department established that Taxpayer declared the revenues in accordance with its financial statements, reconciliations, and the submitted invoices. The claim also concerns the item (Estimated Profit on Support Services at a Rate of 10%), where Taxpayer objects to the calculation of an estimated profit at a rate of 10%, and the Department found that the value of the realized revenues was not clearly stated in the financial statements. The claim further concerns the item (Late Payment Fine), where the dispute lies in Defendant's imposition of a late payment fine, and the Department determined that the late payment fine is calculated from the due date for filing the return until the date of payment of the tax due, as per the application of the provisions of the Law and the amendments made by Defendant. Therefore, the Department ruled to annul Defendant's Decision regarding (Undeclared Revenues), dismiss Taxpayer's objection concerning (Estimated Profit on Support Services at a Rate of 10%), and amend Defendant's Decision regarding the fines item.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(77/A.B\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH-](#)
- [Articles \(57.3\), \(67.3\), \(68.1\), and \(71.2\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)





## Parties' Defenses



### The Plaintiff's Defenses

**Item First:** Addition of Undeclared Revenues:

Plaintiff stated that ZATCA added undeclared revenues as consideration for additional shared services provided to (...) Joint Venture, and Plaintiff further stated that the company's branch had declared revenues amounting to SAR (147,891,014) in the 2015 tax return in accordance with the audited financial statements.

**Item Second:** Estimated Profit on Support Services at a Rate of 10%:

Plaintiff stated their objection to ZATCA's calculation of an estimated profit at a rate of 10% on the support services provided to (...) Company and asserted that (A.F) is a joint venture, and since it is not possible to directly hire employees in the Kingdom of Saudi Arabia, Plaintiff provided seconded employees to support the joint venture's operations. Furthermore, Plaintiff submitted a list of revenues from the support services and issued an invoice to the joint venture for the employee secondment in accordance with the agreed-upon rates.

**Item Third:** Late Payment Fine:

Plaintiff reported that ZATCA imposed a late payment fine, noting that its imposition begins on the thirtieth (30th) day after the completion of the objection procedures, in accordance with the appeal procedures set forth under the Income Tax Law.

### Defendant (ZATCA) Defenses

**Item First:** Addition of Undeclared Revenues:

ZATCA stated that it had added undeclared revenues as consideration for additional shared services provided to (A.F) Joint Venture. Since Plaintiff failed to submit supporting documents clarifying the discrepancy between the amounts charged to the company's expenses and the amounts recorded as the company's revenues, their objection was dismissed, based on Article (57) of the Implementing Regulations of the Income Tax Law, issued under Minister of Finance's Decision No. (1535) dated 11/06/1425 AH.

**Item Second:** Estimated Profit on Support Services at a Rate of 10%:

ZATCA mentioned that it applied a 10% profit margin on the cost of employees seconded to A.F Company. During the objection review, it became evident to Defendant that the company had seconded employees to support the joint venture and had set a profit margin of 35.54% for the services they rendered. Since Defendant's action of applying a 10% profit margin was found to be valid, Plaintiff's objection was dismissed, based on Article (4) of the Income Tax Law Regulations.

**Item Third:** Late Payment Fine:

ZATCA stated it imposed a late payment fine on the outstanding and unpaid tax, based on Article (77) of the Income Tax Law issued under Royal Decree No. (M/1) dated 15/01/1425 AH, and Article (67) of its Implementing Regulations.

### Committee's Response to Defenses.



**Item First:** Addition of Undeclared Revenues:

The Department, based on the foregoing and after reviewing the case file, found that Plaintiff had declared their revenues in accordance with its financial statements, reconciliation, and the submitted invoices. Consequently, the Department hereby annuls Defendant's Decision.



**Item Second:** Estimated Profit on Support Services at a Rate of 10%:

In light of the foregoing and after examining the case file, the Department determined that Plaintiff failed to provide sufficient evidence clarifying the discrepancy in revenues. The dispute specifically concerns costs charged amounting to SAR (4,670,940), while Plaintiff submitted a statement of revenues from the services provided, amounting to SAR (5,097,012). Since the actual value of the revenues was not clearly stated in the financial statements, the Department deems it necessary to dismiss Plaintiff's objection.

**Item Third:** Late Payment Fine:

Based on the above, and after reviewing case file and its included defenses and documents, since the late payment fine is calculated from the due date for filing the return until the date of payment of the tax due, as per the application of the provisions of the Law and the amendments made by Defendant, and considering that the dispute between both parties is based on documentation rather than a significant difference in the interpretation of the legal texts, the Department has decided to uphold Defendant's Decision by imposing the late payment fine as of the due date on the items for which Plaintiff's objection was dismissed and waive the said fine on the items for which Defendant's Decision was annulled, due to the invalidation of the original tax imposition.

**Decision:**

**First:** Annul Defendant's (ZATCA's) Decision against Plaintiff (...), branch of (....) Company, TIN (...), Concerning addition of undeclared revenues under dispute.

**Second:** Dismiss the objection raised by Plaintiff/ branch of .... Company, TIN (...), against Defendant's (ZATCA's) Decision in relation to the estimated profit at a rate of 10% on the support services,  
Subject of the case.

**Third:** Amend Defendant's (ZATCA's) Decision against Plaintiff (...), branch of (S.K) Company, TIN No. (...), regarding the fines subject matter of the Case as stated in grounds.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Riyadh

Decision No.: IFR-2022-1220  
Case No.: W-2021-75063

**Key words:**

**Withholding Tax – Objection to Tax Assessment – Late Payment Fine – Tax Exemption – Decision Annulment.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision concerning the 2017 tax assessment. Whereas, regarding the late payment fine for the relevant tax period, Taxpayer claims that they benefited from ZATCA's tax exemption initiative for the amount paid (SAR 749,493). Plaintiff, as for the amount of SAR (4,742.43), was granted a 50% exemption, while ZATCA's tax exemption initiative covers 100%. The Department established that Taxpayer fulfilled the necessary conditions to fully to qualify for ZATCA's tax exemption initiative, having paid the amount specified by Defendant. The Department established that Taxpayer fulfilled the necessary conditions to fully to qualify for ZATCA's tax exemption initiative, having paid the amount specified by Defendant. Therefore, the Department decided to cancel Defendant Decision.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minster of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First:** Late Payment Fines:

Plaintiff stated that they paid the full principal tax amount to benefit from ZATCA's fine waiver initiative before May 31, 2021, as requested by Defendant. Subsequently, Defendant requested Plaintiff to pay an amount of approximately SAR 4,000, claiming it was an outstanding balance of the principal tax, which was paid by Plaintiff, but after the deadline of May 31, 2021. Nevertheless, Defendant proceeded to close Plaintiff's accounts.



## Defendant (ZATCA) Defenses

### Item First: Late Payment Fines:

ZATCA argued that the objection was not submitted within the statutory period, citing Article (3) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH, while reserving Defendant's right to submit further responses and clarifications before the closing of proceeding. Moreover, in a supplementary memorandum, ZATCA presented its substantive response regarding the late payment fines. Defendant assessed withholding tax on the Plaintiff for June 2017, and consequently imposed late payment fines. However, the Department established that Plaintiff benefited from ZATCA's tax exemption initiative for the amount paid (SAR 749,493). As for the amount SAR (4,742.43), Plaintiff was granted a 50% exemption, according to the calculation mechanism for the initiative period and the payment date. Additionally, Plaintiff mentioned that they benefited from the exemption initiative by settling the principal amount before 30/06/2021.

## Committee's Response to Defenses.



### Item First: Late Payment Fines:

The Department determined that the dispute centers on Plaintiff's objection to the late payment fines for the June 2017 tax period. Whereas, Plaintiff stated that they paid the principal withholding tax due, including the increase for the years 2015 to 2017, on 30/03/2021, to qualify for ZATCA's 100% tax exemption initiative. However, Defendant granted the exemption only for the years 2015 and 2016, and maintained the late payment fines of SAR (331,863.63) calculated on the withholding tax assessment for the disputed period. Defendant countered that Plaintiff benefited from ZATCA's tax exemption initiative for the amount paid (SAR 749,493), and Plaintiff, as for the amount of SAR (4,742.43), was granted a 50% exemption, according to the calculation mechanism for the initiative period and the payment date. Additionally, Plaintiff mentioned that they benefited from the exemption initiative by settling the principal amount before 30/06/2021. Since the Department established that Plaintiff fulfilled the necessary conditions to fully to qualify for ZATCA's tax exemption initiative, having paid the amount specified by Defendant, and given that Defendant failed to provide any evidence to the contrary, the Department satisfies to annul Defendant's Decision.

## Decision:

Cancel Defendant (ZATCA) Decision against Plaintiff (...), TIN No..... Subject of the case. This Decision was issued in the presence of both litigants. The Department has set the date of (Tuesday, 15/11/1443 AH) as the date for receipt of the Decision copy. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Withholding Tax – Objection to Withholding Tax – Subjecting Digital Content Supply Contracts to Withholding Tax as Royalties – Late Payment Fine.**

**Abstract**

Taxpayer requests annulment of ZATCA's Decision regarding the 2019 Withholding Tax assessment. Whereas, regarding (Subjecting Digital Content Supply Contracts to Withholding Tax as Royalties), Taxpayer objects to subjecting amounts paid to foreign entities to Withholding Tax on the basis that they constitute expenses paid for royalties. However, the Department finds that the agreement includes the provision of services related to intellectual property rights and falls under the definition of royalties, and that Plaintiff failed to submit supporting documents for their statement of claim, as invoices for the purchase of the digital content were not provided. Furthermore, the Department, as for (late payment fine), determined that the outstanding tax liability resulted from adjustments to items not governed by clear statutory provisions, and that the late payment fine is calculated from the date the tax became due until the date of payment, in accordance with the provisions of the Income Tax Law and its Executive Regulations. Accordingly, the Department satisfies to dismiss the objection raised regarding (Subjecting Digital Content Supply Contracts to Withholding Tax as Royalties) and amend (Late Payment Fine) item.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Articles \(1\), \(5.a\), \(76.b\), and \(77.a\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Article \(68.a/1.b\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

**Item First:** Subjecting Digital Content Supply Contracts to Withholding Tax as Royalties: Plaintiff reported that the amounts paid to the foreign companies were in exchange for obtaining distribution and sales rights and further explained that they distributed and sold digital content products to a third party within the Kingdom by supplying digital content to all local network users. Plaintiff asserts that the responsibility for the products and content transfers from the second party (foreign companies) to the First party (Plaintiff Establishment) upon receipt, and the establishment assumes liability upon supplying the content, according to the terms of the agreement. Moreover, Plaintiff relied on the provisions of Article (1) of the Income Tax Law regarding the definition of royalties, arguing that the payments made to companies outside the Kingdom cannot be classified as royalties, as Plaintiff Establishment did not pay for the use or the right to use any intellectual property rights, copyrights, patents, designs, industrial secrets, trademarks, and trade names. Furthermore, they did not pay for the transfer of technical knowledge or know-how, or knowledge related to computer programming techniques for digital content, or the transfer of any element of technical or technological know-how.

### Defendant (ZATCA) Defenses

**Item First:** Subjecting Digital Content Supply Contracts to Withholding Tax as Royalties: ZATCA stated that its action conforms to the provisions of the Income Tax Law Regulations, as it determined, upon reviewing the supply, marketing, sale, and distribution agreements for digital content between Plaintiff and the foreign companies, such thereof as royalty agreements, given that the essence of the agreements is to grant Plaintiff the rights to market, sell, distribute, and publish the digital content. Furthermore, the agreement allows the foreign company to grant rights to the same digital content to other sub-distributors within the Kingdom, which confirms its permanent and ongoing ownership of the content and that it merely sold the rights to publish and distribute to Plaintiff. Additionally, the agreements did not include a separate financial consideration for the supplies that Plaintiff claims were made; instead, payments to the foreign company are made on a quarterly basis. Moreover, Article (1) of the Income Tax Law, issued by Royal Decree No. (M/1) dated 15/01/1425H, states: "Royalties: Payments received for the use of or the right to use intellectual rights, including, but not limited to, copyrights, patents, designs, industrial secrets, trademarks and trade names, know-how, trade and business secrets, goodwill, and payments received against the use of information related to industrial, commercial, or scientific expertise, or against granting the right to exploit natural and mineral resources". in addition, Article (5.A) of the same Law stipulates: "A. Income shall be considered accrued in the Kingdom in any of the following: 5. If it is derived from the sale or license for use of industrial or intellectual properties in the Kingdom". According to Article (68.A) of the same Law, which states: "A. Every resident, whether or not a taxpayer according to this Law, and every permanent establishment of a nonresident in the Kingdom which pays an amount to a nonresident from a source in the Kingdom shall withhold tax from the paid amount according to the following rates: Royalty or proceeds: 15%".



### Committee's Response to Defenses:



**Item First:** Subjecting Digital Content Supply Contracts to Withholding Tax as Royalties: The Department, upon reviewing the case file, demonstrated that Plaintiff failed to submit supporting documents for their statement of claim, as the invoices for the digital content purchase digital content purchase from non-resident entities, the contracts signed with the resident entity, and the agreements entered into between Plaintiff and local telecommunications companies were not provided. It was further established that the agreement involved the provision of services related to intellectual property rights, falling within the concept of royalties. Since the right to use the digital content is considered income derived from a source within the Kingdom for non-resident entities in accordance with the provisions of the Income Tax Law, the Department finds resolves to dismiss Plaintiff's objection, affirming the validity of Defendant's action.

### Decision

**First:** Dismiss the objection filed by the Plaintiff/ Enterprise(.....), TIN No..... Against Defendant's (ZATCA) Decision regarding subjecting digital content supply contracts to withholding tax as royalties.

**Second:** Amend Defendant's, ZATCA's, action against Plaintiff/ (...) Est., TIN No..... concerning the disputed late payment fine, in accordance with the reasons set forth herein.

This Decision was issued in the presence of both litigants. The Department has set the date of (Tuesday, 20/12/1443 AH) as the date for receipt of the Decision copy. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

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**Key words:**

**Income Tax – Objection to the Tax Assessment – Adjustment Letters – Import Differences – Foreign Currency Conversion Differences – Carried-Forward Losses – Creditors – Late Payment Fine.**

**Abstract**

Taxpayer claims annulment of ZATCA's Decision regarding the 2015 tax assessment. Whereas, regarding (Adjustment Letters), Taxpayer's objection pertains to the issuance of the tax assessment by the Defendant, and the Department determined that ZATCA had notified Plaintiff of the adjustments included in the revised assessment, and that there was no formal impact justifying acceptance of Plaintiff's objection on this ground. The Department, regarding (Import Differences), concluded that the differences noted represent timing differences for each phase, where specific costs are calculated, and materials related to each phase are imported. As for (Carried-Forward Losses), it has been established that, for Zakat purposes, the considered carried-over losses are those adjusted in accordance with the Zakat Law rather than those reflected in the financial statements. The Department, concerning (Late Payment Fine), confirmed that such fine is calculated from the due date for filing the return until the date of payment of the tax due, and that the fine was not the result of any recognized difference in the interpretation of regulatory provisions. Therefore, the Department ruled to amend (Late Payment Fine) item, dismiss the objection raised concerning (Adjustment Letters) and (Carried-Forward Losses), and annul all other Decisions.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Articles \(30/A.B\), \(62.B\), \(77.A\), and \(76.B\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles \(9/1.c\), \(59.7\), \(68.1\), \(67.3\), and \(71.2\) of the Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/6/1425 AH](#)
- [Paragraph \(9\) of Section \(2\), Section \(Second.9\), Paragraph \(5\) of Section \(First\) of Article \(4\) of the Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Import Differences

Taxpayer stated that they operate in the field of engineering and contracting. As part of their operations, the company recognized the costs and revenues of certain contracts based on the amounts stipulated in the contracts signed with their clients, under which the company is required to deliver the entire project to the client.

Furthermore, the company, as part of the project requirements, imports equipment and consumables to the project site and recognizes revenues based on the completion rate. In addition, costs are likewise calculated based on the project phase, therefore, the differences noted represent timing differences for each phase, where specific costs are calculated, and materials related to each phase are imported. Accordingly, a reconciliation statement detailing the timing differences, along with the customs declarations, invoices, and purchase orders, was attached.

#### **Item Second:** Foreign Currency Conversion Differences:

Taxpayer cited that such differences represent the foreign currency conversion difference between the invoice dates and the payment dates owed to suppliers. Copies of the journal entries, which detail these differences, have been attached.

### Defendant (ZATCA) Defenses

#### **Item First:** Import Differences

ZATCA mentioned, upon reviewing the purchases section, that it noted the company recorded purchases in its accounts amounting to SAR (61,651,986), upon comparing which with the customs statement, it was revealed that the import value for the same year was SAR (11,360,453), after excluding local purchases incorrectly classified by Plaintiff as foreign purchases, amounting to SAR (7,836,452.27), resulting in import difference of SAR (42,455,080.73). Since Plaintiff estimated purchases value for 2015 and subsequent years and included thereof under the costs section, Plaintiff's objection was dismissed based on Article (9.1/c) of the Implementing Regulations of the Income Tax Law.

#### **Item Second:** Foreign Currency Conversion Differences:

ZATCA stated that it added foreign currency conversion differences, as recorded in the balance, amounting to SAR (31,923,182) and transferred the difference, amounting to SAR (20,532,5179) riyals, to net profit. Furthermore, ZATCA, upon reviewing the objection, established that Plaintiff deducted an amount of SAR (52,455,699) as foreign exchange difference losses in the declaration without submitting the supporting documents. Article (30. A/B) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states, regarding currency conversion, states: "A. Gross income and tax base shall be calculated in Saudi riyal. B. If calculation of income involves an amount in a currency other than the Saudi riyal, the amount shall be calculated for taxation purposes in Saudi riyal at the exchange rate declared by the Saudi Arabian Monetary Agency on the date of the transaction". Additionally, Article (12) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. (1535) dated 11/06/1425 AH, concerning currency conversion, stipulates: "Subject to currency conversion provisions stipulated in Article ( 30 ) of the Law, currency conversion profits or losses resulting from re-evaluation for tax purposes are not taken into account."



## Committee's Response to Defenses.



### **Item First:** Import Differences

The Department, upon reviewing the documents submitted by Plaintiff, including a reconciliation statement for timing difference items (Attachment 2), the customs declaration (Attachment 4), in addition to invoices and purchase orders (Attachment 5), and upon examining the aforementioned documents, determined that the foreign purchase differences represent an actual deductible expense, and that these invoices were reported on their due dates in 2015. In addition, the Department, for the customs declaration, established that the imports in dispute appeared in the following year, 2016, making it clear that they are timing differences. Given that Plaintiff provided supporting documents that substantiate their position regarding the import differences, the Department satisfies to accept Plaintiff's objection.

### **Item Second:** Foreign Currency Conversion Differences:

Upon reviewing the case file, including the defenses and supporting documents, and examining the attached documents, it was found that there were unrealized foreign currency conversion profits. Plaintiff also provided an extract from the accounting system for the account "Unrealized Conversion Rate Profits/Losses," along with a sample of accounting entries. By reviewing Attachment (6), which included a summary of invoices and evidence of conversion rate discrepancies, it was confirmed that Plaintiff's position is valid, and these differences represent actual losses incurred by the company. Therefore, the Department concludes to accept Plaintiff's objection.

### **Decision:**

Accept the case filed by Plaintiff/ (...) Company, C.R. No. (...), to Defendant (ZATCA) Decision regarding Zakat assessment subject matter of the Case. The Department unanimously decided as follows:

**First:** Dismiss the objection of the Plaintiff.....Company TIN No..... against ZATCA's Decision regarding the lack of clarification of the grounds and details for the assessment adjustments under dispute.

**Second:** Dismiss the objection of the Plaintiff.....Company TIN No..... against ZATCA's Decision regarding carried-forward losses in question.

**Third:** Amend Defendant (ZATCA) procedure against Plaintiff (...) Company, TIN No..... regarding the fines subject matter of the Case as stated in grounds.

**Fourth:** Annul all other Decisions of Defendant, ZATCA, issued against Plaintiff/.... Company, TIN No..... regarding Zakat assessment subject matter of the dispute.

This Decision was issued in the presence of both litigants. The Department has set the date of (Monday, 23/02/1444 AH) as the date for receipt of the Decision copy. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable

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Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Income Tax  
Violations and Disputes In Riyadh

Decision No.: IFR-2022-1646  
Case No.: I-51115-2021

**Key words:**

**Income Tax – Objection to Estimated Tax Assessment – Tax Differences – Late Payment Penalty – Amendment of Decision.**

**Abstract**

The Taxpayer requests the annulment of ZATCA's Decision regarding the estimated tax assessment from the year 2014 to 2019, specifically concerning the item of “tax differences”. The Taxpayer's objection lies in the Defendant's issuance of the estimated tax assessments. The Department finds that the Plaintiff requested to be assessed on an estimated basis at a rate of 10% instead of 40%, whereas it is evident that the estimated rate for providers of consulting and technical services is 20%. Regarding the item of “late payment penalty,” it is clear that the late payment penalty is calculated from the tax due date, and the Plaintiff was unable to pay the difference in tax owed according to the estimated assessment until ZATCA issued the disputed assessment. Consequently, the Defendant's procedure concerning the disputed items is to be amended.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article \(25\), Article \(26\), and Paragraphs \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/1/1425 AH.](#)
- [Article \(20\), Article \(56\), and Paragraph \(1\) of Article \(68\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2216\) dated 07/07/1440 AH](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Tax Differences from 2014 to 2019:

The Taxpayer believes that the basis upon which the Defendant (ZATCA) proceeded does not apply to them, given that they prepared their financial statements in accordance with Accounting Standards in Saudi Arabia and maintained proper accounting records. Furthermore, the Plaintiff asserts that their revenue is recognized based on the percentage of completion method. They also state that the Defendant relied in its procedure on Value Added Tax (VAT) returns and compared them with the revenues recorded in the financial statements.

### Defendant (ZATCA) Defenses

#### **Item First:** Tax Differences from 2014 to 2019:

ZATCA stated that the Plaintiff's business is summarized in a single contract concluded with (...), for the execution of a contract to supply equipment and provide installation services for a testing facility in the Kingdom. The Defendant also found that there were no external purchases. Consequently, it contacted the Plaintiff to inquire about the accounting operations, and was informed of communication with the head office in the United States. It became clear to ZATCA that the Plaintiff ships the equipment into the Kingdom and that (...) bears the responsibility for customs clearance. It was also evident that the branch has only one employee, who is the sole employee registered with social insurance. Moreover, after examining the cost file extracted from the system, ZATCA found that all costs and revenues related to the project were drawn from the head office's files. Additionally, there was a discrepancy between the value of materials in the tax return and the analytical statement of imports. ZATCA stated that it reviewed the contracts attached to the e-Revenue Collection System and found that the Plaintiff did not calculate the percentage of work completed, which constitutes a violation of the provisions of Article (26) of the Income Tax Law. Article (25) of the same law states: "Accrual-Basis Accounting: A. A taxpayer who uses the accrual method shall record income and expenses when they are due. B. An amount becomes payable to the taxpayer when the taxpayer is entitled to receive it, even if payment is postponed or paid in installments. C. An amount becomes payable by the taxpayer when all facts determining liability have occurred." And Article (26) of the same law states: "Long Term Contracts: A. For a taxpayer who uses the accrual method, income and expenses relating to a long term contract shall be calculated on the basis of the percentage of the work completed during the taxable year. B. The percentage of work completed shall be determined by comparing the costs of the contract incurred during the taxable year with the total estimated cost of the contract. C. For the purposes of this Article, the term 'long term contract' shall mean a contract for the manufacture, installation, construction, or performance of services related thereto, and whose execution is not completed within the year in which execution started, with the exception of a contract that is expected to be completed within six months of the actual starting date of work cited in the contract." Furthermore, Article (20) of the Implementing Regulations of the Income Tax Law states: "Long-Term Contracts: 1- Accounting for long-term contracts for a taxpayer using the accrual basis, whether revenue for the contractor or expense for the contract owner or the main contractor, shall be based on the percentage of work completed during the tax year according to the following equation: 
$$\frac{\text{Actual costs incurred during the tax year} \times \text{Total value of the long-term contract}}{\text{Total estimated costs of the long-term contract}}$$
" The Construction and Service Contracts Accounting Standard issued by the Saudi Organization for Certified Public Accountants' (SOCPA) Board of Directors under Resolution No. 2/3 dated



11/01/1431 AH (corresponding to 28/12/2009 AD) states: “3/3 Recognition and Measurement of Revenue and Expenses

3/3/1 At the date of the statement of financial position, when the outcome of a contract can be estimated with reasonable certainty, revenue and costs associated with the contract shall be recognized as revenue and expenses respectively, by reference to the stage of completion of the contract activity (Percentage of Completion Method). (Paragraph 113)

3/3/4 The Percentage of Completion Method requires the matching of contract revenue with the contract costs incurred in reaching the stage of completion, resulting in the reporting in the financial statements of revenue, expenses, and profit or loss attributable to the completed portion of the contract. Paragraph 116

3/3/5 According to the Percentage of Completion Method, contract revenue should be recognized as revenue in the income statement in the accounting periods in which the work is performed. Contract costs should be recognized as expenses in the income statement in the accounting periods in which the work related to those costs is performed. Any expected excess of total contract costs over total contract revenue for a contract should be recognized as an expense immediately, as per paragraph 129. Paragraph 117

3/3/10 Throughout the execution of a contract, estimates of its costs and revenues must be reviewed and adjusted as needed. The necessity of such revisions does not automatically imply that the contract's outcome could not have been reliably estimated initially (paragraph 122), and this is guided by Appellate Committee Decision No. 912 issued in AH 1430.

#### Committee's Response to Defenses.



**Item First:** Tax Differences from 2014 to 2019:

Upon reviewing the case file and its included pleadings and documents, it becomes evident that the dispute between the parties centers on ZATCA's accounting for presumptive income of Zakat payer. The Plaintiff argues that ZATCA mishandled its accounts for the years 2014 to 2019, calculating estimated profits at a rate of 40% due to the absence of a terminal balance for the Plaintiff's electronic account from the head office. The Plaintiff did not provide evidence of a terminal balance for the computer system within the Kingdom, nor did it present a bookkeeping and records contract with a certified legal accountant. Consequently, the presumptive assessment Decision is deemed correct based on Article (56) of the Implementing Regulations for Zakat Collection. While the Plaintiff requests a presumptive assessment of 10% instead of 40%, upon examining the Plaintiff's activity according to the commercial register (execution of a contract to supply equipment and provide services for the construction of a 14-meter test cell in Jeddah under the contract), and considering that the company provides both services and equipment supply, and upon reviewing Article 16 of the Implementing Regulations for Zakat Collection, it is clear that the presumptive rate for providers of consulting and technical services is 20%. This necessitates the Department's amendment of the Defendant's procedure.



## Decision

The Department unanimously decided as follows:

To amend the procedure of the Defendant, the Zakat, Tax and Customs Authority (ZATCA), in its case against the Plaintiff, the branch of (...) TIN No..... concerning the disputed items, in accordance with the reasons outlined.

This Decision was issued in the presence of both litigants. The Department has set the date of (Tuesday, 23/02/1444AH) as the date for receipt of the Decision copy. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





**Key words:**

**Withholding Tax – Objection to Withholding Tax – Calculation of Withholding Tax**

**Abstract**

Taxpayer demands the annulment of ZATCA's Decision from 2014 to 2018, specifically regarding the item of (expiry of the statutory period for calculating withholding tax). Taxpayer's objection lies in the Defendant's issuance of the withholding tax. The Department found that the Plaintiff did not withhold tax on payments made to non-resident entities for the years under objection, in violation of the statutory provisions. Regarding the item of (calculating withholding tax at a rate of 5%), the Defendant accepted the Plaintiff's requests on this matter. Concerning the item of (calculating withholding tax at a rate of 15%) for the years from 2014 to 2017, it is evident that the Plaintiff did not provide an analytical statement of these expenses, clarifying the movement on these expenses, and the method of calculating these expenses was unclear. Regarding the item of (calculating withholding tax at a rate of 15%) for July 2014, the dispute is proven to be resolved as the Defendant accepted the Plaintiff's requests on this matter. Regarding the item of (late payment penalty), and as evident from the statutory provisions, the late payment penalty is imposed on the Taxpayer as a result of delaying the payment of the tax due. The Department concluded that ZATCA's procedure in imposing income tax resulting from the assessment was incorrect. Consequently, the outcome is confirming the resolution of the dispute in the item of (calculating withholding tax at a rate of 5%) and the item of (calculating withholding tax at a rate of 15%) for July 2014, the amendment of the Defendant's procedure in the item of (late payment penalty), and dismissing all other objections.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Paragraph \(M/1\) and Paragraphs \(A\) and \(B\) of Article \(65\), Paragraphs \(A\) and \(C\) and Paragraph \(1\) of Article \(68\), and Paragraph \(A\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(1\) of Article \(70\) of Law of Civil Procedures promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(63\), Paragraph \(D\) of Article \(2\), Paragraph \(3\) of Article \(57\), Paragraph \(1\) of Article \(68\), and Paragraph \(3\) of Article \(67\) of the Implementing Regulations of Income Tax Law issued by the Minister of Finance Decision No. \(1535\) dated 11/06/1425AH](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

**Item First:** Calculation of Withholding Tax at a Rate of 15% on Amounts Paid Abroad, Without Clear Bases for the Calculation for the Years from 2014 to 2017, amounting to (SAR 12,996,263): Taxpayer argued that it had provided ZATCA with all the additional information requested, which included monthly withholding tax return forms for the years from 2014 to 2018, and the due payment forms. The Plaintiff added that it had notified the Defendant that the submitted returns included all amounts paid and all transactions with the head office.

### Defendant (ZATCA) Defenses

**Item First:** Calculation of Withholding Tax at a Rate of 15% on Amounts Paid Abroad, Without Clear Bases for the Calculation for the Years from 2014 to 2017, amounting to (SAR 12,996,263): ZATCA argued that it sent the initial assessment to the Plaintiff to urge it to provide details of the engineering expenses paid abroad, but the Plaintiff failed to submit what was requested. The Plaintiff only provided details of the engineering expenses and the amounts withheld. Consequently, the Defendant assessed all expenses for the year 2014 by subjecting some services, which the Plaintiff had withheld at a rate of 5% considering them technical and consulting services, to design services at a rate of 15% instead of 5%. This was due to the nature of the service provided, which was Design and Planning, under the name of the contracted supplier. Whereas Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, as amended by Ministerial Resolution No. (1/1748) dated 20/2/1427 AH, stipulates: "1. A non-resident is subject to tax for any amount realized from a source within the Kingdom, and the tax is withheld from the total amount at the following rates: - Any payments for technical or consultancy services or international telecommunications services paid to the head office or affiliated company... (15%)."

In addition, Paragraph (3) of Article (57) thereof states: "The burden of proof of correctness of information in the Taxpayer's return regarding its revenues, expenses and any other data, rests on the Taxpayer. If a Taxpayer fails to prove the correctness of information in its returns, the Department may, in addition to the application of any other statutory penalties, disapprove the expense whose correctness has not been proven by the Taxpayer or make an estimated assessment according to the Department's opinion based on relevant circumstances and facts and available information".



## Committee's Response to Defenses.

**Item First:** Calculation of Withholding Tax at a Rate of 15% on Amounts Paid Abroad, Without Clear Bases for the Calculation for the Years from 2014 to 2017, amounting to (SAR 12,996,263): Based on the foregoing, and as evident from the aforementioned statutory provisions that the imposition of withholding tax is linked to the existence of an actual payment process and its equivalents, such as settlements between accounts and clearing, and upon reviewing ZATCA's viewpoint, it is clear that it subjected the disputed amounts from the date of the accounting entry based on the Plaintiff's failure to provide evidence that these expenses were not actually paid to the non-resident company. Upon reviewing the documents submitted by the Plaintiff, it is evident that the Plaintiff did not provide an analytical statement of these expenses clarifying the movement on these expenses, in addition to the unclear method of calculating these expenses – whether they were charged to the current account, or whether the company incurred these expenses on behalf of the non-resident company and did not charge them to the non-resident company's account, and the reasons for incurring these expenses – whether they were based on contracts and agreements with the non-resident company, and the amount incurred by the resident company for these expenses. Due to the Plaintiff's failure to submit supporting documents to prove the absence of actual payment, the Department must dismiss the Plaintiff's objection.

### Decision:

**First:** To confirm the resolution of the dispute between the Plaintiff/the branch of (...) TIN No..... and the Defendant/the Zakat, Tax and Customs Authority (ZATCA), regarding the item of (calculating withholding tax at a rate of 5%) on amounts for which the due tax was previously paid for the years from 2015 to 2018, with a total value of (SAR 30,166) thirty thousand one hundred and sixty-six Riyals, due to the Defendant's acceptance of the Plaintiff's requests in this regard.

**Second:** To confirm the resolution of the dispute between the Plaintiff/the branch of (...) TIN No..... and the Defendant/the Zakat, Tax and Customs Authority (ZATCA), regarding the item of (calculating withholding tax at a rate of 15%) on amounts for which the due tax was previously paid for July 2014, with a total value of (SAR 25,876) twenty-five thousand eight hundred and seventy-six Riyals, due to the Defendant's acceptance of the Plaintiff's requests in this regard.

**Third:** To amend the procedure of the Defendant, the Zakat, Tax and Customs Authority (ZATCA), in its case against the Plaintiff, the branch of (...) TIN No..... regarding the item of (late payment penalty under dispute), in accordance with what is explained in the reasons.

**Fourth:** To dismiss all other objections of the Plaintiff/the branch of (...) TIN No..... to Defendant (ZATCA) Decisions regarding Zakat assessment subject matter of the Case.

This Decision was issued in the presence of both litigants. The Department has set the date of (Tuesday, 23/02/1444AH) as the date for receipt of the Decision copy. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Withholding Tax - Technical Support Costs - Constructive Dividend Distribution**

**Abstract**

Taxpayer requests the annulment of ZATCA's Decision regarding the tax assessment and withholding tax for the year 2017, specifically concerning the item of (withholding tax on technical support costs paid to the head office for September 2017). Taxpayer's objection lies in the imposition of a 15% withholding tax on technical support fees. Department found that Defendant had subjected it to withholding tax again, despite Taxpayer providing proof of the deduction. This also applies to the item of (withholding tax on technical support costs paid to the head office for December 2017) and the item of (withholding tax on technical support costs paid to the head office for March 2017), where it was established that the dispute ended with Defendant agreeing to cancel the additional tax. Regarding the item of (withholding tax on the constructive dividend distribution to the head office), Taxpayer's objection stems from Defendant's imposition of withholding tax on the transfer of profits to the head office account in the branch's books. Department found that Taxpayer did not provide evidence of submitting procedures for applying tax benefits to Defendant. Lastly, concerning the item of (late payment penalties), Department found that the dispute was technical, and a resolution was reached for part of the objection, with Defendant's Decision being canceled for the other contested items. Consequently, Defendant's Decision is annulled regarding the item of (withholding tax on technical support costs paid to the head office for September 2017), and the resolution of the dispute is affirmed regarding the items of (withholding tax on technical support costs paid to the head office for December 2017) and (withholding tax on technical support costs paid to the head office for March 2017). Defendant's procedure is amended regarding the item of (late payment penalties), and Taxpayer's objection is dismissed regarding the item of (withholding tax on the constructive dividend distribution to the head office).

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(35\), Article \(63\), and Paragraph \(c\) of Article \(76\) of the Income Tax Law promulgated by Royal Decree No. \(M/1\) and dated 15/01/1425 AH.](#)
- [Article \(70\) of Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) of 22/01/1435 AH.](#)



- [Paragraph \(9\) of Article \(59\), Paragraph \(1\) and Paragraph \(6\) of Article \(63\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/6/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Article \(70.1\) of Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice's Decision No. \(39933\) of 19/05/1435 AH.](#)
- [Paragraph \(1\) of Article \(6\) of the Convention Between The Kingdom Of Saudi Arabia And the French Republic For The Avoidance Of Double Taxation, signed on 18/02/2011 and effective as of 01/06/2012.](#)

## Parties' Defenses

### The Plaintiff's Defenses

**Item First:** Withholding Tax on Technical Support Costs Paid to the Head Office for September 2017:

The Plaintiff stated that ZATCA imposed a 15% withholding tax on technical support fees settled with the head office for September 2017, amounting to SAR 294,219.30. The Plaintiff mentioned that ZATCA had approved its objection for the same item for the remaining months of the year, except for September 2017. This was because ZATCA could not ascertain the nature and details of the amount paid to the head office. Consequently, the Plaintiff attached invoices issued by the head office for technical support fees, a detailed schedule enclosed with the objection outlining the amounts and invoices, and the withholding tax return for September 2017. The return clarified that the amount was included in the declaration and paid accordingly, and the payment receipt was also attached. Furthermore, the Taxpayer clarified that ZATCA's action was not in accordance with regulations, as ZATCA's imposition of withholding tax on the same amount constitutes double taxation.

**Item Second:** Withholding Tax on the Deemed Transfer of Profits to the Head Office:

The Plaintiff stated that ZATCA imposed withholding tax on the transfer of profits to the head office account in the branch's books.

### Defendant (ZATCA) Defenses

**Item First:** Withholding Tax on Technical Support Costs Paid to the Head Office for September 2017:

ZATCA stated that it imposed withholding tax on royalty expenses charged by the head office, and the Plaintiff indicated that it had withheld the tax as required. Upon reviewing September 2017, the declaration included amounts paid to related parties. Referring to Schedule (1), the disputed amount (SAR 294,219.30) was found, but the details of the paid amount were unclear. The Taxpayer was requested to provide a detailed statement of the head office account activity, clarifying the transaction details, including a description of the entry. However, the Taxpayer did not comply with this request.

**Item Second:** Withholding Tax on the Deemed Transfer of Profits to the Head Office:

ZATCA stated that it imposed a 5% tax on the retained earnings balance in the head office account. Upon reviewing the financial statements, particularly the statement of changes in the head office account, it was evident that the entire beginning balance of retained earnings was closed to the head office account.



## Committee's Response to Defenses.



**Item First:** Withholding Tax on Technical Support Costs Paid to the Head Office for September 2017:

Based on the foregoing and upon reviewing the data submitted by both parties, and considering that the Plaintiff paid the 15% tax for September 2017 according to its declaration, and that ZATCA subjected it to withholding tax again despite the Plaintiff providing proof of withholding, the Department finds it necessary to annul the Defendant's Decision regarding the item (Withholding Tax on Technical Support Costs Paid to the Head Office for September 2017).

**Item Second:** Withholding Tax on the Deemed Transfer of Profits to the Head Office:

Based on the foregoing and upon reviewing the data submitted by both parties, and considering that the Plaintiff did not provide evidence of submitting procedures for applying tax benefits to the Defendant, the Department finds it necessary to dismiss the Plaintiff's objection.

## Decision:

**First:** In Form: In form:

Accept objection filed by Plaintiff ..... Company, CR. No. (...), against the Defendant's Decision.

**Second: On Merits:**

Annulment of the Defendant's Decision regarding the item (Withholding Tax on Technical Support Costs Paid to the Head Office for September 2017).

Establishment of the resolution of the dispute regarding the item (Withholding Tax on Technical Support Costs Paid to the Head Office for December 2017).

Establishment of the resolution of the dispute regarding the item (Withholding Tax on Technical Support Costs Paid to the Head Office for March 2017).

Dismissal of the Plaintiff's objection regarding the item (Withholding Tax on the Deemed Transfer of Profits to the Head Office).

Amendment of the Defendant's Decision regarding the item (Late Payment Penalties).

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Riyadh

Decision No.: IFR-2022-5723  
Case No.: I-38115-2021

**Key words:**

**Income Tax – Objection to Tax Assessment – Bad Debts**

**Abstract**

The Taxpayer demands the annulment of ZATCA's Decision regarding the tax assessment for the year 2017, concerning the item (Bad Debts). The Taxpayer's objection lies in the Defendant's refusal to deduct bad debts from the net profit. The Department found that a certificate issued by a certified public accountant was submitted, indicating the write-off of these debts by a Decision from the authorized party. Additionally, the journal entry by which the irrecoverable amount was written off was submitted, based on Paragraph (3) of Article (9) of the Implementing Regulations of the Income Tax Law. Consequently, the objection is accepted, and the Defendant's Decision is annulled.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article \(14\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(3\) of Article \(9\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Resolution No. \(1535\) dated 11/6/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)





## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### Item First: "Bad debts"

It was mentioned that contracts had been concluded with (...) Company. These amounts were declared as revenues in the tax returns for the years 2009 to 2012 based on the accounting standards followed in the Kingdom. Enclosed with the objection, we provided a summary regarding the declared revenues, collected revenues, uncollected revenues, and the provision made, totaling SAR 57,512,837, which was recorded in the books. The same amount was excluded when calculating the profit/loss for the years 2011 to 2014. Attached (2) is a summary of the excluded amount along with a copy of the provisions schedule according to the tax returns. The branch was unable to collect the amounts because (...) Company was facing financial difficulties. As a result of these difficulties, the company's trading was temporarily suspended on the stock exchange. To enable the Taxpayer to resolve the matter, a settlement agreement was concluded with (...) Company on 28/07/2016 (Attachment 3). Accordingly, an amount of SAR 15,000,000 was paid, and the Taxpayer received the amount on 15/05/2017 (Att. 4: copy of the bank statement). It was agreed to write off an amount of SAR 36,117,595 according to the agreement. Regarding the amount of SAR 6,395,243, the branch and (...) Company were unable to reach an agreement. Consequently, the Taxpayer decided to write off the amount (Att. 6: copy of the journal entry for the write-off). Enclosed with our objection is a clarifying schedule summarizing the agreement with its clauses and agreed amounts. Thus, we have met the conditions of Paragraph (3) of Article (9) of the Implementing Regulations as follows: 1/ We declared the bad debts in the returns within our revenues in the year of accrual. 2/The bad debts resulted from the sale of goods or the provision of services. 3/We submitted a certificate from the certified public accountant stating the write-off of these debts by a Decision of the authorized person. 4/ Legal procedures were taken to collect the debts, and it was proven impossible to collect them in full from (...) Company (alternative settlement agreement and its contents). 5/(...) Company is not a related party to the branch. 6/We complied with declaring the debt within the income whenever it was collected. The Taxpayer mentioned in its objection memorandum the details of the procedures adopted by it to fulfill the conditions of the aforementioned article . (Att. 7: copy of the contract follow-up statement with the relevant revenues redacted).

### Defendant (ZATCA) Defenses

#### Item First: "Bad debts"

ZATCA stated that during the assessment, the deduction of bad debts was not accepted because the certificate provided by the certified public accountant contained the phrase "We do not express any assurance on the bad debts in the books and records of the company for the year ended December 31, 2017." Based on this, ZATCA did not accept the certificate. After studying and reviewing the Plaintiff's objection with ZATCA and the submitted documents, which are the write-off entries, the settlement agreement and its translated copy with (...) Company, a cheque for SAR 15,000,000 from (...) Company agreed upon for payment according to the agreement, a bank statement showing its receipt, and the certified public accountant's certificate, it became clear to ZATCA that the Plaintiff did not provide proof of (...) Company's bankruptcy, nor did it provide proof of its cessation of business. Furthermore, its cessation was temporary, and the reasons for writing off the amounts due from the company were not clarified.



## Committee's Response to Defenses.



### **Item First: “Bad debts”**

Based on the foregoing and upon reviewing the data submitted by both parties, and considering that the Plaintiff exerted all efforts and means to collect the outstanding amounts and its initiative to settle with (...) Company is considered a systematic procedure proving the non-collection of the debt from the company and its endeavor to collect a portion thereof, and its declaration of the bad debts in the returns within the revenues, and considering that it submitted a certificate issued by a certified public accountant stating the write-off of these debts by a Decision of the authorized person, and that it submitted the journal entry by which the irrecoverable amount was written off, and regarding the Defendant's reference to the fact that the certified public accountant's letter does not include any assurance, and referring to Auditing Standard: International Standard on Related Services (ISRS 4400) concerning engagements to perform agreed-upon procedures regarding financial information, where the certified public accountant is not required to issue an opinion or conclusion, the Department finds it necessary to annul the Defendant's Decision.

### **Decision:**

Accepting the objection of Plaintiff's/ Branch of (...) Company. C.R. No. (...), to the Decision issued by the Defendant (ZATCA) in form, and cancel the Defendant's Decision on merits.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Equipment and Machinery Rental Expenses Pertaining to Previous Years – Unsupported Leased Labor Expenses – Domestic Purchases – Value Added Tax Charged on Expenses – Other Amount Added**

**Abstract**

The Taxpayer demands the annulment of ZATCA's Decision regarding the tax assessment for the years 2015, 2017, and 2018, concerning the item (Equipment and Machinery Rental Expenses). The Taxpayer's objection lies in the Defendant's issuance of the tax assessment. The Department found that these expenses are deductible if proven to be actual expenditures, as the Plaintiff did not provide an analytical statement for these expenses clarifying their total amount. Regarding the item (Leased Labor Expenses), the Plaintiff provided an analytical statement of leased labor expenses amounting to SAR 382,799, supported by receipts from the contracting company along with a sample of the payrolls for August and March. Regarding the item (Domestic Purchases), the Plaintiff provided documents pertaining to domestic purchases. Some invoices were unclear, while the clear one was an invoice for SAR 595,332 for the year 2018. Invoices for the other amounts were not provided. Regarding the item (Leased Labor Expenses En Route), supporting documents for this item were provided, consisting of payrolls for the year 2018 and a labor supply agreement. As the Defendant responded to some items but did not include this item, this is considered evidence of its acceptance. Consequently, the Defendant's Decision is annulled regarding the item (Unsupported Leased Labor Expenses) and the item (Leased Labor Expenses En Route). Regarding the item (Domestic Purchases), the Decision is amended for the year (2016), and the Decision is annulled for the year (2018). All other objections are dismissed.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(1\) of Article \(9\), and Paragraph \(3\) of Article \(57\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Resolution No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(3\) of Article \(22\) of the Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. \(2082\) dated 01/06/1438 AH](#)



## Parties Defenses:

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Equipment and Machinery Rental Expenses:

The Plaintiff objected, stating that all journal vouchers issued by the company pertain to and are dated in the year 2015. All invoices and expenses are supported and audited by the certified public accountant, pertain to the tax year, and are supported by journal vouchers. The Plaintiff further stated that invoices for contracting companies are submitted at the end of the project, which is a standard practice in the entire contracting sector. Journal vouchers are generated by the establishment to disburse the amounts. Therefore, if a project starts in December 2014, for example, and invoices are submitted in January 2015 or the beginning of 2015, and the project ends in 2015, all costs follow the year 2015. This is an accounting system given that the Establishment's activity is in contracting, construction, and building. All attachments were reviewed by a CPA licensed by the Saudi Organization for Certified Public Accountants. Copies of the proper documents were submitted to the Defendant, and we maintain the correctness of our actions.

#### **Item Second:** Unsupported Leased Labor Expenses:

The Plaintiff objected to ZATCA's action in not accepting the deduction of unsupported leased labor expenses from the tax base. The Plaintiff's viewpoint is that the leased labor is sourced "from the road" and is supported by documentary evidence, contrary to the Defendant's claim. Journal vouchers, the contract, and receipts were attached, all supporting the expenses and costs and reviewed by a certified public accountant. In addition, the contract and receipts were submitted to the Defendant, and we maintain the correctness of our documents.

#### **Item Third:** Domestic Purchases:

The Plaintiff objected, stating that all journal vouchers issued by the company pertain to and are dated in the year 2016. All invoices and expenses are supported and audited by the certified public accountant, pertain to the tax year, and are supported by journal vouchers. The Plaintiff further stated that invoices for contracting companies are submitted at the end of the project, which is a standard practice in the entire contracting sector. Journal vouchers are generated by the establishment to disburse the amounts. Therefore, if a project starts in December 2015, for example, and invoices are submitted in January 2016 or the beginning of 2016, and the project ends in 2016, all costs follow the year 2016. This is an accounting system given that the Establishment's activity is in contracting, construction, and building. All attachments were reviewed by a certified public accountant licensed by the Saudi Organization for Certified Public Accountants. Copies of the supporting documents were submitted to ZATCA, and we maintain the correctness of our actions. Regarding the amount of SAR 534,456, the proper documents, contract, invoices, and the bank transfer of the amount were attached.

#### **Fourth Item** Value Added Tax Charged on Expenses:

The Plaintiff objected, stating that ZATCA claimed the inclusion of Value Added Tax within the income statement, which is baseless. No inquiries or clarifications were requested from us regarding invoices related to this erroneous conclusion. We have no details about this amount or how it was calculated, and no inquiries were requested from us regarding which invoices it was based on. This was our inquiry regarding the initial assessment Decision, questioning the invoices or amounts on which your Decision was based.



**Fifth: Other Amount Added:**

We stated that the Defendant did not add this amount to the tax base for the year 2018, and ZATCA does not know the source of this amount for the Taxpayer. The Taxpayer requested an explanation from the Defendant on how this figure was derived accounting-wise, but no explanation was provided on how this figure was recorded, despite not being mentioned in the return or the balance sheet approved by the CPA and mentioned in the initial assessment letter. Our response was that this amount has no accounting basis from the Defendant's side to respond to, so how can it be included as differences due and subject to income tax?

**Defendant (ZATCA) Defenses**

**Item First: Equipment and Machinery Rental Expenses:**

ZATCA stated that an amount of SAR 828,961 related to equipment and machinery rental expenses pertaining to previous years was added to the book net profit for the year 2015 because it is an expense related to prior years. Upon studying the Taxpayer's objection and the attachments, and considering that most invoice copies do not have a date and some are issued internally by the Establishment (thus considered internal invoices and not from equipment lessors), it was found that most invoices pertain to the year 2014, and most of them have erasures and alterations in the amount due field. Therefore, based on Article (9) of the Implementing Regulations of the Income Tax Law, the Taxpayer's objection to this item was dismissed, and ZATCA maintains the correctness and legality of its procedure.

**Item Second: Unsupported Leased Labor Expenses:**

ZATCA stated that unsupported leased labor expenses amounting to SAR 382,799 were added to the book net profit for the year 2015 because this item represents leased labor "from the road" that is not supported by documentation. Upon studying the Taxpayer's objection and the attachments, it was found that the invoice copies and documents submitted for this item are internal documents from the Establishment and were subject to scrutiny and alteration in the amount field, representing internal disbursement vouchers issued by the company. While these might be considered proof of the expense from an accounting perspective, they do not fulfill the requirements of an expense from a Zakat and tax perspective. The Taxpayer did not provide copies of the signed contracts with the entities to which this labor belongs. Therefore, based on Article (57), Paragraph (3) of the Tax Regulations, the Taxpayer's objection was dismissed.

**Item Third: Domestic Purchases:**

It was found that no documents supporting the validity of this item were attached, and that it pertains to the year 2018 and not previous years. Therefore, the Taxpayer's objection was dismissed, and ZATCA maintains the correctness and legality of its procedure.

**Fourth Item Value Added Tax Charged on Expenses:**

ZATCA stated that an amount of SAR 259,568 related to Value Added Tax was added to the book net profit for the year 2018. ZATCA based this on its Circular No. (13) dated 1376 AH. These taxes are not expenses and are not classified accounting-wise within expenses, nor are they recorded as expenses. They are indirect taxes imposed on all goods and services purchased and sold by establishments and are levied through a series of supply stages, starting from import or production, passing through distribution, and up to the final supply stage of the good or service. These taxes are paid to the seller or service provider registered with ZATCA and are recoverable taxes, not direct expenses to be charged to the income statement. Upon studying the objection, the Taxpayer's objection was dismissed for the reasons explained above, and ZATCA maintains the correctness and legality of its procedure.





**Fifth:** Other Amount Added:

ZATCA did not add this amount, totaling SAR 683,973, to the tax base for the year 2018. ZATCA does not know the source of this amount for the Taxpayer, who stated that it was not present in the amended return letter under objection and that the tax base for the year 2018 was not affected by this amount. Upon studying the objection, we find that the Taxpayer's objection to this item is without merit as it was not mentioned in the elements of the tax assessment in the amended assessment amount for the Taxpayer under objection, and the Taxpayer did not provide any clarifications regarding this item.

### Committee's Response to Defenses.

**Item First:** Equipment and Machinery Rental Expenses:

Upon reviewing the documents attached to the case file, and considering that the Plaintiff submitted a set of invoices pertaining to the rental of equipment and machinery, and that these invoices exceed the disputed amount of SAR 828,961, as the Plaintiff did not provide an analytical statement for these expenses clarifying their total amount of SAR 828,961 and supported by a sample of invoices for these expenses (as some of the submitted expenses pertain to previous years [2014] and another part is recorded upon the completion of the project with all expenses charged to that year, as is the practice in the contracting, construction, and building sector), and considering that the Plaintiff did not provide evidence of the recording of these expenses and confirmation of their recognition date and that they were not previously charged to its tax return, and considering that the Plaintiff submitted invoices pertaining to the year 2014 and invoices pertaining to the year 2015 “the disputed year for this item”, and that some invoices are handwritten with erasures and alterations in the amounts, and due to the insufficiency of the documents submitted by the Plaintiff, the Department finds it necessary to dismiss the Plaintiff's objection.

**Item Second:** Unsupported Leased Labor Expenses:

Based on the foregoing, and considering that these expenses are deductible if proven to be actual expenditures supported by documentary evidence, and that the dispute regarding this item is a documentary dispute, and upon reviewing the documents attached to the case file, and considering that the Plaintiff provided an analytical statement of leased labor expenses amounting to SAR 382,799 supported by receipts from the Contracting Company along with a sample of the payrolls for August and March of the year 2018, the Department finds it necessary to annul the Defendant's Decision.

**Item Third:** Domestic Purchases:

Upon reviewing the documents attached to the case file, and considering that the Plaintiff submitted documents pertaining to domestic purchases (“domestic purchases 2017”), and that some invoices are unclear, while the clear ones are an invoice for SAR 595,332 dated 14/03/2018 and an invoice for SAR 25,480 dated 31/12/2016, and invoices for the other amounts were not provided, the Department finds it necessary to amend the Defendant's Decision by adjusting the Defendant's Decision for the year 2016 by deducting the amount of SAR 25,480, and annulling the Defendant's Decision for the year 2018 by the amount of SAR 595,332.

**Fourth Item** Value Added Tax Charged on Expenses:

Based on the foregoing, and considering that Value Added Tax differences from expenses are not deductible and are not charged to the income statement, and they are not necessary expenses for the activity, and considering that the Plaintiff is registered for Value Added Tax and has the right to deduct and recover it, and this is not affected by the Plaintiff's argument that it did not charge its tax base with VAT expense (as it did not provide the financial statements to verify the non-inclusion of the disputed expenses and thus their non-deduction from its tax base), the Department finds it necessary to dismiss the Plaintiff's objection.



**Fifth: Other Amount Added:**

Upon reviewing the details of the assessment amended by the Plaintiff, and considering that an amount of SAR 683,973 was found under the item “Unrecognized Revenues,” and considering that the Plaintiff did not attach any proof that the Defendant amended its tax base for the year 2018 by the amount of SAR 683,973, the Department finds it necessary to dismiss the Plaintiff's objection.

**Decision:**

**First: In Form: In form:**

Accept objection filed by Plaintiff (... Company), C.R. No. (...), against the Defendant's Decision.

**Second: On Merits:**

1. Annulment of the Defendant's Decision regarding the item (Unsupported Leased Labor Expenses).
2. Regarding the item (Domestic Purchases):
  - a. Amendment of the Defendant's Decision regarding the year (2016).
  - b. Annulment of the Defendant's Decision regarding the year (2018).
3. Annulment of the Defendant's Decision regarding the item (Leased Labor Expenses En Route).
4. Dismiss Plaintiff's other objections.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





**Key words:**

**Income Tax – Objection to Tax Assessment – Non-Compliance with the Tax Regulations and Notification of Assessment to the Plaintiff – Objection to the Plaintiff's Registration as a Taxable Person.**

**Abstract**

The Taxpayer demands the annulment of ZATCA's Decision regarding the tax assessment from the year 2013 to the year 2018, concerning the item (Non-Compliance with the Tax Regulations and Notification of Assessment to the Plaintiff). The Taxpayer's objection lies in the Defendant's non-compliance with the provisions of the tax regulations regarding examination and assessment procedures due to the failure to notify and inform the Plaintiff of the assessment. The Department found that the Defendant did not meet the requirements of the examination and assessment procedures by not notifying the Plaintiff of the registration and assessment. Regarding the item (Objection to the Plaintiff's Registration as a Taxable Person), the Plaintiff is a partner in a non-resident company, and the company is the taxable person responsible for submitting its returns for its share in the company. Consequently, the objection is accepted.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Paragraphs \(a\) and \(b\) of Article \(62\), Paragraph \(c\) of Article \(2\), and Paragraph \(d\) of Article \(4\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(7\) of Article \(59\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Resolution No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

**Item First:** Non-Compliance with the Tax Regulations and Notification of Assessment to the Plaintiff:

The Plaintiff's objection is that ZATCA registered them as a Taxpayer on the E-portal without informing them. The assessment was subsequently done after attaching the amendment letter (11/11/2020) in the ERAD portal. The First text message reminder to benefit from ZATCA's penalty exemption initiative was received on 29/03/2021. Therefore, the Plaintiff demands the annulment of the Defendant's procedure due to its non-compliance with Article (62), Paragraph (b) of the Tax Law, and Article (59), Paragraph Seven of the Implementing Regulations of the Tax Law.

**Item Second:** Objection to the Plaintiff's Registration as a Taxable Person:

The Plaintiff's objection concerns ZATCA's procedure of registering him as a Taxpayer and subjecting him to income tax from 2013 to 2018 for a total amount of SAR 68,865.68. The Plaintiff wishes to state that he is a partner in (...) Company, the "Permanent Establishment," which is a partner in the partnership " (...) Company". While the Plaintiff does not deny being a partner in the Permanent Establishment and not directly in the partnership, this does not change the reality of the situation. The Plaintiff pointed out that the Permanent Establishment is registered with ZATCA according to Article (4), Paragraph (d) of the Tax Law, as it is the non-resident partner in the resident partnership. Consequently, the Plaintiff stated that the registration of the non-resident partner in the partnership is limited to the partner itself, and the partners of the partner are not required to be registered individually for tax purposes, according to what is mentioned in Article (4), Paragraph (d).

### Defendant's (ZATCA) Pleadings:

**Item First:** Non-Compliance with the Tax Regulations and Notification of Assessment to the Plaintiff:

ZATCA clarified in the amended returns issued to the Taxpayer that the amendment was based on the share in (...) Company, and based on Article (62), Paragraph (b) of the Income Tax Law, which states: "The Department shall notify the taxpayer of the tax assessment under paragraph (a) of this Article and of the tax due on it by a registered official letter, or by any other means that proves its receipt of the notification," and based on Article (59), Paragraph (7) of the Implementing Regulations of the Income Tax Law, which states: "If the Department does not agree with the Taxpayer's return, it shall notify him of the amendments it has made to his tax return, the reasons for the amendment, the amount of tax and penalties due, his right to object, and the statutory period specified for objection. The notification shall be by registered mail or by any other means that proves his receipt of the notification."



### **Item Second:** Objection to the Plaintiff's Registration as a Taxable Person:

ZATCA argued that it assessed the Taxpayer as he is a partner in the company registered in Saudi Arabia as a permanent establishment. Through the Company's AoA, it became clear that (...) is a partner under his agreement with (...). In addition to his statement on LinkedIn that he is a partner, the Defendant assessed the return of (...) Company and its partners because it is a mixed entity with foreign and Saudi partners, and then determined the share of each partner from the net profit (for non-Saudi partners). When calculating the tax base for the Permanent Establishment (...), it owns a percentage of the partnership's net profit. Upon reviewing the issued assessment, (...) has been a partner since 1999 and receives annual salaries exceeding one million. Furthermore, upon reviewing AoA, it became clear that the Plaintiff is a partner in the Permanent Establishment. In response to the Plaintiff's statement that the tax is paid in the Permanent Establishment's return, the tax base for the Permanent Establishment was calculated from the partnership's tax base, with 99% attributed to the Permanent Establishment and 1% to the partner (the Plaintiff).

### **Committee's Response to Defenses.**

#### **Item First:** Non-Compliance with the Tax Regulations and Notification of Assessment to the Plaintiff:

Based on the foregoing, and considering the dispute between the parties regarding the extent of ZATCA's compliance with the provisions of the Tax Law and its regulations in the examination and assessment procedures, and considering that the Plaintiff demands the annulment of the Defendant's procedure due to the failure to notify and inform him of the assessment issued on 11/11/2020, where the Defendant registered the Plaintiff as a Taxpayer and sufficed with attaching the amendment letter in ERAD portal without verifying the Plaintiff's notification and confirmation thereof, and considering that ZATCA did not meet the requirements of the examination and assessment procedures by not notifying the Plaintiff of the registration and assessment for the years from 2013 to 2018, the Department finds it necessary to annul the Defendant's Decision.

#### **Item Second:** Objection to the Plaintiff's Registration as a Taxable Person:

Considering that the Plaintiff is a partner in a non-resident company and that the non-resident company (the Permanent Establishment) is the taxable person responsible for submitting its returns for its share in (...) Company With TIN No "...", in accordance with the provisions of Article (4), Paragraph (d) of the Tax Law, the Department finds it necessary to annul the Defendant's Decision.

### **Decision:**

Accept objection filed by Plaintiff (...), Resident Permit No. ..., against the Defendant's Decision / Zakat, Tax and Customs Authority from a procedural standpoint, and annulment of the Defendant's Decision from a substantive standpoint.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Dismissing Submitted Tax Returns - Withholding Tax - Deemed Profit Distribution - Late Payment Penalty**

**Abstract**

The Taxpayer requests the annulment of ZATCA's Decision regarding the tax assessment and withholding tax for the fiscal years 2013 to 2018. Concerning the item of (Tax Assessment), the Taxpayer objects to the assessment issued after the statutory period for the year ending 31/12/2013. The Department finds that the Defendant has not provided sufficient evidence to prove that the submitted returns were incomplete or incorrect with the intent of tax evasion. Regarding the item of (Failure to Consider Tax Returns Submitted by the Branch for the Years 2013 to 2016), the Department has established that the dispute has been resolved due to the Defendant's acceptance of the Taxpayer's requests related to this item. Consequently: ZATCA's action concerning the item of (Assessment after the expiry of the statutory deadlines for the fiscal year) and the dismissing of the item (Tax return submitted by the branch) are annulled. The resolution of the dispute regarding the item (Failure to consider tax returns submitted by the branch) is affirmed. The Taxpayer's objection regarding the remaining items is dismissed.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article \(42\) of Tax Dispute and Violation Department Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH.](#)
- [Paragraph \(b\) of Article 60, Paragraphs \(c\) and \(a\) of Article 63, Paragraphs \(a\) and \(b\) of Article 65, Paragraph \(a\) of Article 68, and Paragraph \(a\) of Article 77 of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(4\) of Article 16, Paragraph \(8\) of Article 59, Paragraph \(b\) of Article 68, Paragraph \(3\) of Article 67, Paragraph \(2\) of Article 71, and Paragraph \(b\) of Article 76 of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Tax Assessment for 2013:

The Plaintiff stated that ZATCA issued the tax assessment after the statutory period for the year ending 31/12/2013, as the assessment was issued on 05/12/2019.

#### **Item Second:** Dismissing Tax Returns Submitted by the Branch and Imposing Tax on the Head Office's Revenue in the Kingdom of Saudi Arabia Based on a Deemed Profit of 40%:

The Plaintiff stated that ZATCA calculated the tax based on a deemed profit of (40%) instead of using the cost-plus method with a (5%) markup as agreed with the head office. The Plaintiff argues that the branch was not established for the purpose of selling, purchasing, or contracting with any entities in the Kingdom of Saudi Arabia (i.e., the branch will not conduct any sales activities in the Kingdom). Instead, the branch performs marketing support services, customer service support, and financial support services. The branch is entitled to a service fee of (5%) plus costs according to the service agreements signed by the branch with (...) /related parties). The cost-plus (5%) profit margin was determined after conducting a comprehensive transfer pricing study (which was previously submitted to the General Authority of Zakat and Tax). Furthermore, the cost-plus (5%) profit margin was approved by the Tax Appellate Committee under its Decision No. (1782) of 1438 AH for the years 2005 to 2010 as an acceptable method for companies with activities similar to those of the branch. Additionally, the branch's activity is recorded in the financial statements, and the financial statements were audited and approved by the auditor in the Kingdom of Saudi Arabia, who issued an unqualified report. Moreover, the branch submitted its tax returns based on the accounts and provided the audited financial statements to ZATCA.

#### **Item Third:** Imposing Withholding Tax on the Deemed Profit Distribution:

The Plaintiff stated its objection to ZATCA's action of not taking into account the carried-forward losses from the years 2005 and 2006, amounting to (15,033,574) Riyals, when issuing the contested Decision.

#### **Fourth Item** Imposing Late Payment Penalty

The Plaintiff stated its objection to ZATCA's action of imposing late payment penalties due to the absence of any error in the tax return. Furthermore, the Plaintiff argues that if late payment penalties are to be imposed, they should be calculated from the date of the final Decision.

### Defendant (ZATCA) Defenses

#### **Item First:** Tax Assessment for 2013:

ZATCA stated that Paragraph (b) of Article (65) of the Income Tax Law applies to this case. ZATCA clarified that it found tax treatments in the Taxpayer's tax return that did not comply with the provisions of the Income Tax Law and its Implementing Regulations. Therefore, the return was incorrect, and ZATCA has the right to amend the Taxpayer's return to comply with the relevant laws, regulations, and instructions within ten (10) years. This was emphasized by Paragraph (8) of Article (59) of the Implementing Regulations of the Income Tax Law. This means that accepting the return after five years without receiving a notice from ZATCA is restricted by the text of Article (65), Paragraph (b) of the Income Tax Law, upon which ZATCA based its contested assessment. Accordingly, ZATCA's action to assess and amend the Taxpayer's return was in accordance with the statutory articles, and the statute of limitations does not apply. ZATCA's action in similar cases was supported by Appeal Decision No. (1391) of 1435 AH.



**Item Second:** Dismissing Tax Returns Submitted by the Branch and Imposing Tax on the Head Office's Revenue in the Kingdom of Saudi Arabia Based on a Deemed Profit of 40%:

ZATCA stated that the branch executes work contracts, installation, operation, and maintenance of computer hardware, network systems, and related supplies based on the service agreement concluded with (...) International Information Systems (a related party), which stipulated that the branch provides customers with marketing and technical support services, as well as administrative services to support sales in the Kingdom of Saudi Arabia through independent sellers. Revenue is recognized according to the cost-plus profit margin method. During the discussion with the Taxpayer regarding the revenue item, the Taxpayer submitted analytical and detailed data statements. Based on these diverse revenues, and considering that the company's branch declared its revenues based on the incurred costs plus a profit margin of (5%) according to the agreement signed between the branch and the head office, and given that the agreement stipulated three provided services: marketing support services, customer service support, and financial support services, and considering that the branch provided the actual service revenues generated within the Kingdom, detailed in the attached table, ZATCA calculated the tax based on a profit margin of (40%) relying on Paragraph (4) of Article (16) of the Implementing Regulations of the Tax Law, which set the minimum deemed profit margin for such services at no less than (20%). Therefore, the Taxpayer was assessed based on an estimated profit margin of (40%), which is the rate applied to taxpayers in similar activities and the established practice of ZATCA, as well as based on Article (63/c) of the Tax Law, which granted ZATCA the right to redistribute income and expenses in transactions between related parties or parties belonging to the same entity to reflect the income that would have been realized if the parties were independent and unrelated.

**Item Third:** Imposing Withholding Tax on the Deemed Profit Distribution:

ZATCA stated that it imposed withholding tax on the net income. After review and study, ZATCA clarified that upon examining the statement of changes in the head office account, it was evident that the branch closed the net income into the head office account. Therefore, these amounts closed into the head office account were subject to withholding tax at a rate of (5%) after deducting income tax.

**Fourth Item** Imposing Late Payment Penalty

ZATCA stated that the late payment penalty was imposed in accordance with Article (77/a) of the Tax Law. Late payment penalties are calculated on the unpaid tax resulting from the differences between what the Taxpayer paid on the statutory due date and the tax due under the provisions of the law, including the contested cases, where the penalty is calculated from the statutory due date for submitting the return until the date of payment, in accordance with the provisions of Paragraph (3) of Article (67) and Paragraph (1/b) of Article (68) of the Implementing Regulations of the Tax Law.





## Committee's Response to Defenses.



### **Item First:** Tax Assessment for 2013:

Based on the foregoing, and upon reviewing the case file, the Department finds that ZATCA conducted the amended tax assessment for 2013 on (05/12/2019), whereas the statutory period ends on (30/04/2019). Consequently, it is evident that ZATCA carried out the assessment after the expiry of the specified statutory period. Furthermore, it is clear that the Plaintiff did not consent to this assessment. Therefore, ZATCA's right to conduct the tax assessment for this year is forfeited. ZATCA's argument that it is entitled to conduct the tax assessment within (10) years from the end of the specified deadline for submitting the tax return, based on Paragraph (b) of Article (Sixty-Five) of the Income Tax Law, is not upheld. This right is not absolute and is restricted to cases where it is proven that the tax return is incomplete or incorrect with the intent of tax evasion. Upon reviewing ZATCA's reply brief, it is noted that no substantial material evidence was presented to prove that the Plaintiff's return was incorrect with the intent of tax evasion. Therefore, due to ZATCA's failure to provide evidence proving that the returns were incomplete or incorrect with the intent of tax evasion, the Department concludes to accept the Plaintiff's objection and annul ZATCA's action regarding this item.

### **Item Second:** Dismissing Tax Returns Submitted by the Branch and Imposing Tax on the Head Office's Revenue in the Kingdom of Saudi Arabia Based on a Deemed Profit of 40%:

Upon reviewing the case file and its contents of pleadings and documents, it is evident that the branch executes work contracts, installation, operation, and maintenance of computer hardware, network systems, and related supplies based on the service agreement concluded with (...) International Information Systems (the Head Office), which stipulated that the branch provides customers with marketing and technical support services, as well as administrative services to support sales in the Kingdom of Saudi Arabia through independent sellers. It is also evident that this agreement is between related parties and was not applied as if it were between independent parties, meaning that the Plaintiff (the branch) did not declare the actual revenues that should have been declared. It is also evident that the Plaintiff did not provide the documents related to transfer pricing, such as (the branch's local file and comparability analysis... etc.). Consequently, the Department concludes to dismiss the Plaintiff's objection regarding this item. The Plaintiff's submission of a study prepared by a consulting firm commissioned by the Plaintiff is not considered, as this study pertains to the period 2004 to 2010, while the contested Decision concerns the period 2013 to 2018.

### **Item Third:** Imposing Withholding Tax on the Deemed Profit Distribution:

Upon reviewing the case file and its contents of pleadings and documents, and upon examining the Plaintiff's financial statements, it is evident to the Department that the branch (the Plaintiff) closed the net income of the year into the head office account. Based on this, the Department considers that closing the net income of the year into the head office account constitutes a payment. Consequently, the Department concludes to dismiss the Plaintiff's objection and uphold ZATCA's action regarding this item.

### **Fourth Item** Imposing Late Payment Penalty

Based on the foregoing, it is evident that the late payment penalty is calculated from the end of the specified deadline for submitting the return until the date of payment of the tax due arising from the application of the provisions of the law and the amendments made by ZATCA. As the imposition of penalties is a consequence of the contested items, the Department concludes that the late payment penalty is not applicable to the items where the Department decided to annul ZATCA's action, and it is applicable to the items where the lawsuit was dismissed.





### Decision:

For these grounds and after deliberation, the Department unanimously decided to:

**First:** The lawsuit filed by the Plaintiff/ (...) Company, Commercial Registration No. (...), against the Defendant/ Zakat, Tax and Customs Authority (ZATCA), is accepted in form.

**Second: On Merits:**

1. The Defendant's action regarding the assessment after the expiry of the statutory deadlines for the fiscal year ending December 31, 2013, is annulled.
- a. The Defendant's action regarding the dismissing of the tax return submitted by the branch and the tax difference on the head office's revenue in the Kingdom of Saudi Arabia based on a deemed profit of 40% for the year 2013 is annulled.
- b. The Defendant's dismissal regarding the tax returns submitted by the branch and the tax difference on the head office's revenue in the Kingdom of Saudi Arabia based on a deemed profit of 40% for the years 2014 to 2018 is dismissed.
2. The resolution of the dispute regarding the item of not taking into account the tax returns submitted by the branch for the years 2013 to 2016 is affirmed.
3. The Defendant's dismissal regarding the item of withholding tax at a rate of 5% on the deemed profit distributions arising from deemed profit distributions is dismissed.
4. The Defendant's dismissal regarding the imposition of the late payment penalty is dismissed.

This Decision was delivered in presence of both parties. The Department set Wednesday, 18/05/2022 for receiving a copy of the Decision. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not appeal it.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax - Objection to Tax Assessment - Withholding Tax - Late Payment Penalty**

**Abstract**

The Taxpayer requests the annulment of ZATCA's Decision regarding withholding tax for the year 2019, specifically concerning the item of (Withholding Tax). The Taxpayer objects to the imposition of withholding tax on amounts paid to non-resident entities, considering them as payments to non-resident entities for electronic services. Consequently: The Taxpayer's claim is dismissed on the merits.

**Instruments:**

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First:** Withholding Tax:

The Plaintiff stated that ZATCA incorrectly imposed withholding tax on amounts paid to non-resident entities, classifying them as payments for electronic services provided by non-residents.

**Item Second:** Fines:

The Plaintiff stated that ZATCA incorrectly imposed a late payment penalty on the disputed amounts, asserting that it submitted its tax returns within the statutory deadlines.

**Defendant (ZATCA) Defenses**

**Item First:** Withholding Tax:

ZATCA stated that the amounts paid to non-resident entities were subject to withholding tax because these transactions were related-party dealings for the provision of Modern e-Services.

**Item Second:** Fines:

ZATCA stated that the late payment penalty was imposed on the outstanding tax differences not paid within the statutory deadline, based on Paragraph (a) of Article (77) of the Income Tax Law.



## Committee's Response to Defenses.

### **Item First:** Withholding Tax:

Based on the foregoing, and upon reviewing the case file and its included pleadings and documents, the Department finds that the Plaintiff's operations are merely the distribution of electronic books without the right to use or dispose of them, as this right remains with the supplier. The commercial transactions are in the form of subscriptions that do not grant the user (customer) any right to dispose of the content in any way. Furthermore, the Department notes that the Plaintiff did not attach the contracts and documents supporting its viewpoint. Consequently, the Department concludes that ZATCA's action regarding this item is correct and sound.

### **Item Second:** Fines:

Based on the above, it is evident that the tax is calculated from the due date, and the tax is considered due within (120) days from the end of the Taxpayer's fiscal year, which is the statutory deadline for submitting the return and paying the tax due arising from the application of the provisions of the law and the amendments made by ZATCA. The Plaintiff's disagreement with this does not negate the legality of imposing the late payment penalty from the due date. As the imposition of penalties is a consequential result of the contested items, the Department concludes to uphold ZATCA's action in imposing the late payment penalty.

## Decision:

The lawsuit filed by the Plaintiff/ (...) Company, Commercial Registration No. (...), against the Defendant/ Zakat, Tax and Customs Authority (ZATCA), is accepted in form. The lawsuit is dismissed on the merits.

This Decision was delivered in presence of the parties. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Riyadh

Decision No.: ISR-2022-670  
Case No.: I-27944-2020

**Key words:**

**Income Tax - Objection to Tax Assessment - Capital Gains - Late Payment Penalty**

**Abstract:**

The Taxpayer requests the annulment of ZATCA's Decision regarding the tax assessment for the year 2015, specifically concerning the item of (Capital Gains). The Taxpayer's objection lies in the calculation of tax on capital gains from sold shares. The Department finds that the Plaintiff did not submit its tax return and financial statements for the disputed year within the statutory period, a fact confirmed by its representative during the court hearing. Regarding the item of (Late Payment Penalty), the tax is considered due within (120) days from the end of the Taxpayer's fiscal year. The Plaintiff's disagreement with this does not negate the legality of imposing the late payment penalty from the due date, as the imposition of penalties is a consequential result of the contested items. The Department decided to dismiss Plaintiff's objection.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Decree No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Paragraph \(b\) of Article \(60\), Paragraphs \(b\) and \(c\) of Article \(76\), and Paragraph \(a\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [of Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(b\) of Clause \(7\) of Article \(16\), Paragraph \(3\) of Article \(67\), Paragraph \(2\) of Article \(71\), and Paragraph \(1\) of Article \(68\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First:** Capital Gains:

The Plaintiff stated its objection to ZATCA's action of calculating tax on capital gains from the shares sold of (...) Company, which were purchased from (...) Company. It argues that no profits or losses were realized from the sale transaction, and therefore, it should not be subject to tax.

**Item Second:** Late Payment Fine:

The Plaintiff stated its objection to ZATCA's action of calculating a late payment penalty on the tax differences.



### Defendant (ZATCA) Defenses

**Item First: Capital Gains:**

ZATCA stated that the Plaintiff did not submit its tax return and financial statements for the disputed year within the statutory period. Therefore, its Decision was in accordance with the provisions of Paragraph (b) of Clause (7) of Article (Sixteen) of the Implementing Regulations of the Income Tax Law.

**Item Second: Late Payment Fine:**

ZATCA stated that the late payment penalty was imposed based on Paragraph (a) of Article (Seventy-Seven) of the Income Tax Law.

### Committee's Response to Defenses:

**Item First: Capital Gains:**

Based on the foregoing, and upon reviewing the case file and its included pleadings and documents, the Department finds that the Plaintiff did not submit its tax return and financial statements for the disputed year within the statutory period. This was confirmed by its representative during the court hearing held on ..., corresponding to ../../.... Consequently, the Department concludes that the Defendant's action regarding this item is correct and sound.

**Item Second: Late Payment Fine:**

Based on the above, it is evident that the tax is calculated from the due date, and the tax is considered due within (120) days from the end of the Taxpayer's fiscal year, which is the statutory deadline for submitting the return and paying the tax due arising from the application of the provisions of the law and the amendments made by the Defendant. The existence of a difference in the tax due and the Plaintiff's disagreement with it does not negate the legality of imposing the late payment penalty from the due date. As the imposition of penalties is a consequential result of the contested items, the Department concludes to uphold the Defendant's action in imposing the late payment penalty.

### Decision:

For these grounds and after deliberation, the Department unanimously decided to:

**First:** Accept the case filed by the Plaintiff/ ..... Company..., C.R. No. .... against the Defendant/ ZATCA in form, and dismiss it on merits.

This Decision was rendered in the presence of both parties and was publicly read in the session. The Department set Thursday, corresponding to 16/06/2022, as the date for receiving a copy of the Decision. Either party to the lawsuit may request its appeal within (thirty) days from the day following the specified date of receipt, after which it becomes final and enforceable if not appealed.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Riyadh**

**Decision No. ISR-2022-671  
Case No. I-81269-2021**

**Key words:**

**Income Tax - Objection to Tax Assessment - Partner's Salaries - Late Payment Penalty**

**Abstract:**

The taxpayer's claim for the annulment of ZATCA's Decision regarding the tax assessment for 2016, specifically regarding the 'Partner Salaries' item, where the Taxpayer's objection is based on Defendant's refusal to deduct the partner salaries and the imposition of late payment fines. The Department found that these salaries were paid to the manager of the Plaintiff company, which is a branch of a parent company in Egypt, and that this manager is a partner in the parent company in Egypt. The dispute regarding (Excess Pension Funds) item is considered resolved due to the conclusion of the litigation between the parties. Regarding the (Late Payment Fine), the tax becomes due 120 days after the end of the taxpayer's fiscal year. The Plaintiff's disagreement with this does not invalidate the legality of imposing late payment fine from the due date, especially since the imposition of these fines is a direct consequence of the contested items. Accordingly, it is established that the dispute regarding the (Excess Pension Funds) item is considered resolved, and all other objections are hereby rejected.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Paragraph \(b\) of Article \(13\), Paragraph \(b\) of Article \(60\), Paragraphs \(b\) and \(c\) of Article \(76\), and Paragraph \(a\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(10\), Paragraph \(3\) of Article \(57\), Paragraph \(3\) of Article \(67\), Paragraph \(2\) of Article \(Seventy-One\), and Paragraph \(1\) of Article \(Sixty-Eight\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Partner's Salaries:

The Plaintiff stated that ZATCA disallowed the deduction of the partner's salaries as expenses, arguing that these are the salaries of the General Manager of the company, which is a branch of the parent company in Egypt, and that he is a partner in the Egyptian parent company.

#### **Item Second:** Late Payment Fine:

The Plaintiff stated that ZATCA imposed a late payment penalty on the contested items.

### Defendant (ZATCA) Defenses

#### **Item:** Partner's Salaries:

ZATCA stated that it assessed the Plaintiff based on an audit case, and the amount of the partners' salaries and similar payments for the year under objection was reversed, in accordance with Article (Ten) of the Implementing Regulations of the Income Tax Law, as it is a non-deductible expense. The Plaintiff's request lies in not adding back the partner's salaries, considering them as deductible expenses. Upon reviewing the documents submitted by the Plaintiff, it was found that (...) holds a (4%) share in the company. Therefore, the salaries paid to him are considered non-deductible expenses for tax purposes, based on Paragraph (1) of Article (Ten) of the Implementing Regulations of the Income Tax Law.

## Committee's Response to Defenses.

#### **Item First:** Partner's Salaries:

Based on the foregoing, and upon reviewing the case file and its included pleadings and documents, it is evident that these salaries are paid to the manager of the Plaintiff company, which is a branch of the parent company in Egypt, and that this manager is a partner in the Egyptian parent company. Consequently, the Department concludes to dismiss the Plaintiff's objection regarding this item.

#### **Item Second:** Late Payment Fine:

Based on the above, it is evident that the tax is calculated from the due date, and the tax is considered due within (120) days from the end of the Taxpayer's fiscal year, which is the statutory deadline for submitting the return and paying the tax due arising from the application of the provisions of the law and the amendments made by the Defendant. The existence of a difference in the tax due and the Plaintiff's disagreement with it does not negate the legality of imposing the late payment penalty from the due date. As the imposition of penalties is a consequential result of the contested items, the Department concludes to uphold the Defendant's action in imposing the late payment penalty.





### Decision:

For these grounds and after deliberation, the Department unanimously decided to:

**First:** The lawsuit filed by the Plaintiff/ Branch of (...) Company, Commercial Registration No. (...), against the Defendant/ Zakat, Tax and Customs Authority (ZATCA), is accepted in form.

**Second: On Merits:**

The resolution of the dispute regarding the item of the employer's contributions to pension funds exceeding the statutory percentage is affirmed.

The Defendant's dismissal regarding the item of the partner's salaries is dismissed.

The Defendant's dismissal regarding the item of the late payment penalty is dismissed.

This Decision was rendered in the presence of both parties and was publicly read in the session.

The Department set ..., corresponding to ../../..., as the date for receiving a copy of the Decision. Either party to the lawsuit may request its appeal within (thirty) days from the day following the specified date of receipt, after which it becomes final and enforceable if not appealed.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Salaries and Wages**

**Abstract**

The Taxpayer claims the annulment of ZATCA's tax assessment Decision for the year 2015, specifically concerning the item of "salaries and wages." The Taxpayer's objection lies in the Defendant's exclusion of salaries from the tax base and the classification of sales returns as domestic purchases. The Department found that the Plaintiff submitted a statement of total salaries, the accuracy of which cannot be verified due to the failure to provide supporting documents for those salaries. Documentary evidence through certificates issued by the Social Insurance (GOSI) is considered a significant neutral document, which was not provided. Regarding the item of "purchases," the Plaintiff submitted an analytical statement of purchases, and the sales returns under dispute cannot be verified due to the failure to provide supporting documents for those purchases. The Department decided to dismiss Plaintiff's objection.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(9\), Article \(10\), and Paragraph \(3\) of Article \(57\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**Defenses of Plaintiff (Zakat Payer):**

**Item First:** Salaries, Wages and the like:

The Plaintiff stated that these expenses are supported by documentation, while the Defendant claims that it added the item of salaries and wages back to net profit due to the Plaintiff's failure to provide documentary proof. Upon reviewing the objection, it was found that the Plaintiff objects to the non-acceptance of all salaries and submitted a total statement without providing the daily entries and supporting documents for the disbursement of salaries.



Whereas Article Nine (9) of the Implementing Regulations of the Income Tax Law stipulates that: "Deductible expenses in determining taxable income are as follows:

1. All ordinary and necessary expenses to achieve taxable income, whether paid or due, provided that the following controls are in place:
  - (a) The expense must be an actual one, supported by documentary evidence or other proof that allows the Authority to verify its accuracy.
  - (b) That it must be linked to the achievement of taxable income.
  - (c) It must be related to the tax year.
2. not be of a capital nature. Furthermore, Article Ten (10) of the same Implementing Regulations, concerning expenses that may not be deducted, stipulates that: 1. Wages, salaries and the like, whether in cash or in kind, paid to an owner, partner or shareholder (except for shareholders in joint-stock companies) or to any family member: parents, spouses, children and siblings". Additionally, Article Fifty-Seven (57) of the Implementing Regulations stipulates that: "The burden of proof of correctness of information in the Taxpayer's return regarding its revenues, expenses and any other data, rests on the Taxpayer. If a Taxpayer fails to prove the correctness of information in its returns, the Department may, in addition to the application of any other statutory penalties, disapprove the expense whose correctness has not been proven by the Taxpayer or make an estimated assessment according to the Department's opinion based on relevant circumstances and facts and available information".

### Defendant (ZATCA) Defenses

**Item First:** Salaries, Wages and the like:

ZATCA argued for adding back the item of salaries and wages to net profit due to the Plaintiff's failure to provide documentary proof. Upon reviewing the objection, it was found that the Plaintiff objects to the non-acceptance of all salaries and submitted a total statement. However, the Plaintiff did not provide the daily entries and supporting documents for the disbursement of salaries. Therefore, based on Article Fifty-Seven (57) of the Implementing Regulations of the Income Tax Law, which stipulates that: "3. The burden of proof of correctness of information in the Taxpayer's return regarding its revenues, expenses and any other data, rests on the Taxpayer..." Regarding the item of "domestic purchases," ZATCA added the domestic purchases back to net profit during the assessment after discussing the matter with the Plaintiff. Consequently, a tax difference of SAR (600,300) was assessed by adjusting the net loss for the year according to the accounts, including the difference in domestic purchases. ZATCA further clarifies that upon reviewing the attachments to the objection, it was found that the Taxpayer did not provide supporting documents. Given the Plaintiff's failure to provide data supporting its view that these were sales returns, ZATCA calculated an estimated profit for the undeclared domestic purchases based on Article (Sixteen) of the Implementing Regulations of the Income Tax Law.



## Committee's Response to Defenses.



### **Item First:** Salaries, Wages and the like:

Based on the foregoing, it is clear that the dispute is fundamentally and substantively a documentary dispute. The Plaintiff provided a statement of total salaries, the accuracy of which cannot be verified due to the failure to provide supporting documents for those salaries through disbursement orders, automated system extracts, or daily entries. The deductible expense from the tax base for salaries and wages is what is documented by a certificate issued by GOSI, as it is considered a significant neutral document issued by a third party and is used to verify the fairness of the salaries and wages charged to the accounts. As the Plaintiff did not provide the certificates issued by the Social Insurance (GOSI), therefore, the Department concludes that ZATCA's procedure in not deducting the salary and wage expenses is correct and sound.

### **Decision:**

For these grounds and after deliberation, the Department unanimously decided to:  
To accept the lawsuit filed by the Plaintiff/ ..., Emirates National ID No. (...), owner of (... Establishment), Commercial Registration No. (...), against the Defendant/ Zakat, Tax and Customs Authority (ZATCA), in form and to dismiss it in substance.  
This Decision was rendered in the presence of both parties and was publicly read in the session. The Department set ..., corresponding to ../../..., as the date for receiving a copy of the Decision. Either party to the lawsuit may request its appeal within (thirty) days from the day following the specified date of receipt, after which it becomes final and enforceable if not appealed.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Failure to Examine Costs – Subjecting Transactions with the Company – Salaries and Wages – Penalties**

**Abstract**

The taxpayer is requesting the annulment of ZATCA's Decision regarding the tax assessment for the years 2014 to 2017, specifically concerning the item of (non-examination of costs to clarify the burden on costs). The dispute lies in the Plaintiff's objection to the Defendant's action. The Department found that the Plaintiff failed to provide evidence clarifying the nature of the relationship between it and the related companies. On the other hand, the dispute, regarding 'Wages and Salaries' item, arises from the Plaintiff's assertion that it is subject to Zakat and not to income tax. The Department found that the Plaintiff did not provide supporting documents for the wage and salary expenses, including employee contracts and detailed payroll accounts. As a result, Defendant's objection to all items is to be rejected.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(a\) of Article \(68\), Paragraphs \(1 and 8\) of Article \(63\), Paragraphs \(b and c\) of Article \(76\), and Paragraph \(a\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(3\) of Article \(57\), Paragraph \(b\) of Article \(60\), Paragraph \(1\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Article \(5\), Paragraph \(2\) of Article \(6\), and Paragraph \(3\) of Article \(20\) of the Implementing Regulations of the Zakat Law issued by the Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Committee's Response to Defenses:

### Defenses of Plaintiff (Zakat Payer):

**Item First:** Failure to Examine Costs to Clarify the Burden on Costs:

The Plaintiff stated its objection to ZATCA's procedure, as ZATCA conducted a field audit and reviewed the revenues stated in the financial statements, which represent the value of fees for advertising services provided to clients within the Kingdom. The audit was limited to transactions with related parties, and the cost was fully approved. The Plaintiff argues that withholding tax applies to the cost, and ZATCA did not fundamentally review the cost to account for withholding taxes. Given that ZATCA approved the cost, the Plaintiff questions which item is subject to withholding taxes for any company without affecting the cost. The Plaintiff emphasizes that the objection is not regarding the approval of the cost but pertains to its non-liability for withholding taxes.

**Item Second:** Subjecting Transactions with "... Company to Withholding Tax:

The Plaintiff stated its objection to ZATCA's procedure in imposing withholding tax at a rate of (5%) on the amounts collected by (...) Company on behalf of (...) Company from (...) Company for the period from January to July 2014. The Plaintiff believes its role is limited to being a guarantor and intermediary between the two companies and confirms that it did not receive any revenue from this contract between the two companies.

**Item Third:** Subjecting Transactions with (...) Company to Withholding Tax as a Related Party at a Rate of 15%:

The Plaintiff stated its objection to ZATCA's procedure in imposing withholding tax at a rate of 15% on the amounts paid to (...) Company for the year 2014. The Plaintiff argues that the Defendant did not clarify the nature of the transactions conducted with (...) Company, which the Defendant concluded through the field audit, and did not provide the justifications for the liability, which is the basis of the objection because it is not liable.

**Fourth Item** Salaries and Wages:

The Plaintiff stated that it is a Zakat payer and not subject to income tax, indicating a confusion between the Zakat base and the tax base.

**Fifth:** Fines:

The Plaintiff stated its objection to ZATCA's procedure in imposing late payment penalties at a rate of (1%) of the unpaid tax for every thirty (30) days of delay from the due date until the date of payment.

### Defendant (ZATCA) Defenses

**Item First:** Failure to Examine Costs to Clarify the Burden on Costs:

ZATCA stated that a field audit was conducted, and the revenues stated in the financial statements, which represent the value of the establishment's fees only for advertising services provided to its clients within the Kingdom, were reviewed. The audit was limited to the establishment's transactions with related parties, and the cost was fully approved, as no cost items were added to the assessment.

**Item Second:** Subjecting Transactions with "... Company to Withholding Tax:

ZATCA stated that it calculated withholding tax on the amounts collected by (...) Establishment on behalf of (...) Company from (...) Company.



**Item Third:** Subjecting Transactions with (...) Company to Withholding Tax as a Related Party at a Rate of 15%:

ZATCA stated that it calculated withholding tax on the transactions conducted with (...) Company as a related party at a rate of (15%), as it became clear from the case file attachments, the field audit minutes, and the field audit memorandum that (...) Company is a Bahraini holding company that wholly owns (..) company, and the Plaintiff has not clarified the nature of the relationship between companies.

**Fourth Item** Salaries and Wages:

ZATCA stated that a comparison was made between the salaries and wages stated in the return and the salaries and wages stated in the social insurance certificate, and a difference was found that the Plaintiff did not clarify, so the Plaintiff's objection was dismissed. Whereas Article (Five) of the Implementing Regulations for Zakat Collection, pertaining to deductible expenses.

### Committee's Response to Defenses.

**Item First:** Failure to Examine Costs to Clarify the Burden on Costs:

As it is established for the Department that ZATCA conducted a field audit and reviewed the revenues stated in the financial statements related to the establishment's fees only for advertising services provided to its clients within the Kingdom, and ZATCA limited this audit to the establishment's transactions with related parties and accordingly approved the cost and did not add any cost items to the assessment, and whereas the Plaintiff does not dispute ZATCA's procedure but argues its non-liability for withholding taxes, and whereas the Plaintiff did not provide the documents proving its non-liability for withholding taxes, the Department concludes to dismiss the Plaintiff's objection and uphold the Defendant's procedure regarding this item.

**Item Second:** Subjecting Transactions with "..." Company to Withholding Tax:

Upon the Department's review of Paragraph (a) of Article (Sixty-Eight) of the Income Tax Law, and Paragraphs (1 and 8) of Article (Sixty-Three) and Paragraph (3) of Article (Fifty-Seven) of the Implementing Regulations of the same Law, referred to above, and whereas the Plaintiff's pleas are based on the fact that the amounts it collected on behalf of (...) Company were remitted to the company and are not amounts paid to it in exchange for providing services, and whereas the Plaintiff did not clarify the nature of these amounts collected from (...) Company for the benefit of (...), and did not provide the contract between it and (...) Company, the Department concludes that the Plaintiff's arguments are unsubstantiated and should be disregarded. As a result, the Department concludes that the Plaintiff's objection is rejected and upholds the Defendant's actions regarding this item.

**Item Third:** Subjecting Transactions with (...) Company to Withholding Tax as a Related Party at a Rate of 15%:

Upon the Department's review of Paragraph (a) of Article (Sixty-Eight) of the Income Tax Law, and Paragraphs (1 and 8) of Article (Sixty-Three) and Paragraph (3) of Article (Fifty-Seven) of the Implementing Regulations of the same Law, referred to above, and after reviewing the minutes of the field audit, which include a clarification of related parties, it is evident that (...) Company was registered as one of the related parties. The Plaintiff did not provide any clarification regarding the nature of the relationship between it and the related companies. Therefore, the Department concludes to dismiss the Plaintiff's objection regarding this item.





#### **Fourth Item** Salaries and Wages:

Whereas it has been established to the Department, based on the submissions of ZATCA, that after conducting a comparison between the salaries and wages stated in the declaration and the salaries and wages stated in the Social Insurance certificate, a discrepancy was found for which the Plaintiff did not clarify its nature. Whereas salaries and wages expenses are considered deductible expenses if it is proven that they are actual expenditures supported by documentary evidence; and whereas the Plaintiff did not submit the supporting documents for the salaries and wages expenses, including employee contracts and the detailed breakdown of salaries and wages, the Department therefore concludes to dismiss the Plaintiff's objection regarding this item.

#### **Fifth:** Fines:

Based on the foregoing, it is evident that income tax is calculated from the date of entitlement, and the tax is considered due within (120) days from the end of the Taxpayer's fiscal year, i.e., on the statutory due date for submitting the declaration and payment. The existence of a difference in the tax due and the Plaintiff's disagreement therewith does not negate the legality of imposing a late payment penalty from the date of entitlement. Therefore, the Department concludes to uphold the Defendant's action in imposing the fine due to the delay in paying the tax due on the statutory due date, which is the difference between what was paid according to the Plaintiff's declaration on the statutory due date and the tax due according to the Defendant's assessment.

#### **Decision:**

For these grounds and after deliberation, the Department unanimously decided to:

To accept the case filed by the Plaintiff, ..., National ID No. (...), owner of (... Establishment), Commercial Registration No. (...), against the Defendant, ZATCA, in form, and to dismiss it in substance.

This Decision was delivered in presence of the parties and was read publicly in the hearing. The Department set the date of ..... corresponding to .../.../.... for receiving a copy of the Decision. Either party to the case may appeal against the Decision within thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Government Expenses – Employee Expenses – Differences in Depreciation and Fixed Asset Maintenance Expenses – Late Payment Penalties**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding tax assessments for the years 2010 to 2013. Concerning the item of "(Government Expenses for the year 2013)," the dispute lies in the Taxpayer's view that these expenses represent fees for employee visas and residency renewals. However, it has become evident to the Department that the Taxpayer did not submit documentary evidence such as invoices or payment receipts, but rather presented a statement of account from the company's accounting system with amounts matching the contested amounts. Regarding the item of "(Employee Expenses for the year 2012)," the dispute lies in the Taxpayer's view that these expenses are in fact medical expenses for employees and housing expenses for employees, and are considered deductible expenses. However, it has become evident to the Department that the Taxpayer did not submit the supporting documents in the Arabic language, and therefore, the documents submitted by the Taxpayer cannot be relied upon. Consequently, the Taxpayer's objection is dismissed in all items.

**Instruments:**

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Article \(17\), Paragraph \(b\) of Article \(60\), Paragraph \(c\) of Article \(76\), Paragraphs \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(1\) of Article \(9\), Paragraph \(4\) of Article \(10\), Paragraph \(3\) of Article \(57\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First:** Government Expenses for the year 2013:

The Plaintiff stated that these expenses represent fees for employee visas and residency renewals, and are therefore necessary and essential expenses for the company's activity and related to the generation of income.



**Item Second:** Employee Expenses for the year 2012:

The Plaintiff stated that these expenses are in fact medical expenses for employees and housing expenses for employees.

**Item Third:** Differences in Depreciation and Fixed Asset Maintenance Expenses for the years 2010 to 2013:

The Plaintiff stated its objection to ZATCA's calculation of differences in fixed asset depreciation and repair expenses at amounts higher than the amounts calculated according to the tax declarations for the years 2010 to 2013.

**Fourth Item** Late Payment Penalties:

The Plaintiff stated that if the penalty is due, it should only be applicable from the date on which the assessment becomes final.

### Defendant (ZATCA) Defenses

**Item First:** Government Expenses for the year 2013:

ZATCA stated that the government expenses for the year 2013 are not supported by documentation.

**Item Second:** Employee Expenses for the year 2012:

ZATCA stated that the employee expenses for the year 2012 are not supported by documentation.

**Item Third:** Differences in Depreciation and Fixed Asset Maintenance Expenses for the years 2010 to 2013:

ZATCA stated that it recalculated the differences in fixed asset depreciation and repair expenses at amounts higher than the amounts calculated according to the tax declarations for the years 2011 to 2013. ZATCA did not clarify the mechanism for its calculation of the disputed item.

**Fourth Item** Late Payment Penalties:

ZATCA stated that it imposed late payment penalties on the tax differences.

### Committee's Response to Defenses:

**Item First:** Government Expenses for the year 2013:

Based on the foregoing, and considering that these expenses are deductible if it is proven that they are actual expenditures supported by documentary evidence, and whereas the dispute regarding this item is a documentary dispute, and upon reviewing the documents attached to the case file, it became evident that the Plaintiff did not submit documentary evidence such as invoices or payment receipts, but rather presented a statement of account from the company's accounting system with amounts matching the contested amounts, the Department therefore concludes to dismiss the Plaintiff's objection regarding this item.

**Item Second:** Employee Expenses for the year 2012:

After reviewing Paragraph (3) of Article Fifty-Seven of the aforementioned Implementing Regulations, and whereas deductible expenses are those proven by documentary evidence, and expenses that cannot be proven are not deductible, and whereas the Plaintiff did not submit the relevant supporting documents for the expenses of prior years to verify that they are actual expenditures supported by documentary evidence for their acceptance as deductible expenses, and whereas the Plaintiff did not submit the supporting documents in the Arabic language, and therefore, the documents submitted by the Plaintiff cannot be relied upon, which clarifies to the Department the correctness and validity of the Defendant's procedure, and it concludes to dismiss the Plaintiff's objection regarding this item.



**Item Third:** Differences in Depreciation and Fixed Asset Maintenance Expenses for the years 2010 to 2013:

By referring to the case file and its included submissions and documents, it became evident to the Department that ZATCA had re-prepared the fixed asset schedules and their depreciation according to Schedule No. (4), in application of Article Seventeen of the Income Tax Law, and attached the details of the depreciation differences calculation, upon the Department's request. Whereas the Plaintiff did not challenge what was submitted by ZATCA, nor did it submit reliable supporting documents for the maintenance expense differences it claims, to verify that they are actual expenditures supported by documentary evidence for their acceptance as deductible expenses, the Department therefore concludes to dismiss the Plaintiff's objection regarding this item.

**Fourth Item** Late Payment Penalties:

Based on the foregoing, it is evident that income tax is calculated from the date of entitlement, and the tax is considered due within (120) days from the end of the Taxpayer's fiscal year, i.e., on the statutory due date for submitting the declaration and payment. The existence of a difference in the tax due and the Plaintiff's disagreement therewith does not negate the legality of imposing a late payment penalty from the date of entitlement. Therefore, the Department concludes to uphold the Defendant's action in imposing the fine, due to the delay in paying the tax due on the statutory due date, which is the difference between what was paid according to the Plaintiff's declaration on the statutory due date and the tax due according to ZATCA's assessment.

#### Decision:

For these grounds and after deliberation, the Department unanimously decided to:

Accept the case filed by the Plaintiff/ ..... Company..., C.R. No. .... against the Defendant/ ZATCA in form, and dismiss it on merits.

This Decision was delivered in presence of the parties and was read publicly in the hearing. The Department set the date of ..... corresponding to .../.../.... for receiving a copy of the Decision. Either party to the case may appeal against the Decision within thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Failure to Notify the Company of Amendments – Import Differences – Imposition of Tax Despite Exemption Letter – Late Payment Penalty**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the year 2013. Concerning the item of "(Import Differences)," the Taxpayer objects to the addition of import differences to the net profit for the year 2013. However, it has become evident to the Department that the Taxpayer failed to submit supporting documentation for its claim. Regarding the item of "(Imposition of Tax on Al-Mashaaer Al-Mugaddassah Metro Line Project Despite the Exemption Letter)," the Taxpayer objects to the imposition of tax on Al-Mashaaer Al-Mugaddassah Metro Line Project. However, it has become evident to the Department that no amendment was made to this item. Regarding the item of "(Late Payment Penalty)," the Taxpayer objects to the imposition of a late payment penalty. However, it has become evident to the Department that the late payment penalty is calculated from the end of the specified period for submitting the tax declaration until the date of payment of the tax due arising from the application of the provisions of the Law and the amendments made by the Defendant. Regarding the item of "(Failure to Notify the Company of the Amendments Introduced by ZATCA to the Tax Declaration)," the Taxpayer objects to the failure to notify the company of the amendments introduced by ZATCA to the tax declaration. However, it has become evident to the Department that the Defendant did not adhere to stating the reasons for the amendment, considering it is the responsible party for issuing the assessment and notifying the taxpayers thereof. Consequently, the Defendant's action is annulled with respect to the item of "(Failure to Notify the Company of the Amendments Introduced by the Defendant to the Tax Declaration for the year 2013)," and the Taxpayer's objection is dismissed in the remaining items.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(3\) of Article \(57\), Paragraph \(b\) of Article \(58\), Paragraph \(b\) of Article \(60\), Paragraph \(c\) of Article \(76\), and Paragraphs \(a\) and \(b\) of Article \(77\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH](#)
- [Paragraph \(7\) of Article \(59\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Import Differences:

The Plaintiff stated that ZATCA adjusted the net book profit by import differences, by calculating and comparing the cost of external purchases stated in the company's tax declaration and the customs data. The Plaintiff objects to this due to a material error in determining the import differences between the declarations and customs data, and import differences resulting from the registration of customs imports in the name of clients and import differences resulting from other reasons.

#### **Item Second:** Imposition of Tax on Al-Mashaaer Al-Mugaddassah Metro Line Project Despite the Exemption Letter:

The Plaintiff stated that it objects to ZATCA's failure to take into account the tax and customs exemption granted to it by the (...) company and its subcontractors (company ...), and that the aforementioned exemption was granted to the (...) company by virtue of the Council of Ministers Resolution No. (1354/M B) dated 15/02/1430 AH, which decided the tax exemption for the (...) company and its subcontractors.

#### **Item Third:** Late Payment Fine:

The Plaintiff stated that it objects to ZATCA's action of imposing a late payment penalty at a rate of (1%) for every (30) days of delay on the amount of the additional tax in dispute.

#### **Fourth Item** Failure to Notify the Company of the Amendments Introduced by ZATCA to the Tax Declaration:

The Plaintiff stated that the amendment letter issued by ZATCA was devoid of any details or reasons for the amendments it made to the tax declaration, and therefore, ZATCA's action was in violation of the provisions of Article (62) paragraph (c) of the Income Tax Law, and also in violation of paragraph (7) of Article (59) of the Implementing Regulations of the same Law for not providing the company with the reasons for amending the disputed amounts that ZATCA added to the tax base.

### Defendant (ZATCA) Defenses

#### **Item First:** Import Differences:

ZATCA stated that, based on the observations of the General Auditing Bureau and through the Plaintiff's objection, it was found that the import differences occurred because the Plaintiff recorded in its books a value for the import greater than the value stated in the customs declaration.

#### **Item Second:** Imposition of Tax on Al-Mashaaer Al-Mugaddassah Metro Line Project Despite the Exemption Letter:

ZATCA stated that it did not amend the Plaintiff's declaration by calculating tax on Al-Mashaaer Al-Mugaddassah Metro Line Project, but rather it adopted what the Plaintiff declared in its declaration.

#### **Item Third:** Late Payment Fine:

ZATCA stated that its action is correct in imposing these penalties on the differences in tax due in accordance with Article (Seventh/A) of the Income Tax Law.





## Committee's Response to Defenses.

### **Item First: Import Differences:**

After reviewing the case file, it becomes clear that the Defendant's action in adjusting the Plaintiff's business results for the years 2013/2014 is due to the existence of differences in the value of imports stated in the Plaintiff's declaration compared to the imports according to the customs declaration. The Plaintiff has presented the reasons for the differences, explaining that they are the result of customs imports in the name of clients ((...) company – (...) company), as well as differences resulting from different registration timing. The Plaintiff has submitted the customs declaration for (...) company for the years 2013/2014. These documents are insufficient and cannot be relied upon, as it did not submit supporting documents for its claim, such as: (Confirmation from clients ((...) company – (...) company) for the years 2013/2014 in the amount of (32,109,592) riyals and (19,964,343) riyals, respectively, documents supporting those differences resulting from temporal reasons for the years 2013/2014 in the amount of (2,993,082) riyals and (22,210,182) riyals, respectively). As the documents are insufficient to verify the validity of the expense, the Department concludes to dismiss the Plaintiff's objection regarding this item and uphold the Defendant's action.

### **Item Second: Imposition of Tax on Al-Mashaaer Al-Mugaddassah Metro Line Project Despite the Exemption Letter:**

It has been established to the Department that ZATCA confirms in its supplementary memorandum No. (1) the absence of amendment to this item. This is confirmed by what the Plaintiff stated in its supplementary memorandum dated 23/01/2022, where the Plaintiff mentions that the reference to this item in the original objection memorandum or grievance occurred due to the deficiency of the data provided in ZATCA's assessment, which led it to attempt to interpret the ambiguous figures entered by ZATCA's examination team on ZATCA's portal "Erad". Therefore, it is clear to the Department that no amendment was made to this item, which leads the Department to dismiss the Plaintiff's objection regarding this item.

### **Item Third: Late Payment Fine:**

The late payment penalty is calculated from the end of the specified period for submitting the declaration to the date of payment of the tax due arising from the application of the provisions of the Law and the amendments made by ZATCA. The dispute between the parties is a documentary dispute, and did not arise from a significant difference in the interpretation of the regulatory texts, which leads the Department to dismiss the Plaintiff's objection regarding this.

### **Fourth Item Failure to Notify the Company of the Amendments Introduced by ZATCA to the Tax Declaration:**

It has been established to the Department that ZATCA sufficed with mentioning the import differences in the reasons for the amendment without mentioning the other reasons objected to by the Plaintiff. Therefore, ZATCA did not adhere to mentioning the reasons for the amendment, considering it is the responsible party for issuing the assessment and notifying the taxpayers thereof, which leads the Department to accept the Plaintiff's objection and annul the Defendant's action with respect to this item, which is the failure to notify the company of the amendments made to the tax declaration for the year 2013.





### Decision:

For these grounds and after deliberation, the Department unanimously decided to:

**First:** To accept the lawsuit filed by the Plaintiff, (...) Company, commercial registration number (...), against the Defendant, the Zakat, Tax and Customs Authority (ZATCA), in form.

Second, on the merits:

1. To dismiss the lawsuit with respect to the item of (Import Differences for the year 2013).
2. To dismiss the lawsuit with respect to the item of (Imposition of Tax on Al-Mashaaer Al-Mugaddassah Metro Line Project for the year 2013 Despite the Exemption Letter).
3. To dismiss the lawsuit with respect to the item of (Late Payment Penalty for the year 2013).
4. To annul the Defendant's action with respect to the item of (Failure to Notify the Company of the Amendments Introduced by the Defendant to the Tax Declaration for the year 2013).

This Decision was delivered in presence of the parties and was read publicly in the hearing. The Department set the date of ..... corresponding to .../.../.... for receiving a copy of the Decision. Either party to the case may appeal against the Decision within thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Saudi Partners' Share of Adjusted Net Profit/Loss**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the year 2015. Concerning the item of “(Saudi Partners' Share of Adjusted Net Profit/Loss),” the Taxpayer objects to the non-deduction of the Saudi partner's share from the tax base. The Department has determined that the relevant date for the sale is the date of its notarization unless the sale agreement includes a provision specifying its effective date. Concerning the item of “(Non-Deduction of Tax Paid),” the Department notes the resolution of the dispute with the Defendant's acceptance of the Taxpayer's requests regarding the non-deduction of tax paid. Concerning the item of “(Late Payment Penalties),” the Taxpayer objects to the calculation of a late payment penalty on the disputed item. The Department has determined that, regarding the First item, the opinion concluded that ZATCA's action in imposing tax on the Saudi partner's share was incorrect. Consequently, the Defendant's Decision is annulled with respect to the item of “(Saudi Partners' Share of Adjusted Net Profit/Loss)” and the item of “(Late Payment Penalties),” and the resolution of the dispute is affirmed with respect to the item of “(Non-Deduction of Tax Paid).”

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(a\) and \(b\) of Article \(2\), and Paragraphs \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Article \(70\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Article \(68.1\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(70\) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)



## Parties' Defenses

### The Plaintiff's Defenses

**Item:** Saudi Partners' Share of Adjusted Net Profit/Loss:

The Plaintiff stated that it objects to ZATCA's action of not deducting the Saudi partner's share from the tax base for the year 2015 in the amount of 566,733 riyals. The Plaintiff clarified that the Saudi partner, owning a 5% share, transferred their share to (...) in mid-2015, before the lapse of the Hawl (one lunar year). Accordingly, the Plaintiff reduced the Saudi partner's share from the tax base by 566,733 riyals. Upon ZATCA's assessment for the year 2015, it did not allow the deduction of the aforementioned amount. The Plaintiff clarified that ZATCA did not consider the date of amendment of the partners' shares from the date of amendment of the Articles of Association, which is May 17, 2015, the date that is legally recognized for amending the partners' shares. The Company's AoA is the legally relied-upon document for determining the effective date of the transfer of shares. The date of the share transfer agreement cannot be considered the effective date as it is not legally recognized. To confirm this, ZATCA does not amend the partners' shares in the "Erad" system unless the amended AoA approved by the Ministry of Commerce is submitted to it.

### Defendant (ZATCA) Defenses

**Item:** Saudi Partners' Share of Adjusted Net Profit/Loss:

ZATCA stated that it did not deduct the amount of (566,733) riyals stated in the Taxpayer's declaration.

## Committee's Response to Defenses.

**Item:** Saudi Partners' Share of Adjusted Net Profit/Loss:

Based on the foregoing, and by referring to the case file and its contents of submissions and documents, it is evident that the Defendant relies on Clarification 1 in the financial statements, which indicates the aforementioned dates and clarifies the completion of the legal procedures in 2015. Based on this, and whereas the legally recognized date for the sale is the date of its notarization unless the sale agreement includes a provision specifying its effective date, as the Plaintiff cannot prepare and submit its Zakat and tax declaration accordingly and notify ZATCA of a sale that has not yet been legally established, the Department therefore concludes to annul the Defendant's Decision on this item.



### Decision:

1. To annul the Defendant's Decision regarding the item of the Saudi partners' share of the adjusted net profit/loss.
2. To affirm the resolution of the dispute regarding the item of non-deduction of tax paid.
3. To annul the Defendant's Decision regarding the item of late payment penalties.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Waived Reinsurance Premiums**

**Abstract**

The Taxpayer claims the annulment of ZATCA's Decision regarding the tax assessment for the years 2016 and 2017, specifically concerning the item of “waived reinsurance premiums.” The Taxpayer states that ZATCA imposed withholding tax on the difference between the waived reinsurance premiums according to the audited financial statements and the amounts declared as paid in the withholding tax returns for the years 2016 and 2017. The Department found that the Taxpayer did not provide sufficient reliable documentary evidence. Regarding the item of “late payment penalty,” the Taxpayer objects to the imposition of late payment penalties on the tax differences resulting from ZATCA's adjustments. The Department finds that the late payment penalty is a consequential penalty and that this item is related to the First item of this Decision. Therefore, the Department dismisses objection filed by Zakat Payer.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(a\) and \(c\) of Article \(68\), and paragraphs \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(3\) of Article \(57\) and Paragraph \(1\) of Article \(63\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item:** Waived Reinsurance Premiums:

The Plaintiff stated that ZATCA imposed withholding tax on the difference between the waived reinsurance premiums according to the audited financial statements and the amounts declared as paid in the withholding tax returns for the years 2016 and 2017. The Plaintiff contends that the correct amount for reinsurance premiums subject to tax in the 2016 return is SAR 35,475,494, not SAR 37,681,524 as stated in the assessment. The Plaintiff argues that this material error arose from a glitch in “Erad” e-System, which resulted in the same annual withholding tax return



appearing for both years. Furthermore, the Plaintiff mentioned that local brokers are not necessarily required to cede all premiums received from insurance companies to reinsurers. The Plaintiff also stated that the insurance company may not have knowledge of the specific amounts ceded to reinsurers by local brokers, and that local brokers are independent legal entities registered as taxpayers with ZATCA.

### Defendant (ZATCA) Defenses

#### **Item:** Waived Reinsurance Premiums:

ZATCA stated that it imposed withholding tax on the difference between the waived reinsurance premiums according to the audited financial statements and the amounts declared as paid according to the withholding tax returns for the years 2016 and 2017 due to the Taxpayer's failure to provide the required documents. ZATCA also referred to the annual withholding tax returns and found its procedure to be correct, stating that the amounts on which tax was withheld according to the annual withholding tax return amounted to SAR 37,681,524.

### Committee's Response to Defenses:

#### **Item:** Waived Reinsurance Premiums:

Based on the foregoing, and considering that the resident person "the Taxpayer" is obligated and responsible for withholding tax from the amounts paid to non-residents and for remitting it to ZATCA within the statutory deadlines according to the monthly withholding tax returns, and given that the Plaintiff submitted a (copy) of the annual withholding tax return for 2016 with a total amount of SAR (37,244,570.71), a statement analyzing the reinsurance cession for 2016 and 2017, and confirmation letters from the brokers (Company ...), (Company ...), (Company ...), (Company ...), and (Company ...) regarding their commitment to pay withholding tax), therefore, ZATCA is entitled to dismiss the Plaintiff's request and calculate withholding tax on the amounts not declared by the Plaintiff in the withholding tax returns due to the Plaintiff's failure to provide sufficient reliable documentary evidence. Consequently, the Department concludes to dismiss the Plaintiff's objection.

### Decision:

The Plaintiff's objection regarding the two items subject to the claim is dismissed.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Key words:**

**Income Tax – Objection to Tax Assessment – Differences in Foreign Purchases (Imports) – Differences in Depreciation – Revenue Difference – ZATCA's Treatment of Losses from Asset Disposal**

**Abstract**

The Taxpayer claims the annulment of ZATCA's tax assessment Decision for the year 2018, specifically concerning the item of “differences in foreign purchases (imports).” The Taxpayer objects to the profit margin difference arising from discrepancies in foreign purchases. The Department found that the customs declaration constitutes primary evidence provided by an independent third party, indicating that foreign purchases amounted to SAR 2,944,449 instead of SAR 3,246,895. Regarding the item of “differences in depreciation,” the Taxpayer objects to the discrepancy between the tax depreciation stated in the company's tax return and ZATCA's assessment. The Department found that the burden of proof in this case lies with ZATCA to demonstrate the incorrectness of the Taxpayer's depreciation expense calculation, and ZATCA did not provide its own calculation of the depreciation expense. Concerning the item of “revenue difference,” the Taxpayer objects to the difference between the revenue declared in the 2018 tax return and the revenue shown in the VAT returns. The Department found that the added revenue amount is SAR 2,121,440; however, ZATCA did not provide details of its calculation or the reasons for arriving at the added amount in the assessment. Regarding the item of “ZATCA's treatment of losses from asset disposal,” the Taxpayer objects to ZATCA's addition of losses from asset disposal amounting to SAR 65,868 instead of SAR 60,487. The Department found that the Taxpayer did not provide evidence supporting its calculation basis for the losses from asset disposal amounting to SAR 65,868. Concerning the item of “late payment penalties,” the Taxpayer objects to the calculation of late payment penalties on the contested items. The Department found that the late payment penalty is calculated from the date of the deadline for submitting the return until the date of payment of the tax due arising from the application of the provisions of the law and the amendments made by the Defendant. Implication: ZATCA's Decision is to be amended regarding the item of “differences in foreign purchases,” the item of “revenue difference,” and the item of “late payment penalties.” ZATCA's Decision is to be annulled regarding the item of “differences in depreciation,” and the Taxpayer's objection is dismissed regarding the item of “losses from asset disposal.”





## Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(m/1\) of Article \(9\), Article \(17\), and Paragraph \(a\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Paragraph \(3\) of Article \(57\), Paragraph \(7\) of Article \(59\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Zakat Law issued by the Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Differences in Foreign Purchases (Imports):

The Plaintiff stated its objection to ZATCA's procedure regarding the profit margin difference arising from discrepancies between foreign purchases according to the tax return and foreign purchases according to the customs declaration. ZATCA considered the declared amounts as sales and goods released. The Plaintiff argued that the data relied upon by ZATCA in calculating the adjusted net profit differences does not align with the customs data, as the value of purchases according to the customs declaration is SAR 2,804,783, while the purchases according to the assessment are SAR 3,246,895, indicating the inaccuracy of the data used by ZATCA during the assessment. The Plaintiff mentioned that ZATCA sent an information and inquiry request to the company regarding the contested assessment, but the company requested an extension to respond. However, ZATCA did not respond to the Plaintiff's request. The Plaintiff further stated that no foreign purchases were recorded in the company's accounts during 2018 (the assessment period); rather, these differences represent imports on behalf of affiliated companies, and the full cost was borne by the affiliated companies' accounts.

#### **Item Second:** ZATCA's Treatment of the Depreciation Differences Item:

The Plaintiff stated its objection to ZATCA's procedure in calculating the difference between the tax depreciation stated in the company's tax return and ZATCA's assessment. As mentioned in the e-Notice, ZATCA did not approve the addition of assets amounting to SAR 540,017 without clarifying the reasons. The Plaintiff stated that the depreciation differences included in the 2018 tax return were calculated in accordance with Article 17 of the Income Tax Law based on the remaining balance at the beginning of each year, adjusted for additions or disposals during the year.

#### **Item Third:** Revenue Difference:

The Plaintiff stated its objection to ZATCA's procedure in calculating the difference between the revenue declared in the 2018 tax return and the revenue shown in the VAT returns. The Plaintiff indicated in its objection that the VAT returns for 2018 show total revenue of SAR 744,427, not SAR 2,121,440 as stated by ZATCA in its assessment. The Plaintiff added that the revenue shown in the VAT returns are adjustments for previous years that were mistakenly included in the VAT returns for 2018.



#### **Fourth Item** ZATCA's Treatment of Losses from Asset Disposal:

The Plaintiff stated its objection to ZATCA's addition of losses from asset disposal amounting to SAR 65,868 instead of SAR 60,487, without clarifying the details or reasons for its procedure. The company requests the amendment of the assessments issued by ZATCA.

#### **Defendant (ZATCA) Defenses**

##### **Item First:** Differences in Foreign Purchases (Imports):

ZATCA stated that it found that foreign purchases according to the customs data amounted to SAR 3,246,895, while the Plaintiff's returns showed (zero). Based on this, ZATCA applied a profit margin to these differences. ZATCA stated that it reviewed the attached customs data, which showed that these imports were in the name of the Plaintiff company and under the same commercial registration number. Upon reviewing the Plaintiff's submitted return, it was found that no foreign purchases were included in the cost. ZATCA also reviewed the income statement, which showed no inclusion, and the Plaintiff did not provide any supporting documents to prove the validity of its claim.

##### **Item Second:** ZATCA's Treatment of the Depreciation Differences Item:

ZATCA stated that it calculated the depreciation differences in accordance with Article (17) of the Income Tax Law.

##### **Item Third:** Revenue Difference:

ZATCA stated that it referred to the submitted and audited financial statements, which showed that the revenue in the income statement for the year under claim was zero. This contradicts the company's claim that its revenue according to the VAT returns amounted to SAR 744,427. ZATCA based its Decision on Paragraph (3) of Article (57) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH.

##### **Fourth Item** ZATCA's Treatment of Losses from Asset Disposal:

ZATCA stated that it referred to the income statement, which showed an expense of SAR 68,783. Upon reviewing the audited financial statements, the analysis of the item was as follows: Capital losses: SAR (65,868), Other expenses: SAR (2,915), Total: SAR (68,783). Upon reviewing the cash flow statement, capital losses amounting to SAR (68,783) were included. ZATCA based its Decision on Paragraph (3) of Article (57) and Paragraph (7) of Article (59) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. (1535) dated 11/06/1425 AH.

#### **Committee's Response to Defenses:**

##### **Item First:** Differences in Foreign Purchases (Imports):

Upon reviewing ZATCA's procedure, it was found that ZATCA arrived at foreign purchases amounting to SAR 3,246,895 in its assessment without clarifying the reasons and how this amount was reached. Given that the customs declaration constitutes primary evidence provided by an independent third party, indicating that foreign purchases amounted to SAR 2,944,449 instead of SAR 3,246,895, the Department concludes to amend ZATCA's Decision on this item.



### **Item Second: ZATCA's Treatment of the Depreciation Differences Item:**

Based on the foregoing and upon reviewing the documents attached to the case file, it is evident that the Plaintiff attached a depreciation calculation schedule (Schedule No. 10-B from the tax return), the financial statements, and their clarifications. It was found that its classification of fixed assets was in accordance with Article 17 of the Tax Law, thus indicating the correctness of the depreciation differences calculated in its tax returns. Upon reviewing ZATCA's viewpoint, it was found that ZATCA did not provide details of its calculation or the reasons that led it to adjust the Plaintiff's calculation. Given that the burden of proof in this case lies with ZATCA to demonstrate the incorrectness of the Plaintiff's depreciation expense calculation, and ZATCA did not provide its own calculation of the depreciation expense, the Department concludes to annul ZATCA's Decision on this item.

### **Item Third: Revenue Difference:**

Based on the foregoing and upon reviewing the case file and its contained pleas and documents, it is clear that the Plaintiff submitted the monthly VAT returns for 2018, which showed an amount of SAR 744,427. Upon comparing the revenue shown in the audited financial statements for 2018, it was found that they show revenue of (zero). Upon reviewing the reasons, the Plaintiff stated that this revenue relates to previous periods but did not attach supporting documents for its viewpoint. Therefore, this revenue must be added to the Zakat base in the amount of SAR 744,427. Upon reviewing ZATCA's assessment, it was found that the added revenue amount is SAR 2,121,440; however, ZATCA did not provide details of its calculation or the reasons that led it to arrive at the added amount in the assessment. Therefore, the Department concludes to amend ZATCA's Decision by adding the revenue difference to the tax base in the amount of SAR 744,427 instead of SAR 2,121,440.

### **Fourth Item ZATCA's Treatment of Losses from Asset Disposal:**

Based on the foregoing and upon reviewing the case file and its contained pleas and documents, where ZATCA agrees with the Plaintiff in principle on deducting losses resulting from the disposal of assets, the dispute lies in the value of the amount to be deducted. The Plaintiff did not provide its calculation basis for the amount of SAR 65,868 instead of SAR 60,378. Given that the dispute is documentary, and the Plaintiff did not provide evidence supporting its calculation basis for the losses from asset disposal amounting to SAR 65,868, the Department concludes to dismiss the Plaintiff's objection on this item.

### **Decision:**

1. ZATCA's Decision is amended regarding the item of differences in foreign purchases.
2. ZATCA's Decision is annulled regarding the item of depreciation differences.
3. ZATCA's Decision is amended regarding the item of revenue difference.
4. The Plaintiff's objection regarding the item of losses from asset disposal is dismissed.
5. ZATCA's Decision is amended regarding the item of late payment penalties.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Withholding Tax – Objection to Withholding Tax Assessment – Related Parties**

**Abstract**

The Taxpayer claims the annulment of ZATCA's Decision regarding withholding tax for the years 2016 to 2018, specifically concerning the item of "withholding tax." The Taxpayer objects to the imposition of withholding tax. The Department found that ZATCA did not provide evidence confirming the occurrence of the payment, settlement, or equivalent action. Regarding the item of "related parties," the Taxpayer objects to the imposition of withholding tax. Upon reviewing the attached articles of incorporation, the Department found that each company owns 30% of the shares of the other company, and therefore they are not considered related parties. Regarding the item of "late payment penalties," the Taxpayer objects to the imposition of late payment penalties. The Department found that the dispute has been resolved (with the Defendant accepting the Taxpayer's requests). Implication: ZATCA's Decision is to be annulled regarding the item of "withholding tax," ZATCA's Decision is to be amended regarding the item of "related parties," and the resolution of the dispute is acknowledged regarding the item of "late payment penalties."

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(c\) of Article \(64\) and Paragraph \(a\) of Article \(68\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Article \(70\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Paragraph \(1\) of Article \(63\) and Article \(68\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(70\) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Withholding Tax for the Years 2016 to 2018:

The Plaintiff stated its objection to ZATCA's procedure in imposing an additional withholding tax liability of SAR 459,103.47. It clarified that the amounts mentioned in its objection and subject to withholding tax have not been paid to non-residents yet. The basis is that withholding tax is only payable on amounts paid, not those accrued in the accounting records, according to Article (68) of the Income Tax Law. Therefore, ZATCA's procedure contradicts the aforementioned article, as the amounts have not been paid to non-residents but were recorded as payables in the audited financial statements. The Plaintiff referred to the attached supporting documents, which include (Schedule No. 28 of the tax return related to amounts due to related parties, showing that the amounts are outstanding and not yet paid – Attachment 2), in addition to (the general ledger from the company's system proving that no payments or settlements related to these outstanding balances have been made – Attachment 3), and (Schedule No. 12 of the tax return showing that these balances have been outstanding for more than a year and that the company has paid Zakat on these balances due to their presence with the company for more than a year – Attachment 4). Thus, it is evident that ZATCA incorrectly subjected these expenses to withholding tax, as these balances have not yet been paid to non-resident parties.

#### **Item Second:** Related Parties:

The Plaintiff stated its objection to ZATCA's procedure in imposing a withholding tax rate of (15%) on payments made to (...) Company and (...) Company for the years 2016 to 2018, and the company was not informed of the reasons for subjecting these payments to a higher withholding tax rate. The Plaintiff clarified that (...) Company and (...) Company are not related parties to the company for tax purposes, as neither (...) Company nor (...) Company owns 50% or more of the shares or voting rights in the company and therefore do not have control over the company, based on Article (64) of the Income Tax Law. (...) Company has a 30% shareholding in the company, and therefore any payment for technical and consulting services should be subject to a withholding tax rate of 5%, not 15%. The Plaintiff referred to the attached articles of incorporation (Attachment 5), which clarify that these non-resident parties are not related parties for tax purposes.

### Pleas of the Defendant (ZATCA)

#### **Item:** Withholding Tax for the Years 2016 to 2018:

ZATCA stated that during the assessment, it subjected amounts due to related parties, on which tax had not been withheld, based on Articles (Sixty-Three) and (Sixty-Eight) of the Implementing Regulations of the Income Tax Law. It was found that the differences pertain to amounts due to related parties with reciprocal relationships, on which settlement or clearing transactions occurred between them as a result of services or operations performed by one party for the benefit of another. Withholding tax becomes payable upon the recording of the transaction in the books, as the essence of the payment event is the settlement of debts by any mechanism, whether through the known direct regular payment processes or through clearing or settlement operations between credit and debit accounts, or through any other means, which are considered methods and means of payment that can be used as alternatives to regular payment operations.



## Committee's Response to Defenses.



### **Item First:** Withholding Tax for the Years 2016 to 2018:

Upon reviewing the documents attached to the case file, it is evident that ZATCA did not provide evidence of a payment or settlement process between the accounts. The accounting entry date alone is not sufficient evidence of a settlement between the debit and credit accounts of the head office or related companies. Thus, ZATCA's reliance on subjecting these services to withholding tax is incorrect. Given ZATCA's failure to provide evidence confirming the occurrence of the payment, settlement, or equivalent action, in addition to the Plaintiff's submission of documentary evidence supporting its view regarding the non-payment (of amounts due to related parties for the years 2016 to 2018) and its subjection to Zakat as accounts payable, represented by (Schedule No. 28 of the tax return related to amounts due to related parties, showing that the amounts are outstanding and not yet paid, the general ledger from the company's system in Excel format proving that no payments or settlements related to these outstanding balances have been made, Schedule No. 12 of the tax return showing that these balances have been outstanding for more than a year and that the company has paid Zakat on these balances due to their presence with the company for more than a year), the Department concludes to annul ZATCA's Decision on this item.

### **Item Second:** Related Parties:

Based on the foregoing, and considering the Plaintiff's request to amend the withholding tax rate to (5%) on the grounds that these entities are not related for tax purposes as they do not own 50% or more of the shares or voting rights in the company, according to the attached articles of incorporation, and upon reviewing the attached AoA, it is found that each company owns 30% of the shares of (...) Company, and therefore they are not considered related parties. Thus, the Department concludes to accept the Plaintiff's request and amend ZATCA's Decision on this item by imposing a withholding tax rate of 5%.

## Decision:

1. ZATCA's Decision regarding the item of withholding tax for the years 2016 to 2018 is annulled.
2. ZATCA's Decision regarding the item of related parties for the years 2016 to 2018 is amended.
3. The resolution of the dispute regarding the item of late payment penalties is acknowledged.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





**Key words:**

**Withholding Tax – Objection to Withholding Tax Assessment – Statute of Limitations**

**Abstract**

The Taxpayer claims the annulment of ZATCA's Decision regarding the withholding tax assessment for the years 2014 to 2018, specifically concerning the item of “statute of limitations.” The Taxpayer objects to the withholding tax assessment for the aforementioned period due to the expiration of the five-year statutory limitation period for assessment. However, given the absence of a statutory provision that extinguishes ZATCA's right to claim withholding tax upon the lapse of a specific period, and regarding the item of “withholding tax on royalty services,” the Taxpayer objects to the calculation of withholding tax at a rate of 15% on royalty service payments made to the non-resident British and Singaporean companies. The Department found that franchise revenues from the Middle East are clearly evident in the financial statements, thereby proving that the British company is the beneficiary, and consequently, the application of DTAA is permissible. Regarding the item of “late payment penalty,” the Taxpayer objects to the calculation of a late payment penalty on the contested items. The late payment penalty is calculated from the date of the deadline for submitting the return until the date of payment of the tax due arising from the application of the provisions of the law and the amendments made by the Defendant. Implication: The Taxpayer's objection regarding the item of “statute of limitations” is dismissed, and ZATCA's Decision regarding the item of “withholding tax” and the item of “late payment penalty” is annulled.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(a\) and \(b\) of Article \(65\), Paragraphs \(a\) and \(c\) of Article \(68\), and Paragraphs \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(1\) of Article \(63\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Article \(12\) of the Double Taxation Convention concluded between the Kingdom of Saudi Arabia and the United Kingdom, signed on 31/10/2007, and effective as of 01/01/2009.](#)
- [Article \(12\) of the Double Taxation Convention concluded between the Kingdom of Saudi Arabia and the Republic of Singapore, signed on 03/05/2010, and effective as of 01/07/2011.](#)





## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

**Item First:** Statute of Limitations for the Period from January 2014 to August 2015:

The Plaintiff stated its objection to ZATCA's procedure in assessing withholding tax for the aforementioned period, citing the expiration of the five-year statutory limitation period for assessment under Article (65) of the Tax Law.

**Item Second:** Withholding Tax on Royalty Services:

The Plaintiff stated its objection to ZATCA's procedure in calculating withholding tax at a rate of 15% on payments for royalty services made to the non-resident British and Singaporean companies. The Plaintiff contended that the correct rate is 8% according to Double taxation Conventions, which is the rate declared by the Plaintiff and upon which the withholding tax was paid.

### Defendant (ZATCA) Defenses

**Item First:** Statute of Limitations for the Period from January 2014 to August 2015:

ZATCA stated that there is no statutory provision that extinguishes ZATCA's right to claim withholding tax upon the lapse of a specific period. Furthermore, the articles pertaining to the five-year statute of limitations, namely Article (65) of the Tax Law and Paragraph (8) of Article (59) of the Implementing Regulations of the Income Tax Law, do not apply to withholding tax due to the non-application of the rules concerning the tax return stipulated in Article (60) of the Tax Law to the monthly withholding tax statement. Therefore, there is no deadline for its submission, and consequently, no statute of limitations applies to it. Moreover, the Plaintiff is obligated by law to deduct it from service providers upon payment and remit it to ZATCA, and therefore it can be collected from the Plaintiff at any time along with the applicable penalty if the Plaintiff failed to deduct and remit it.

**Item Second:** Withholding Tax on Royalty Services:

ZATCA stated that it imposed withholding tax on royalties at a rate of (15%) as it became clear to ZATCA that the Double taxation Conventions do not apply to the Taxpayer because the ultimate beneficiary is in USA, not in Singapore and UK, according to what is stated in the financial statements that the company obtained the franchise right from America (Explanation 1), as clarified in the Taxpayer's financial statements. Given that there is no Double taxation Convention concluded between Saudi Arabia and USA, the Taxpayer exploited the agreements between Saudi Arabia and Singapore, and Saudi Arabia and UK.



## Committee's Response to Defenses.



### **Item First:** Statute of Limitations for the Period from January 2014 to August 2015:

Based on the foregoing, it is clear from the text of Article (68) of the Income Tax Law that the resident person “the Taxpayer” is obligated and responsible for withholding tax from the amount paid to the non-resident and is obligated to remit it to ZATCA within the statutory deadlines according to the monthly withholding tax returns. It is also clear from Article (65) of the Income Tax Law, which was cited by the Plaintiff, that it is directly related to the assessments conducted by ZATCA on the tax returns submitted by taxpayers for the tax year. In contrast, the dispute between the parties in essence lies in ZATCA's calculation of withholding tax on the amounts paid by the Plaintiff to non-resident entities, which is not related to tax assessments but is governed by Article (68) of the Income Tax Law and Article (63) of the Implementing Regulations of the Income Tax Law. Given that the resident person “the Plaintiff” is obligated and responsible for withholding tax from the amount paid to the non-resident, and considering the absence of a statutory provision that extinguishes ZATCA's right to claim withholding tax upon the lapse of a specific period, the Department concludes to dismiss the Plaintiff's objection on this item.

### **Item Second:** Withholding Tax on Royalty Services:

Based on the foregoing, and considering that the Defendant relied on the Plaintiff's financial statements and the precedent of withdrawing franchise distribution rights from (...) Singapore, this does not necessarily mean that the beneficiary of these revenues is (...) USA, as stated by the Defendant. Upon reviewing the statutory texts referred to above and the Conventions attached by the Plaintiff, in addition to the financial statements of the two non-resident companies, it is clear that the Conventions grant (...) Singapore (2008-2016) and (...) UK (2016) the right to grant franchise rights to beneficiaries in the Middle East and several other regions. This is evident from the agreement in addition to the financial statements, as the franchise revenues from the Middle East are clearly shown in the financial statements, thereby proving that (...) UK is the beneficiary, and consequently, the application of the Double taxation Convention is permissible. Therefore, the Department concludes to annul ZATCA's Decision on this item.

## Decision:

1. The Plaintiff's objection regarding the item of the statute of limitations for the period from January 2014 to August 2015 is dismissed.
2. The Plaintiff's objection regarding the item of the statute of limitations for the period from January 2014 to August 2015 is dismissed.
3. Amend Defendant's Decision regarding late payment fine.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Consulting Expenses**

**Abstract**

The Taxpayer claims the annulment of ZATCA's tax assessment Decision for the years 2017-2018, specifically concerning the item of "consulting expenses." The Taxpayer objects to the disallowance of consulting expenses within the cost of revenues for the years under dispute. The Department found that the Taxpayer had already paid withholding tax on these amounts, and the principal of these amounts constitutes part of the cost for the project's execution. Implication: ZATCA's Decision regarding the item of "consulting expenses" is annulled.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(3\) of Article \(57\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item:** Consulting Expenses:

The Plaintiff stated its objection to ZATCA's disallowance of consulting expenses within the cost of revenues for the aforementioned years. The Plaintiff indicated that it had attached an analytical account statement from the accounting system in Arabic, included under the cost of revenues (Attachment 4). The contracts were translated at ZATCA's request and indicate that withholding tax returns pertaining to the periods when the company's branch within the Kingdom was charged were submitted to ZATCA, and payment was made accordingly, in order to avoid double taxation based on the Double taxation Convention between the government of the Kingdom and the Republic of Italy (Attachment 5). It is unusual to subject project-related costs to tax twice, as the branch has already paid the withholding tax related to the contracts and the resulting project costs within the Kingdom.



## Defendant (ZATCA) Defenses

### Item: Consulting Expenses:

ZATCA stated that it disallowed the consulting expenses within the cost of revenues due to the failure to provide supporting documents such as an analytical and detailed statement of the cost of sales, clarifying the nature of the expense, the name and address of the entity, and the amount paid to each. During the objection submitted by the Taxpayer, the latter provided ZATCA with contracts related to the consultations for the project contracted with the Ministry of Municipal and Rural Affairs, along with an analytical statement of the expenses. ZATCA also requested a sample of the related invoices. It was found that one of the parties to the contracts submitted to ZATCA during the objection was the Plaintiff's head office. It was also found that the contract for the provision of consulting services for the design and expansion of the Ministry of Municipal and Rural Affairs headquarters was concluded with the Plaintiff's head office, and that the payments related to the project are transferred by the Ministry of Municipal and Rural Affairs directly to the head office, which then pays the expenses incurred by the branch and charges them to its account. This was stated by the Plaintiff in its objection letter submitted to ZATCA and dated 29/11/2020.

## Committee's Response to Defenses.

### Item: Consulting Expenses:

Based on the foregoing, and upon reviewing the data submitted by both parties, it became clear that the Plaintiff submitted the account statement for 2017 and the tax return for the same period. The Plaintiff also attached +5 contracts for the design of the new headquarters tower building for the Ministry of Municipal and Rural Affairs in Arabic with +5 different architectural designers, as well as a contract for the provision of consulting services for the design and expansion of the Ministry of Municipal and Rural Affairs headquarters building. Given that the Plaintiff has already paid the withholding tax on these amounts, and the principal of these amounts constitutes part of the cost for the project's execution, the Department concludes to annul ZATCA's Decision.

## Decision:

ZATCA's Decision regarding the item of consulting expenses for the years 2017 and 2018 is annulled.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Key words:**

**Income Tax - Withholding Tax - Imposition of Withholding Tax on Paid Amounts**

**Abstract**

The Taxpayer requests the annulment of ZATCA's Decision regarding withholding tax for the years 2015 to 2020, specifically concerning the item of (Imposition of Withholding Tax at a rate of (15%) on amounts paid for the purchase of computer software). The Taxpayer objects to the imposition of withholding tax at a rate of (15%) on amounts paid for the purchase of computer software. The Department finds that the Taxpayer is not the beneficial owner of these royalties but rather a distributor of these programs. Therefore, the paragraph related to applying a rate of 10% instead of 15% does not apply, and these royalties are subject to withholding tax at a rate of (15%). Regarding the item of (Late Payment Penalty), the Taxpayer objects to the calculation of a late payment penalty on the contested items. The Department finds that the outstanding tax resulted from adjustments to items not governed by definitive statutory texts, and that the Taxpayer's tax treatment of the First item was based on ZATCA's response in frequently asked questions. Consequently: The Taxpayer's objection regarding the item of (Imposition of Withholding Tax) is dismissed, and ZATCA's Decision regarding the item of (Late Payment Penalty) is amended.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(1\), Paragraph \(a\) of Article \(5\), Article \(65\), Paragraph \(a\) of Article \(68\), and Paragraphs \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(1\) of Article \(63\) and Paragraph \(1\) of Article \(68\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

**Item:** Imposition of Withholding Tax at a Rate of (15%) on Amounts Paid for the Purchase of Computer Software:

The Plaintiff stated its objection to ZATCA's action of imposing withholding tax at a rate of (15%) on amounts paid for the purchase of computer software. The Plaintiff argues that these programs are purchased for the sole purpose of resale in the local market and not for the company's internal use. ZATCA was provided with the value of these sales, in addition to a sample of supporting invoices. The goods are pre-ordered from suppliers and then included in the company's inventory. Upon sale, they are included in the cost of sales in the income statement, meaning that the responsibility for the goods transfers to the company, meaning they become its responsibility, just like any other goods purchased for resale. The Plaintiff contends that ZATCA's subjecting the purchase of computer software to withholding tax as royalties is incorrect for the following reasons: Non-Subjection of Computer Software Purchases to Withholding Tax: Purchases of computer software are not subject to withholding tax according to the provisions of the Tax Law and its Implementing Regulations. According to the provisions of Article (68) of the Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH and its amendments, and Article (63) of its Implementing Regulations issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, the amount paid for the purchase of these programs is not subject to withholding tax. Withholding tax is due on amounts paid to non-residents for services performed in the Kingdom of Saudi Arabia or royalties.

### Defendant (ZATCA) Defenses

**Item:** Imposition of Withholding Tax at a Rate of (15%) on Amounts Paid for the Purchase of Computer Software:

ZATCA stated that it calculated withholding tax at a rate of (15%) on the amounts paid for the purchase of computer software, in accordance with Article (Sixty-Eight) of the Income Tax Law and Article (Sixty-Three) of the Implementing Regulations of the Income Tax Law. ZATCA found a discrepancy between the foreign purchases recorded in the Taxpayer's return and the foreign purchases according to customs data. Upon inquiring about this difference, the Taxpayer stated that it represents the purchase of software from outside the Kingdom through (...) Company (United Arab Emirates) and then selling it to customers in the Kingdom of Saudi Arabia. ZATCA argues that the Taxpayer is not the beneficial owner of these royalties but merely a distributor of these programs, confirming its ineligibility to benefit from the advantages of the tax treaty. Therefore, these royalties are subject to withholding tax at a rate of (15%).



## Committee's Response to Defenses.

**Item:** Imposition of Withholding Tax at a Rate of (15%) on Amounts Paid for the Purchase of Computer Software:

Upon reviewing the case file, it is evident that the Plaintiff did not withhold tax on payments made to non-resident entities for the years under objection, in violation of the statutory texts. Given that the resident person, "the Plaintiff", is obligated and responsible for withholding tax from the amount paid to the non-resident, and considering the absence of any statutory provision that waives ZATCA's right to claim withholding tax due to the passage of a specific period, the Department upholds ZATCA's procedure in assessing withholding tax for the disputed years. Regarding the Taxpayer's argument concerning the Double Tax Treaty between the Kingdom of Saudi Arabia and the United Arab Emirates, Article (12) Twelve of DTT, pertaining to Royalties, states: "1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. 2. However, such royalties may also be taxed in the Contracting State in which they arise in accordance with the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax charged shall not exceed ten per cent (10%) of the total amount of royalties." As the Plaintiff is not the beneficial owner of these royalties but rather a distributor of these programs, the paragraph related to applying the 10% rate instead of 15% does not apply to them. Consequently, these royalties are subject to withholding at a rate of (15%). Therefore, the Department concludes to dismiss the Plaintiff's objection on this point.

### Decision:

1. The Plaintiff's objection regarding the imposition of a withholding tax at a rate of (15%) on the amounts paid for the purchase of computer software is dismissed.
2. The Defendant's Decision regarding the late payment penalty is amended.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Dammam**

**Decision No.: IZD-2022-1873  
Case No.: I-2022-131752**

**Key words:**

**Income Tax – Objection to Tax Assessment – Accrued Revenue**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the year 2018, specifically concerning the item “(Accrued Revenue not recognized for the year 2018).” The Taxpayer objects to the addition of an amount of (SAR 65,663,186) as unrecognized revenue to the adjusted income, considering it as revenue that will be realized by the company's branch. The Department found that ZATCA did not provide evidence substantiating the entitlement to the revenue claim for additional work by the subcontractor (the Taxpayer) from the main contractor, which would establish the Taxpayer's right to receive the revenue. Regarding the item “(Late Payment Penalty),” the Taxpayer objects to the calculation of a late payment penalty on the disputed items. The Department found that the opinion on the (First) item concluded ZATCA's procedure was incorrect, which consequently entails the cancellation of the late payment penalty due to the lapse of the original tax liability. Consequently; the Defendant's Decision is annulled regarding the two items subject to the claim.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(b\) of Article \(25\) and Article \(26\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Article \(20\) and Paragraph \(1\) of Article \(68\) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

**Item:** Unrecognized Accrued Revenue for the Year 2018:

The Plaintiff stated its objection to ZATCA's action of adding an amount of SAR 65,663,186 as unrecognized revenue to the adjusted income, considering it as revenue to be realized by the company's branch, based on Article (25) of the Income Tax Law. The Plaintiff mentioned that these amounts represent an estimation of amendments and additional works on the Taif project during the field audit conducted by ZATCA, for which ZATCA's representatives were provided with all required statements (Attachment 1). Furthermore, the Plaintiff pointed out that the project period was extended by an additional 24 months, resulting in additional expenses. The Plaintiff indicated that these works lack contracts, invoices, or approval, and approval for the payment of the additional works' costs has not been issued (Attachment 2). Given that the registered contracts are unsupported by contracts or invoices and have not been approved by the project owner, and considering that ZATCA's addition of these claims to the net profit is inconsistent with the company's accounting policies for revenue recognition, a letter was requested from ... Company clarifying the contract value and the approved additional works (Attachment 5). ... Company responded via email (Attachment 6), stating that the contract value is SAR 950 million and the value of the approved works is approximately SAR 54 million. Attachment 7 contains a copy of **Abstract** No. 58, approved by ... Company.

### Defendant (ZATCA) Defenses

**Item:** Unrecognized Accrued Revenue for the Year 2018:

ZATCA stated that it included unrecognized accrued revenue in the net profit in accordance with Article (25) of the Income Tax Law. ZATCA conducted a field audit of the Plaintiff, and upon inquiring about the reasons for the losses, the Plaintiff provided explanations as detailed in ZATCA's written response. Consequently, it became evident that the Plaintiff was claiming the value of receivables due for the executed additional works, for which costs were recorded in the accounts and reflected in the financial statements. The Plaintiff addressed the project owner (... Company) regarding these claims. As for the Plaintiff's argument that the additional works were performed without consideration, and the attachment of a document from the National Guard with its objection stating that the contract was extended and that "the company is not entitled to claim any outstanding amounts from the Health Affairs due to this amendment," it was verified that this document was addressed to the main contractor, ... Company, and not to the Plaintiff. Therefore, this document does not necessarily imply the non-registration and non-recognition of the additional works as revenue. Moreover, the Plaintiff did not object to ZATCA's addition of these claims to the result of the year 2016, which indicates the Plaintiff's acceptance of ZATCA's procedure. Further confirming the validity of ZATCA's procedure is the company's failure to create a provision for this liability, based on Article (8) and Article (25) of the Income Tax Law.



## Committee's Response to Defenses.



### **Item:** Unrecognized Accrued Revenue for the Year 2018:

Referring to the case file and its attachments, it is evident that the Plaintiff did not submit the percentage of completion schedule for the year 2018, nor did it submit the revenue schedule attached to the tax return, the financial statements, or the demand letter to ... Company and its partners. Upon reviewing all attachments, no changes to the contract value resulting in additional revenue were proven. Furthermore, upon reviewing the attached email, it was found that the contract value of SAR 950 million remained unchanged, and the approved additional costs amounted to SAR 54 million. Regarding the additional costs, the attached email did not specify the years in which the changes occurred or the value of these changes. It was not evident that ZATCA examined all elements of the percentage of completion formula, which consists of the contract value and its amendments, actual costs, and estimated costs (to determine the impact of additional works on estimated costs), in addition to linking the costs to the expected loss indicated by ZATCA. The increase in the actual costs of the project may be the reason for incurring losses, rather than the Plaintiff concealing revenue. Additionally, an increase in estimated costs leads to a delay in revenue recognition, consequently resulting in losses in the early years of the project. Another point is that even if amendments to the contract were assumed, they should have been added to the contract value, and revenue should have been calculated according to the percentage of completion formula, not by ZATCA directly adding the value of the new works as direct revenue. Based on the foregoing and in light of the aforementioned justifications, and given that the realization and entitlement of the revenue were not proven in the case according to Paragraph (b) of Article (25) of the Income Tax Law, which stipulates that the amount becomes payable to the Taxpayer when the Taxpayer has the right to receive it, even if payment is postponed or made in installments, and since ZATCA did not provide evidence proving the subcontractor's (the Plaintiff's) entitlement to the revenue claim for the additional works from the main contractor, which establishes the Taxpayer's right to receive the revenue, the Department concludes to annul the Defendant's Decision on this item.

### **Decision:**

Cancel the Defendant's Decision regarding the two items subject matter of the Case.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Key words:**

**Income Tax – Objection to Withholding Tax Assessment – Imposition of Withholding Tax on Foreign Transfers**

**Abstract**

The Taxpayer requests the annulment of ZATCA's Decision for the year 2012, specifically concerning the (imposition of withholding tax on external transfers) item. The Taxpayer objects to the withholding tax on transfers to the headquarters and related entities for 2012. However, the Department has found that the Taxpayer did not provide supporting documentation to substantiate their position. Therefore, the Department decided to reject the Taxpayer's objection regarding (imposition of withholding tax on external transfers) item.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(3\) of Article \(57\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**The Plaintiff's Defenses**

**Item:** Imposition of withholding tax on external transfers:

The Plaintiff stated its objection to ZATCA's procedure of imposing withholding tax on transfers to the head office and related parties for the year 2012. The Plaintiff indicated that it adheres to what was stated in its objection submitted to ZATCA.



## Defendant (ZATCA) Defenses

### **Item:** Imposition of withholding tax on external transfers:

ZATCA stated that the data available to it indicates that the company has foreign bank transfers. Prior to the assessment, and based on the Taxpayer's request for additional information dated 24/03/1442 AH, ZATCA requested this information more than once, as follows: "It is evident from the data available to ZATCA that there are amounts paid to external entities related to your registered commercial activity. Details of these payments were sent to you via your official email with ZATCA. We request that you promptly clarify the purpose of these payments and provide supporting documentation. kindly send your response to (..) including your name and reference number in the subject line within the timeframe specified in the email". The Taxpayer provided the requested information, and ZATCA determined that the transfers were for the following purposes: (purchasing equipment for projects through suppliers, not directly by the company and customs declarations for machinery were provided); (Establishment expenses for the company branch in Canada, which are incomplete according to the clarification provided. The expenses included travel tickets for the company owner and accommodation costs); (Funding Projects for the Parent Company in Egypt, where the Taxpayer provided copies of the project contracts in Egypt); (Purchasing equipment for the Parent Company in Egypt). Since the amounts paid for services provided by the headquarters or related entities to the permanent establishment, regardless of their nature, including technical, consulting, and other direct or indirect administrative services, are subject to withholding tax at a rate of 15%.

## Committee's Response to Defenses.



### **Item:** Imposition of withholding tax on external transfers:

It is evident that, based on the foregoing and after reviewing the data provided by both parties, the Plaintiff failed to substantiate the objection previously filed with ZATCA. Upon reviewing the documents provided by the Plaintiff, it appears that they claim only a small portion of the amounts was transferred, specifically for the purpose of purchasing equipment. However, the Plaintiff did not provide supporting evidence to substantiate this claim. Therefore, the Department dismisses the Plaintiff's objection in this regard.

## Decision:

The Plaintiff's objection regarding the imposition of withholding tax on foreign transfers for the year 2012 is dismissed.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

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**Key words:**

**Income Tax – Objection to Tax Assessment – Non-Acceptance of Commission Expense Deduction – Utilized Portion of Doubtful Debts Provision**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the year 2017, specifically concerning the item of '(Non-acceptance of commission expense deduction),' where the Taxpayer objects to the Defendant's action of refusing the deduction of commission expenses for the year 2017. The Department found that the Taxpayer submitted supporting documentation for the disputed expenses. As for the item of '(Withholding tax expense)' and the item of '(Utilized portion of doubtful debts provision),' the Taxpayer objects to the Defendant's action of refusing the doubtful debts provision. The Department found that the dispute regarding this item was resolved, as stated by the Defendant's representative during the hearing, who indicated that this item was not in dispute and that the Defendant had previously accepted it. Regarding the item of '(Late payment penalty),' the Taxpayer objects to the Defendant's action of calculating a late payment penalty on the disputed items. Given that the Department found that the Defendant responded to some items but did not include this particular item, this indicates acceptance of a portion of the Taxpayer's objection, and the Defendant submitted its statement of defense on the items where the Taxpayer's objection was not accepted. Consequently, it is established that the dispute regarding the (Withholding Tax Expense) item has been resolved and the Defendant's Decision concerning the Non-Acceptance of Commission Expense Deduction, Use of Doubtful Debts Provision, and Late Payment Fine items is hereby annulled.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(70\) of the Law of Civil Procedure promulgated by Royal Decree No. \(M/1\) dated 22/01/1435 AH](#)
- [Paragraph \(1\) and Paragraph \(3\) of Article \(9\), and Paragraph \(2\) of Article \(60\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Resolution No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(70\) of the Implementing Regulations of the Law of Civil Procedure issued by Minister of Justice Resolution No. \(39933\) dated 19/05/1435 AH](#)





## Parties Defenses:

### The Plaintiff's Defenses

**Item First:** Non-Acceptance of Commission Expense Deduction for the year 2017:

The Plaintiff stated that it objects to ZATCA's action of refusing the deduction of commission expenses for the year 2017, as it argues that the sales commission expense is supported by documentation as outlined in Article 16 of the attached internal regulations, which are approved by the relevant ministry under registration number (...) for this branch. It also wishes to clarify that the employees are under formal employment contracts and are registered with the Social Insurance for the branch, and this commission is in consideration of their efforts in sales. The amounts were paid from the branch's bank accounts and are not charged to the head office, as these amounts represent an expense directly related and specific to the activity.

**Item Second:** Disposed Doubtful Debts Provision for 2017:

The Plaintiff stated that it objects to ZATCA's action of refusing the doubtful debts provision. Where it indicated that the branch did not reduce the net profit by the utilized portion of the doubtful debts provision, amounting to 531,339 Riyals, which was created in 2016 without being deducted from the tax base in that year. The Taxpayer clarified in its statement of claim the nature of this provision created during 2016. Regardless of the accuracy of the branch's treatment, it insists on deducting the utilized portion of the provision from the adjusted net profit, as the due tax on the aforementioned amount was paid upon the creation of the provision by adding it to the adjusted profit in 2016, as evident in the tax return. It can provide documentary confirmation of the nature of the difference if requested. Furthermore, 323,339 Riyals is the value of the doubtful debts provision created in 2016, where an invoice was sent to the client in January 2013. The client paid a portion of the total amount and was requested to pay the remaining 323,339 Riyals but refused to pay, arguing that the contracted project was supposed to be completed within the specified period, and the amount was not paid on the grounds that it was not due. With the impossibility of collection, the debt was written off in 2017, noting that it was declared in 2016, meaning it met the conditions.

### Defendant (ZATCA) Defenses

**Item First:** Non-Acceptance of Commission Expense Deduction for the year 2017:

ZATCA stated that it adjusted the profit for this item due to the lack of clarity in the company's policy regarding sales commissions. It noted that the employees' contracts and the company's internal regulations did not stipulate them, and the attached letter was stamped by the head office, indicating that it was an expense charged by the head office and was not based on an approved internal company policy. Therefore, the expense was dismissed.

**Item Second:** Disposed Doubtful Debts Provision for 2017:

ZATCA stated that it added the aforementioned item to the adjusted profit on the basis that these were bad debts that did not meet the statutory requirements for their recognition as an expense. He was required to submit the documentary proof of the accounting error in recording dues of (...) company in the amount of SAR 208,000, as well as the legal requirements for accepting bad debts as an expense for (...) Company amounting to SAR 323,339. The Taxpayer subsequently submitted the documentary proof of provision reduction by 208,000 for (...) Company, where it submitted a copy of the general ledger account (...), as well as the accounting entry made to reduce the provision in order to correct the error of including the amount twice.





## Committee's Response to Defenses.



### **Item First:** Non-Acceptance of Commission Expense Deduction for the year 2017:

Upon reviewing the documents attached to the case file, it is evident that the Plaintiff attached the Work Regulation approved by Ministry of Human Resources and Social Development in the year 1442 AH. Given that the Plaintiff has submitted supporting documentation for the disputed expenses, the Department therefore concludes to annul the Defendant's Decision on this item.

### **Item Second:** Disposed Doubtful Debts Provision for 2017:

After reviewing the case file and its contents of arguments and documents, and given that the Plaintiff has submitted supporting documentation for the entire balance, including the certified public accountant's certificate for the total debts pertaining to the period in dispute, in addition to the alignment of the debt balance mentioned in the authorized official's Decision with the amount stated in the certificate totaling 531,339 Riyals (323,339 + 208,000 Riyals, which the Defendant accepted). Therefore, the Department decided to cancel Defendant's Decision in this item.

## Decision:

1. To annul the Defendant's Decision regarding the item of non-acceptance of commission expense deduction for the years 2015 to 2017.
2. To affirm the resolution of the dispute regarding the item of withholding tax expense for the year 2017.
3. To annul the Defendant's Decision regarding the item of the utilized portion of doubtful debts provision for the year 2017.
4. Cancel the Defendant's Decision regarding the late payment fine.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Interest Transfers with Foreign Shipping Agents**

**Abstract**

The Taxpayer is requesting annulment of ZATCA's Decision regarding the tax assessment for December 2010, specifically related to the item of (interest transfers with external shipping intermediaries), The Taxpayer objects to Defendant's action of subjecting commission transfers with external shipping intermediaries to a withholding tax of 15% as "other payments." The Department found that the Taxpayer did not provide supporting documents to demonstrate that the service in question was a shipping cost and not a commission. Additionally, regarding the item of "late payment fine," the Taxpayer objects to Defendant's action of imposing a fine for any delay in paying the withholding tax. The Department noted that the fine is related to the item under objection and therefore follows the same ruling. This resulted in rejection of Taxpayer's objection in all the items in question.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraphs \(a\) and \(b\) of Article \(77\) of Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(3\) of Article \(57\), and Paragraph \(1\) and Paragraph \(7\) of Article \(63\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Resolution No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

**Parties Defenses:**

**The Plaintiff's Defenses**

**Item First:** Interest Transfers with Foreign Shipping Agents:

The Plaintiff stated that ZATCA subjected commission transfers to foreign shipping agents to withholding tax at a rate of 15% as "other payments." The Plaintiff mentioned that during the examination phase, it informed ZATCA via email about the nature of the amounts transferred to the shipping agents.



### Defendant (ZATCA) Defenses

**Item First:** Interest Transfers with Foreign Shipping Agents:

ZATCA stated that it subjected commission transfers to foreign shipping agents to withholding tax at a rate of (15%) as “other payments.” It clarified that it became apparent from the Taxpayer's email response that these were amounts transferred as service commissions to the foreign shipping agent.

### Committee's Response to Defenses.



**Item First:** Interest Transfers with Foreign Shipping Agents:

Based on the foregoing, and considering that the dispute revolves around the nature of services performed outside the Kingdom, which is governed by documents clarifying the nature and place of performance of the service, and upon reviewing the submitted documents, it became evident that the Plaintiff did not provide supporting documentation for its viewpoint to prove that the service constitutes shipping costs and not commissions. Therefore, the Department concludes to dismiss the Plaintiff's objection.

### Decision:

1. Reject Plaintiff's objection regarding the item of interest transfers with external shipping intermediaries for the month of December 2010.
2. Reject Plaintiff's objection regarding the item of delay fine.

This Decision was delivered in presence of the parties. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery. Either party to the Case may appeal against the Decision within (30) thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable after expiry of such period if either party does not file an objection

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Employee Salaries – Non-Deductible Expenses – Miscellaneous Expenses – Fines and Gratuities – Late Payment Penalty**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the year 2018, specifically concerning the item of “(Employee Salaries),” where the Taxpayer objects to the addition of the difference in salaries and wages of irregular employees. The Department found that the Taxpayer did not provide evidence to support its objection. Regarding the item of “(Non-Deductible Expenses),” the Taxpayer objects to the adjustment of net profit by non-deductible expenses. The Department found that, upon reviewing the amendment letter, ZATCA did not clarify its calculation basis. Concerning the item of “(Miscellaneous Expenses),” the Taxpayer objects to the adjustment of net profit by miscellaneous expenses. The Department found the existence of traffic violations amounting to (48,900) Riyals, as traffic violations are non-deductible expenses for tax purposes. Regarding the item of “(Fines and Gratuities),” the Taxpayer objects to the adjustment of net profit by gratuity and commission expenses. The Department found that the Taxpayer did not clarify the nature of these fines, and concerning the gratuity expense, its nature was unclear, thus it cannot be deducted from the tax base as it is considered a non-deductible expense. Lastly, regarding the item of “(Late Payment Penalty),” the Taxpayer objected to the imposition of a late payment penalty on the disputed items. The Department found the correctness of ZATCA's action in imposing the late payment penalty from the due date on the item where the Taxpayer's objection was dismissed, and the cancellation of the late payment penalty on the items where the objection was accepted or ZATCA's Decision was amended. Consequently, the Taxpayer's objection is dismissed regarding the items of “(Employee Salaries)” and “(Fines and Gratuities),” ZATCA's action is amended regarding the items of “(Miscellaneous Expenses)” and “(Late Payment Penalty),” and the Taxpayer's objection is accepted regarding the item of “(Non-Deductible Expenses).”

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(77/A\) of the Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Paragraph \(1\) of Article \(9\), Paragraph \(6\) of Article \(10\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Resolution No. \(1535\) dated 11/06/1425 AH.](#)



- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)

## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Employee Salaries:

The Plaintiff stated that ZATCA added an amount of (10,236,888) Riyals as the difference in salaries and wages of irregular employees, noting that these expenses are supported by documentary evidence, are regular and necessary for generating income, are related to it, and represent a part of the direct cost of projects. Without these expenses, income cannot be generated.

#### **Item Second:** Non-Deductible Expenses:

The Plaintiff stated that ZATCA added an amount of (1,074,361) Riyals to the assessment as non-deductible expenses and hopes for clarification of this amount to be able to respond, as all expenses are direct and related to the projects.

#### **Item Third:** Miscellaneous Expenses:

The Plaintiff stated that ZATCA added an amount of (2,143,822.69) Riyals to the assessment as miscellaneous expenses, considering them unrelated to the activity. This does not align with ZATCA's view, as all expenses pertain to the contracting activity, whether direct or indirect, and all are supported by documents.

#### **Fourth Item** Fines and Gratuities:

The Plaintiff stated that ZATCA adjusted the net profit by an amount of (46,609) Riyals for gratuities and commissions expenses.

#### **Fifth:** Late Payment Fine:

The Plaintiff stated that it objects to the calculation of a late payment penalty on the disputed items.

### Defendant (ZATCA) Defenses

#### **Item First:** Employee Salaries:

ZATCA stated that the Plaintiff did not provide the required documents, and ZATCA added back an amount of (10,236,888) Riyals to the tax base as it was irregular, unsupported, and included employee advances and custody funds.

#### **Item Second:** Non-Deductible Expenses:

ZATCA stated that it added back an amount of (1,074,361) Riyals considering them non-deductible expenses, and the Plaintiff did not provide supporting documents for its objection.

#### **Item Third:** Miscellaneous Expenses:

ZATCA stated that the Plaintiff did not provide supporting documents for its objection regarding this item. Therefore, ZATCA added back the expense to the tax base, considering it an expense not related to the economic activity.

#### **Fourth Item** Fines and Gratuities:

ZATCA stated that the Plaintiff did not provide supporting documents for its objection regarding this item. Therefore, ZATCA added back the expense to the tax base, considering it a non-deductible expense.

#### **Fifth:** Late Payment Fine:

ZATCA stated that the late payment penalty was imposed on the tax differences resulting from non-payment within the statutory period.



## Committee's Response to Defenses.

### **Item First:** Employee Salaries:

Based on the foregoing, it is evident that the expense acceptable for Zakat purposes regarding salaries and wages is what is documented. What is accepted as an expense is what is proven by the certificate issued by the Social Insurance, as it is considered one of the important neutral documents used to verify the fairness of the salaries and wages charged to the accounts. If the salaries are paid to employees not registered with the Social Insurance, this must be proven to ensure that it is an actual expense supported by documentary evidence to be accepted as a deductible expense. Based on the jurisprudential rule that states: "The burden of proof lies with the one who speaks," and since the Plaintiff did not provide evidence to support the validity of its objection, the Department concludes to dismiss the Plaintiff's objection regarding the employee salaries item.

### **Item Second:** Non-Deductible Expenses:

Based on the foregoing, and since the Plaintiff requests ZATCA to clarify the reasons for adding the above item to the adjusted net profit, and upon reviewing the amendment letter, it was found that ZATCA did not clarify its calculation basis, the Department concludes to accept the Plaintiff's objection regarding the non-deductible expenses item.

### **Item Third:** Miscellaneous Expenses:

Based on the foregoing, these expenses are considered deductible if it is proven that they are actual expenses supported by documentary evidence. Since the dispute regarding this item is a documentary dispute, and upon reviewing the documents in the case file, it is found that the Plaintiff submitted an analytical statement of miscellaneous expenses, where it submitted a sample of miscellaneous expense invoices for Riyadh and Makkah branches, represented by the contract letter for financial and legal consultations, and the financing agreement for ((...)) and ((...)) project, the financing check, and a sample of promissory notes against the financing, and a statement of account for government fees and Chamber of Commerce certifications, in addition to the existence of traffic violations amounting to (48,900) Riyals. Since traffic violations are non-deductible expenses for tax purposes, the Department decided to amend ZATCA's action by dismissing the deduction of (48,900) Riyals from the total miscellaneous expenses.

### **Fourth Item** Fines and Gratuities:

Based on the foregoing, these expenses are considered deductible if it is proven that they are actual expenses supported by documentary evidence. Since the dispute regarding this item is a documentary dispute, and upon reviewing the documents in the case file, it is found that the Plaintiff submitted an analytical statement including gratuities and fines expenses amounting to (46,598) Riyals, in addition to a sample of supporting invoices. It was found that the fines expenses, represented by (Riyadh Fines and Makkah Fines) amounting to (13,811) Riyals, represent a set of fines such as (municipal violations, fines for late issuance of (...) family residence permits, and a police circular and traffic violations) amounting to (3,300) Riyals, which are non-deductible as they are fines arising from regulatory and legal violations. It is also clear that there is a set of violations and fines, which are (late payment fees for checks, a certified check for the Saudi Monetary Agency - fine of Mr. Hassan) amounting to (11,511) Riyals. The Plaintiff did not clarify the nature of these fines, and it was not proven that they were due to a breach of contractual terms, such as late performance or poor performance penalties, which may be deducted, provided that they are documented by the contracting party. As for the gratuities expense (expenses of ..... project) amounting to (10,000) Riyals, the nature of these gratuities was unclear, and therefore they cannot be deducted from the tax base as they are considered non-deductible expenses. Therefore, the Department concludes to dismiss the Plaintiff's objection regarding the fines and gratuities item.



**Fifth: Late Payment Fine:**

Based on the foregoing, and having reviewed the case file and its contents of arguments and documentary evidence, and considering that the late payment penalty is calculated from the statutory deadline for tax return submission until the payment date of the tax due, arising from the application of the legal provisions and ZATCA's amendments, and given that the dispute between the parties stems from items governed by clear statutory provisions, does not constitute a technical disagreement, and did not arise from a significant divergence in the interpretation of said provisions, the Department upholds the correctness of ZATCA's action in imposing the late payment penalty from the due date on the item where the Plaintiff's objection was dismissed. Conversely, the late payment penalty is rescinded on the items where the objection was accepted or ZATCA's Decision was amended, consistent with the conclusions of this Decision, due to the annulment of the underlying tax imposition.

**Decision:**

**First:** The Plaintiff's objection regarding the employee salaries item is dismissed.

**Second:** The Plaintiff's objection regarding the non-deductible expenses item is accepted.

**Third:** The Defendant's action regarding the miscellaneous expenses item is amended, in accordance with the reasoning of this Decision.

**Fourth:** The Plaintiff's objection regarding the fines and gratuities item is dismissed.

**Fifth:** The Defendant's action regarding the late payment penalties item is amended, in accordance with the conclusions reached in this Decision.

This Decision was delivered in presence of the parties in accordance with Article (56) of the Law of Civil Procedure. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Any litigant Case may appeal against the Decision within (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





**Key words:**

**Income Tax – Objection to Tax Assessment – Late Payment Penalty for Tax – Late Filing Penalty for Tax Return**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the year 1438 AH, specifically concerning the item of “(Income Tax),” where the Taxpayer objects to the tax assessment for the year 1438 AH. The Department found that the Taxpayer did not substantiate its objection regarding an error in the calculation of VAT sales profits. Regarding the item of “(Late Payment Penalty),” the Taxpayer objects to the imposition of a late payment penalty for the tax due for the year 1438 AH. The Department found that the Taxpayer was unable to pay the difference in tax due under the estimated assessment until ZATCA issued the assessment under objection. Concerning the item of “(Late Filing Penalty for Tax Return),” the Taxpayer objects to the imposition of a late filing penalty for the tax return for 1438 AH. The Department found that the Taxpayer did not provide evidence of submitting its returns and paying the tax due accordingly within the statutory period. Consequently, the Taxpayer's objection is dismissed regarding the items of “(Income Tax)” and “(Late Filing Penalty for Tax Return),” and ZATCA's action is amended regarding the item of “(Late Payment Penalty).”

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(b\) of Article \(60\), Paragraph \(b\) of Article \(63\), Article \(76\), Paragraph \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(3/c\), Paragraph \(4\) of Article \(16\), Paragraph \(3\) of Article \(57\), Article \(67\), and Paragraph \(1\) of Article \(68\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Resolution No. \(1535\) dated 11/06/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses



### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Income Tax:

The Plaintiff stated that the income tax for the year 1438 AH was calculated at (148,013.98) Riyals in the assessment and penalties, and this amount is incorrect. It explained that in 1438 AH, the establishment was registered for VAT, and the assessment was adjusted based on VAT sales profits. The total purchases amounted to (4,747,305) Riyals, and sales amounted to (4,881,661) Riyals.

#### **Item Second:** Late Payment Fine:

The Plaintiff stated that it objects to ZATCA's action of imposing a late payment penalty for the tax due for the year 1438 AH.

#### **Item Third:** Late Filing Penalty for Tax Return:

The Plaintiff stated that it objects to ZATCA's action of imposing a late filing penalty for the tax return for the year 1438 AH.

## Committee's Response to Defenses:



#### **Item First:** Income Tax:

Upon reviewing the data submitted by both parties, it is evident that ZATCA estimated the profits by referring to the VAT returns for 1439 AH. ZATCA based its assessment on the VAT returns submitted by the Plaintiff, in accordance with Article (Sixteen), Paragraph (4) of the Implementing Regulations of the Income Tax Law. Since the Plaintiff did not substantiate its objection regarding an error in the calculation of VAT sales profits, the Department decided to dismiss the Plaintiff's objection on the income tax item.

#### **Item Second:** Late Payment Fine:

Based on the foregoing, and upon reviewing the statutory provisions, it is evident that the late payment penalty is calculated from the date the tax becomes due on the Taxpayer. However, in the case of tax due under an estimated assessment, the calculation of the late payment penalty for payment shall be from the date ZATCA notifies the Taxpayer of the tax assessment, as the Taxpayer was unable to pay the difference in tax due under the estimated assessment until ZATCA issued the assessment under objection. Therefore, the Department decided to amend ZATCA's action on the late payment penalty item.

#### **Item Third:** Late Filing Penalty for Tax Return:

Based on the foregoing, and in application of the provisions of Article (60) of the Income Tax Law, the Plaintiff is required to submit its return according to an approved form and pay the tax due within (120) days from the end of the tax year to which the return relates. Otherwise, this is considered a violation and a delay in submitting the return within the specified statutory period, and the Plaintiff shall be subject to the non-filing penalty stipulated in Article (76) of the Income Tax Law and Article (67) of the Implementing Regulations. Since the Plaintiff did not provide evidence of submitting its returns and paying the tax due accordingly within the statutory period, the correctness of ZATCA's action in imposing the non-filing penalty is evident. Therefore, the Department decided to dismiss the Plaintiff's objection on the late filing penalty item.



### Decision:

**First:** The Plaintiff's objection regarding the income tax item is dismissed.

**Second:** The Defendant's action regarding the late payment penalty item is amended, in accordance with the reasoning of this Decision.

**Third:** The Plaintiff's objection regarding the late filing penalty for the tax return item is dismissed.

This Decision was rendered in absentia of both parties, pursuant to the stipulations of Article (56) of the Law of Civil Procedures. The Department hereby designates a period of thirty (30) days for the receipt of a copy of this Decision via the official GSTC website. The litigants retain the right to appeal this ruling in accordance with prevailing legal statutes within a thirty (30)-day period commencing on the day subsequent to the designated date of receipt, failing which the Decision shall attain finality and become executory.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Imported Purchases – Late Payment Penalty**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the years 2013 to 2017, concerning the items of "(Withholding Tax)," "(Imported Purchases From Abroad)," and "(Late Payment Penalty)," citing the existence of a genuine technical dispute without justification. Upon presenting the statement of claim to the Defendant, it responded by adhering to its position due to the non-disclosure of these purchases in the customs declaration and their subjection to withholding tax as royalties at a rate of 15%. Consequently, the Plaintiff's objection to the withholding tax is dismissed, and ZATCA's action on the late payment penalty item is amended in accordance with the reasoning of this Decision.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Article \(77.a\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH-](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(68\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Resolution No. \(1030\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First:** Withholding Tax on Imported Electronic Book Purchases:

The Plaintiff stated that ZATCA subjected the differences in foreign purchases, resulting from a comparison between foreign purchases according to the tax return and according to customs declarations for the years ending December 31, 2013, through December 31, 2017, to withholding tax. ZATCA demanded a withholding tax amount of (SAR 1,112,765) from the company, considering the aforementioned comparison result as the use of intellectual property and authorship (royalties). The Plaintiff clarified that the foreign purchases consist of books that the company imports for resale purposes and are supported by invoices and documentary evidence.



### **Item Second: Late Payment Fine:**

The Plaintiff stated that ZATCA calculated and imposed a late payment penalty despite the existence of a genuine technical dispute, asserting that there is no justification for imposing any additional late payment penalty.

### **Defendant (ZATCA) Defenses**

#### **Item: Withholding Tax on Imported Electronic Book Purchases:**

ZATCA stated that the difference in foreign purchases represents amounts for e-books that were recorded as purchases from abroad but did not appear in the customs declaration and are subject to withholding tax as royalties at a rate of 15%.

### **Committee's Response to Defenses.**

#### **Item First: Withholding Tax on Imported Electronic Book Purchases:**

Based on the foregoing, and upon reviewing the documents submitted by the Plaintiff, it did not provide purchase invoices for the electronic books or agreements with non-resident entities clarifying the nature of the purchases and the terms and rights of use for the e-books. These are subject to copyright and the intellectual property of their authors and the entities responsible for their publication and distribution. Due to the failure to provide documentary evidence supporting the validity of its objection, and considering that the right to use scientific books and journals is income derived from a source in the Kingdom for non-resident entities, it is therefore income subject to withholding tax at a rate of 15% as it is paid as a royalty. Accordingly, the Department decided to dismiss the Plaintiff's objection to the withholding tax on imported electronic book purchases.

#### **Item Second: Late Payment Fine:**

Based on the foregoing, it is evident from the aforementioned statutory provisions that the late payment penalty is calculated from the date the tax becomes due on the Taxpayer until the date of payment. However, upon reviewing the case file, it is clear that the outstanding tax due resulted from adjustments to items not governed by clear statutory provisions. The Plaintiff based its tax treatment of the original penalty imposition item on ZATCA's response in frequently asked questions. Therefore, the Department decided not to impose a late payment penalty on the unpaid withholding tax, provided that the penalty is calculated from the date the Taxpayer is notified of the Decision issued in this case.

### **Decision:**

**First:** The Plaintiff's objection to the withholding tax on imported electronic book purchases is dismissed.

**Second:** The Defendant's action regarding the late payment penalty item is amended, in accordance with the reasoning of this Decision.

This Decision was delivered in presence of the parties. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Tax and Penalties – Late Payment Penalty – Tax Evasion Penalty**

**Abstract**

The Taxpayer claims for the annulment of ZATCA's Decision regarding the tax assessment for the year 1432 AH. The Taxpayer's objection centers on three items. Regarding the First item “(Tax and Penalties),” the Taxpayer objects to ZATCA's action, arguing that the discrepancy between the bank deposits and the amount of sales from the field examination is due to the fact that not all bank deposits resulted from sales, and the difference represents fund transfers between the various accounts owned by the Establishment within the Kingdom of Saudi Arabia. It was found that the Taxpayer declared an amount of revenue in its tax returns, but ZATCA conducted a field examination of the Taxpayer's documents, revealing larger figures. Additionally, bank deposits showed amounts exceeding the field examination results. Subsequently, the Taxpayer agreed to the calculation of the tax due based on the revenue figures determined by ZATCA's field examination. Concerning the second item “(Late Payment Penalty),” the Taxpayer objects to the imposition of a late payment penalty and requests its annulment. The Taxpayer is liable for a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay, which includes delays in paying the tax required to be withheld and accelerated payments, calculated from the tax due date to the date of payment. Regarding the third item “(Tax Evasion Penalty),” the Taxpayer objects to ZATCA's action, stating that it submitted the tax returns on time and payment was made accordingly. However, it was found that the Taxpayer provided incorrect information to ZATCA, differing from the documents in its possession. The Department decided to dismiss Plaintiff's objection.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(b\) of Article \(76\), and Paragraph \(a\) and \(b\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(3\) of Article \(57\), Paragraph \(1\) and \(3\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of the Income Tax Law issued by virtue of the Minister of Finance's Resolution No. \(1535\) dated 11/06/1425 AH.](#)



## Parties' Defenses



### Defenses of Plaintiff (Zakat Payer):

**Item First: Tax and Penalties:**

The Plaintiff stated that the discrepancy between the amount of bank deposits and the amount of sales from the field examination is due to the fact that not all bank deposits resulted from sales.

**Item Second: Late Payment Fine:**

The Plaintiff stated that it objects to ZATCA's Decision to impose a late payment penalty on the disputed item.

**Item Third: Tax Evasion Penalty:**

The Plaintiff stated that it objects to ZATCA's Decision, as it submitted the tax returns on time and payment was made accordingly.

### Defendant (ZATCA) Defenses

**Item First: Tax and Penalties:**

ZATCA stated that the Plaintiff provided incorrect revenue data to ZATCA and requested bank account statements from the bank, which revealed a significant difference between the tax bases previously submitted by the Plaintiff in its returns and the volume of bank deposits.

**Item Second: Late Payment Fine:**

ZATCA stated that it imposed the late payment penalty based on Article (77) of the Income Tax Law and Article (68) of the Implementing Regulations of the Income Tax Law.

**Item Third: Tax Evasion Penalty:**

ZATCA stated that it imposed a tax evasion penalty on the Taxpayer as a result of providing incorrect information to ZATCA in its returns, based on Paragraph (b) of Article (77) of the Income Tax Law.

## Committee's Response to Defenses:



**Item First: Tax and Penalties:**

Based on the foregoing, and upon reviewing the documents of the Plaintiff and ZATCA, it is evident that the Plaintiff declared an amount of revenue in its tax returns, then ZATCA conducted a field examination of the Plaintiff's documents, which revealed larger figures. Additionally, bank deposits showed amounts exceeding the field examination results. Subsequently, the Plaintiff agreed to the calculation of the tax due based on the revenue figures determined by ZATCA's field examination. The Plaintiff submitted a set of documents in Excel format (for bank deposits resulting from sales, as well as internal transfers and other sources) in the Gregorian calendar, and provided an analytical statement of bank deposits for all years in the Hijri calendar. However, it only submitted a bank account statement for one month and did not provide all bank account statements for the years under objection to match them with the Excel files and submitted documents. Therefore, the Department concludes to dismiss the Plaintiff's objection to the tax and penalties item for the year 1432 AH.





**Item Second: Late Payment Fine:**

Based on the foregoing, and having reviewed the case file and its contents of arguments and documentary evidence, and considering that the late payment penalty is calculated from the statutory deadline for tax return submission until the date of payment of the tax due, arising from the application of the provisions of the Law and ZATCA's amendments, and given that the dispute between the parties constitutes a documentary matter and does not stem from a substantive divergence in the interpretation of the statutory provisions, the Department upholds the correctness of ZATCA's action in imposing the late payment penalty from the legally prescribed due date. Consequently, the Plaintiff's objection to the late payment penalty item for the year 1432 AH is hereby dismissed.

**Item Third: Tax Evasion Penalty:**

Based on the foregoing, and upon reviewing the documents of the Plaintiff and Defendant, and with reference to Paragraph (b) of Article (77) of the Income Tax Law mentioned above, and considering that the Plaintiff provided incorrect information to ZATCA that differed from the documents in its possession, the Department concludes to dismiss the Plaintiff's objection to the tax evasion penalty item for the year 1432 AH.

**Decision:**

**First:** The Plaintiff's objection to the Tax and Penalties item for the year 1432 AH is dismissed.

**Second:** The Plaintiff's objection to the Late Payment Penalty item for the year 1432 AH is dismissed.

**Third:** The Plaintiff's objection to the Tax Evasion Penalty item for the year 1432 AH is dismissed.

This Decision was delivered in presence of the parties. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Withholding Tax - Objection to Withholding Tax Assessment - Late Payment Fine**

**Abstract**

The Taxpayer seeks the annulment of ZATCA's tax assessment Decision for the year 2011, contesting two specific items. Firstly, concerning "(Withholding Tax)," the Taxpayer objects to the imposed withholding tax on dividend distributions, citing inconsistencies in the application of Hijri and Gregorian dates alongside the Plaintiff's Gregorian fiscal year. Furthermore, the documentation lacks clarity regarding the residency duration necessary for the pro-rata calculation. Secondly, regarding "(Late Payment Penalty)," the Taxpayer contests the imposition of this penalty for the delayed settlement of the tax liability as determined by ZATCA's assessment. Based on the aforementioned, and having reviewed the case file and its constituent arguments and documentation, and considering that the late payment penalty accrues from the expiry of the statutory filing deadline until the date of payment of the tax obligation arising from the application of the prevailing law and ZATCA's regulatory adjustments. The Department decided to dismiss Plaintiff's objection.

**Instruments:**

- [Zakat Law promulgated by Royal Decree No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Article 76 \(b\) and Article 77\(a\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(68\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance Decision No. \(1535\) dated 11/06/1425 AH](#)



## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Withholding Tax:

The Plaintiff stated that it objects to ZATCA's action of imposing withholding tax on dividend distributions, asserting that the Company is resident and the foreign partner is also resident and conducts business in the Kingdom, thus withholding tax does not apply. Furthermore, the distributed profits were not disbursed in cash and were not transferred outside the Kingdom.

#### **Item Second:** Late Payment Fine:

The Plaintiff stated that it objects to ZATCA's action of imposing late payment penalties on the estimated assessment and withholding tax.

### Defendant (ZATCA) Defenses

#### **Item First:** Withholding Tax:

ZATCA stated that during the assessment, it adjusted the return for withholding tax due to distributed profits to the foreign partner during the period. As the Taxpayer did not provide evidence that the conditions for tax residency are met, withholding tax is calculated on the foreign partner's share of the distributed profits at a rate of (5%) based on what is provided in the financial statements in ZATCA's systems. ZATCA based its Decision on Article 63 (1) of the Implementing Regulations of the Income Tax Law.

#### **Item Second:** Late Payment Fine:

ZATCA stated that late payment penalties were imposed on the tax discrepancies due to non-payment within the statutory timeframe. ZATCA stated that late payment penalties were imposed on the tax differences due to non-payment within the statutory period, based on Paragraph (a) and Paragraph (b) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, and based on Article 68 (1) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH.

## Committee's Response to Defenses.

#### **Item First:** Withholding Tax:

Based on the foregoing, it is evident that the dispute lies in ZATCA's imposition of withholding tax on dividend distributions to the foreign partner, considering them non-resident, while the Plaintiff claims to meet the residency requirements. The Plaintiff submitted entry and exit records for (Muqem), but upon review, it is clear that the dates are in Hijri calendar while the Plaintiff's fiscal year is in Gregorian calendar, and the Plaintiff also did not provide clarification on the duration of residency for calculating the number of days. Therefore, the Department concludes to dismiss the Plaintiff's objection regarding the withholding tax item.

#### **Item Second:** Late Payment Fine:

Based on the foregoing, and having reviewed the case file and its constituent arguments and documentation, and considering that the late payment penalty is calculated from the statutory deadline for tax return submission until the date of payment of the tax due, in accordance with the applicable law provisions and ZATCA's regulatory amendments, and given that the dispute between the parties pertains to matters governed by clear statutory stipulations, does not constitute a technical disagreement, nor arise from a substantive divergence in the interpretation of said provisions, the Department upholds the correctness of ZATCA's imposition of the late payment penalty commencing from the legally prescribed due date on the item where the Plaintiff's objection was dismissed.



### Decision:

**First:** Reject the Plaintiff's objection to Withholding Tax.

**Second:** Reject the Plaintiff's objection to the Late Payment Fine.

This Decision was delivered in presence of the parties. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Key words:**

**Income Tax – Objection to Tax Assessment – Assessment Contents – Transfer Pricing Difference – Social Insurance Expenses – Late Payment Fine.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision regarding the 2019 tax assessment. Taxpayer, as for the First Item (Assessment Contents for 2019), objects to ZATCA's action on the grounds that it violated Paragraph (3) of Article (57) of the Implementing Regulations of the Income Tax Law and the company possesses all supporting documents that confirm the accuracy of the tax return. It was found, however, that ZATCA issued the assessment on the due date following discussions with Taxpayer, as evidenced by email correspondence from ZATCA's examiner to the company, in which data was requested and reviewed, and ZATCA also conducted a study of transfer pricing methods. Accordingly, no procedural flaws were identified in the examination or assessment that would compromise the validity of the issued assessment. Taxpayer, as for the second item (Transfer Pricing Difference for 2019), objects to ZATCA's action for several reasons detailed in the Decision's findings. It was established that the Income Tax Law and its Implementing Regulations issued in 2004 granted ZATCA the right—prior to the issuance of the transfer pricing guidelines—to reclassify transactions whose form did not reflect their substance and to present them in their true nature, as well as to reallocate revenue and expenses in transactions between related parties. Regarding the third item (Social Insurance Expenses for 2019), Taxpayer objects to ZATCA's action, explaining that the company erroneously reported the total of its social insurance contributions—including the portion attributable to Saudi employees—as social insurance expenses in the tax return. It is evident that the deductible expense under the Income Tax Law for social insurance contributions is limited to the statutory rates stipulated by the Social Insurance Law and its Implementing Regulations. These rates are calculated based on salaries and wages as reflected in the Social Insurance Certificate, which is considered a key, neutral document used to verify the reasonableness of salaries and wages charged to the accounts. Moreover, Taxpayer, concerning (Late Payment Fine), objects to the imposition of a late payment fine, asserting that the additional tax liability arose from a difference in interpretation rather than tax evasion, and that the fine period should commence only after the completion of the objection procedures. However, the late payment fine is calculated from the end of the due date for submitting the tax return until the date of payment of the tax due arising from the application of the provisions of the Law s and any amendments made by Taxpayer. Therefore, the Department dismisses Taxpayer's objection on merits.



## Instruments:

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(2\) of Article \(9\), Paragraph \(/\), Article \(12\), Paragraph \(b\) of Article \(13\), Paragraph \(a\) of Article \(65\), and Paragraph \(a\) of Article \(77\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)
- [Paragraph \(1\) of Article \(9\), Paragraph \(11\) of Article \(10\), Paragraph \(3\) of Article \(57\), and Paragraph \(1\) of Article \(68\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Article \(17\) of the Transfer Pricing Bylaws issued by Resolution No. \(6-1-19\) issued by ZATCA's Board of Directors dated 25/05/1440 AH, corresponding to 31/01/2019](#)
- [Paragraph \(a\) of Article \(7\) and Paragraph \(2\) of Article \(9\) of the Double Taxation Avoidance Agreement concluded between the Kingdom of Saudi Arabia and the Republic of Korea, signed on 24/03/2007 and effective as of 01/12/2008.](#)

## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Assessment Contents for 2019:

Plaintiff stated that ZATCA violated Paragraph (3) of Article (57) of the Implementing Regulations of the Income Tax Law and the company possesses all supporting documents that confirm the accuracy of the tax return submitted to ZATCA. Plaintiff further claimed that ZATCA failed to examine the submitted data and did not provide convincing reasons for disallowing the items, emphasizing that the burden of proof lies with ZATCA to substantiate its assessment, which it failed to justify with valid reasoning.

#### **Item Second:** Transfer Pricing Difference for 2019:

Plaintiff stated that ZATCA retroactively applied the transfer pricing guidelines, noting that the guidelines were issued on February 15, 2019, while ZATCA applied transfer pricing to the years 2015 to 2019 and reclassified the company as a limited-risk entity, adjusted the company's profitability without substantial justification for disregarding the company's accounts, classified loans as capital injections, and disallowed related interest expenses. Additionally, Plaintiff argued that ZATCA used an incorrect Cost-Plus Net Margin indicator and that its application of the comparability analysis did not reflect the nature of the company's business or functional profile by comparing it with leading companies. Plaintiff also noted the existence of a Double Taxation Avoidance Agreement with the Republic of Korea.

#### **Item Third:** Social Insurance Expenses for 2019:

Plaintiff stated that the company erroneously reported the total of its social insurance contributions—including the portion attributable to Saudi employees—as social insurance expenses in the 2017 tax return, instead of reporting the portion related to Saudi employees under salaries and wages. Therefore, the company did not record any excess social insurance expenses. Furthermore, Plaintiff, for 2019, stated that the company submitted social insurance expenses and attached a screenshot from GOSI's portal.



#### **Fourth Item** Late Payment Fine:

Plaintiff stated that ZATCA imposed a late payment fine resulting from additional tax liability, which arose due to a difference in interpretation rather than tax evasion, and that the fine period should commence only after the completion of the objection procedures.

### **Defendant (ZATCA) Defenses**

#### **Item First:** Assessment Contents for 2019:

ZATCA stated that the assessment was based on the examination and study of Taxpayer's data and documents, and that Taxpayer's claims in their statement of claim are incorrect. ZATCA asserted that these documents were studied, and the items for which ZATCA was not convinced of their validity were rejected, as detailed for each item. Furthermore, ZATCA further stated that its Decision was based on Paragraph (a) of Article (65) and Article (62) of the Income Tax Law issued by Royal Decree No. (M/1) dated: 15/1/1425 AH and Paragraph (3) of Article (57) of the Implementing Regulations of the Income Tax Law issued by the Ministerial Decision No. (1535), dated 11/06/1425 AH.

#### **Item Second:** Transfer Pricing Difference for 2019:

ZATCA reported that it conducted a study and prepared a transfer pricing report for Taxpayer covering the period from 2015 to 2019, following an examination of the transfer pricing arrangements of (...) Company operating in KSA. ZATCA argued that transfer pricing is not a new regulation, as it is provided for under Article (10) of the Implementing Regulations of the Income Tax Law, issued by Ministerial Decision No. (1535), dated 11/06/1425 AH. Therefore, the application of the procedure falls within ZATCA's jurisdiction to adjust the assessment. ZATCA further stated that the company does not control risks and lacks the financial capacity to bear thereof, and that the adjustment of Taxpayer's profitability is a legal measure based on Paragraph (b) of Article (12) of the Transfer Pricing Guidelines. Consequently, the total cost of independent comparable companies, on which the profit margin was applied, was considered to include all costs, given that the comparable companies bear similar costs to those incurred by Taxpayer, such as subcontractor and third-party costs—and thus are entitled to obtain the same profit margin. Moreover, ZATCA applied the average in determining the transfer pricing policy as the most appropriate approach, unless Taxpayer proves otherwise under specific circumstances. Considering the company's negative financial position and accumulated losses exceeding SAR 2.4 billion, ZATCA argued that a third party would not provide financing under such conditions. Therefore, the shareholder loan should not be treated as a loan but must be reclassified as a capital injection.

#### **Item Third:** Social Insurance Expenses for 2019:

ZATCA noted that, during the assessment, it compared the social insurance expenses reported in Taxpayer's return with those shown in the Social Insurance Certificate submitted by Taxpayer, and added the differences to 2017 net profit. As for 2019, Taxpayer submitted screenshots from its account with GOSI, except for March and December 2019. Instead, Taxpayer submitted a duplicate screenshot for April 2019 and a screenshot for December 2018. Accordingly, the documentation submitted for those two months was not approved due to incomplete documentation. Taxpayer also submitted the Social Insurance Certificate for 2019; however, the amounts recorded therein were not clearly indicated.

#### **Fourth Item** Late Payment Fine:

ZATCA argued that the late payment fines were imposed on the unpaid tax due, as the tax was imposed pursuant to clear provisions contained in the Tax Law and its Implementing Regulations.





## Committee's Response to Defenses.

### **Item First:** Assessment Contents for 2019:

Based on the foregoing and after reviewing the case file and the defenses and documents contained therein, no violation by ZATCA of the regulatory provisions related to the examination and assessment was evident. It was established that ZATCA issued the assessment on the due date following discussions with Taxpayer, as evidenced by email correspondence from ZATCA's examiner to the company, in which data was requested and reviewed, and ZATCA also conducted a study of transfer pricing methods. Accordingly, no procedural flaws were identified in the examination or assessment that would compromise the validity of the issued assessment. Accordingly, the Department satisfies to dismiss Plaintiff's objection concerning the assessment contents for 2019.

### **Item Second:** Transfer Pricing Difference for 2019:

It was established, upon reviewing the documents submitted by Plaintiff, that Plaintiff did not provide the financial statements, nor did they submit a contract summary detailing their revenues. Furthermore, they did not submit the local or master transfer pricing file stipulated in Article (17) of the Transfer Pricing Guidelines. The local file should include detailed information on all transactions with related parties, the organizational structure, a detailed description of Taxpayer's business, the most appropriate pricing method, a complete and comprehensive analysis of the sector in which the business operates, and other relevant data. It is noted that one of the conditions for the acceptance of expenses is that they are actual expenses supported by documentary evidence or other proof that enables ZATCA to verify their validity, and considering that expenses may not be deducted according to Paragraph (b) of Article (13) of the Income Tax Law if the conditions of transactions between independent parties for properties or services are not met. Furthermore, according to the Transfer Pricing Guidelines applicable in the Kingdom, if the terms or outcomes of transactions between related parties differ from those of comparable transactions between independent parties, ZATCA may reallocate or disregard the results of the transactions between related parties to reflect what would have resulted from comparable transactions between independent parties. ZATCA is responsible for applying and interpreting these guidelines and determining whether the transactions between related parties comply with the arm's length principle in accordance with the provisions of the Transfer Pricing Guidelines. ZATCA may request the necessary information and data to examine the transactions, and Taxpayer must retain sufficient documentation, including economic information and analyses, to prove that their intercompany transactions are in line with the arm's length principle. This documentation must be available for review by ZATCA upon request. One of the most important conditions Taxpayer must meet to apply a specific method for transfer pricing is to ensure the availability of reliable information necessary to apply the chosen transfer pricing method. Since Plaintiff failed to provide any supporting documents to verify the accuracy of their returns, Taxpayer's objections are deemed to be unsubstantiated assertions lacking any legally recognized evidence. Accordingly, the Department resolves to dismiss Plaintiff's objection concerning the transfer pricing difference for 2019.

### **Item Third:** Social Insurance Expenses for 2019:

It is clear that the deductible expense under the Income Tax Law for social insurance contributions is limited to the statutory limits as prescribed by the Social Insurance Law and its Implementing Regulations. These rates are calculated based on salaries and wages as shown on the Social Insurance Certificate, which is considered a key, neutral document used to verify the reasonableness of salaries and wages charged to the accounts. Given that Plaintiff did not provide any explanation for the discrepancies between the social insurance amounts stated in the Social Insurance Certificate and those reported in the tax return, the Department resolves to dismiss Plaintiff's objection regarding the social insurance expenses for 2019.



#### **Fourth Item Late Payment Fine:**

Based on the foregoing, and after reviewing the case file and the defenses and documents contained therein, it is established that the late payment fine is calculated from the date the tax return was due until the date the outstanding tax was paid, as per law provisions and any subsequent amendments made by Defendant and given that the dispute between both parties is documentary in nature and does not arise from any substantial difference in the interpretation of the regulatory provisions. Therefore, the Department concluded to dismiss Plaintiff's objection concerning the late payment fine.

#### **Decision:**

**First:** Dismiss Plaintiff's objection regarding (Assessment Contents for 2019) item.

**Second:** Dismiss Plaintiff's objection regarding (Transfer Pricing Difference for 2019) item.

**Third:** Dismiss Plaintiff's objection concerning (Social Insurance Expenses for 2019) item.

**Fourth:** Reject the Plaintiff's objection to the Late Payment Fine.

This Decision was delivered in presence of the parties. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and Disputes  
First Department for Determination of Income Tax Violations  
and Disputes In Jeddah

Decision No.: IZJ-2022-2053  
Case No.: IW-19088-2020

**Key words:**

**Income Tax – Objection to Tax Assessment – Withholding Tax – Late Payment Fine – Fine for Failure to File the Return.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision regarding the tax assessment for the period 2014-2017. Whereas, Taxpayer, regarding (Late Payment Fine)Item, objects to the imposition of such fine on the contested items, where the Department established that Taxpayer was unable to pay the tax difference due under the estimated assessment until ZATCA issued the assessment under objection. As for the Fine for Failure to File the Return, Taxpayer objects to its imposition, and it was noted by the Department that Defendant did not clarify the reason for such imposition. Consequently, the Department ruled to amend Defendant's action regarding the late payment fine, accept Taxpayer's objection concerning the fine for failure to file the return, and dismiss Taxpayer's objection for the remaining items.

**Instruments:**

- [Zakat Law promulgated by Royal Order No. \(577/28/17\) dated 14/03/1376 AH](#)
- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Paragraph \(c\) of Articles \(63\) and Paragraph \(a\) of Article \(77\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH.](#)
- [Paragraph \(3/b\) of Article \(16\), Paragraph \(3\) of Article \(57\), Paragraph \(1\) of Article \(63\), Paragraph \(3\) of Article \(67\), Paragraph \(1\) of Article \(68\), and Paragraph \(2\) of Article \(71\) of the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH](#)
- [Implementing Regulations for the Collection of Zakat issued by Minister of Finance's Decision No. \(2082\) dated 01/06/1438 AH.](#)



## Parties' Defenses

### The Plaintiff's Defenses

**Item First:** Income Tax for 2014-2017:

Plaintiff mentioned that ZATCA based its assessment on Paragraph (4) of Article (16) of the Implementing Regulations of the Income Tax Law, which applies to taxpayers who do not maintain accounting books and records in KSA—unlike the company's branch, which maintains proper accounting books and submits audited financial statements. Furthermore, Plaintiff argued that ZATCA's basis for calculating the branch's profits was the estimated profit method, which contradicts the approach previously agreed upon with ZATCA. Moreover, ZATCA did not notify the branch of its Decision to change the previously agreed-upon profit calculation method. Plaintiff also pointed out that ZATCA's memorandum did not include any comments on the transfer pricing method adopted by the branch, nor did it present any technical counterarguments in this regard, despite the fact that the case in question pertains to transfer pricing based on the branch's transactions with related parties.

**Item Second:** Withholding Tax for 2014-2017:

Plaintiff stated that ZATCA imposed a withholding tax on estimated dividends, as they do not agree on the existence of additional profits recognized by the company that generate dividends subject to withholding tax. Plaintiff emphasized that no actual dividends were distributed to the head office and based its position on Paragraph (a) of Article (68) of the Income Tax Law.

**Item Third:** Late Payment Fine:

Plaintiff stated that it objects to the imposition of a fine on the tax differences, asserting that the matter stems from a difference in viewpoints between ZATCA and the branch, with several appellate Decisions having been issued in this regard.

**Fourth Item** Fine for Failure to File the Return for 2017:

Plaintiff stated that it objects to the imposition of a fine for failure to file the tax return for 2017.

### Defendant (ZATCA) Defenses

**Item First:** Income Tax for 2014-2017:

ZATCA stated that the Taxpayer disclosed in their tax return and audited financial statements revenues calculated using the cost-plus method with an estimated profit margin of 5%. However, during the field inspection, it was found that the branch had entered into contracts with entities within the Kingdom independently, revealing that Plaintiff had not reported the relevant revenues in their accounting records. Consequently, ZATCA assessed Taxpayer on an estimated basis, calculating estimated revenues at 40% of costs, and applying an estimated profit margin of 40% on those revenues, based on Article (16) and Paragraph (4) of Article (57) of the Implementing Regulations of the Income Tax Law. Upon reviewing the financial statements and their notes (2-9), it was also found that the branch allocates revenue costs to the head office, as stipulated in the following: 2-9 Revenues: The branch allocates all revenue costs, along with general and administrative expenses, to the head office with a margin of 5%, in accordance with the agreement between the branch and the head office. Furthermore, ZATCA, upon reviewing the documents submitted by Plaintiff, noted that the branch had independently entered into three contracts with local entities under its own commercial registration, as follows: 1. (...) Company with a total value of SAR (73,350,000). 2. (...) Company Ltd., with a total value of SAR (1,676,688). 3. (...) Company Ltd., with a total value of SAR (26,313,804). In light of the above, and since the revenues disclosed in the financial statements and returns submitted by Plaintiff do not reflect the true revenues derived from the contracts concluded by Plaintiff with local entities in the Kingdom.



**Item Second:** Withholding Tax for 2014-2017:

ZATCA stated that the branch's revenues were estimated based on Paragraph (a) of Article (68) of the Income Tax Law, in addition to Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law. ZATCA further explained that withholding tax, according to the aforementioned articles, is linked to the payment process and its equivalents, such as set-offs or account reconciliations. Consequently, these profits are considered income generated from a source in the Kingdom and are classified as dividends subject to a 5% withholding tax. ZATCA further supported its action with Appellate Decision No. (1919) of 1439 AH, and accordingly, it maintains the correctness and validity of its action.

**Item Third:** Late Payment Fine:

ZATCA noted that a late payment fine was imposed on the unpaid tax difference, as the tax was levied based on clear provisions in the Income Tax Law and its Implementing Regulations, specifically Paragraph (a) of Article (77) of the Income Tax Law.

### Committee's Response to Defenses.



**Item First:** Income Tax for 2014-2017:

It is evident, upon reviewing the documents attached to the case file, that ZATCA stated that there were independent contracts between the branch and entities within the Kingdom that were not disclosed in the financial statements, specifically with (...) Company, and (...) Company Ltd., and (...) Company Ltd., indicating that the revenues reported in the financial statements do not reflect the actual revenues based on the contracts entered into by Plaintiff with local entities. Moreover, Plaintiff did not submit the financial statements, nor the agreement between the branch and the head office, nor any evidence proving that its financial statements are based on official and reliable accounting records that can be relied upon in calculating its tax base. Plaintiff's claim regarding the application of transfer pricing rules does not affect this conclusion, since the branch failed to disclose the independent contracts with local parties. Accordingly, the Department concludes to dismiss Plaintiff's objection regarding the income tax assessment for the period 2014-2017.

**Item Second:** Withholding Tax for 2014-2017:

Based on the foregoing, it is clear from the statutory provisions that the imposition of withholding tax is linked to the payment process and its equivalents, such as account reconciliations or set-offs. Since ZATCA imposed the withholding tax on estimated dividends resulting from assessing Plaintiff with a 40% profit margin instead of the declared margin of 5%, and considering the impossibility of tracing the movement of profits resulting from this estimated assessment, such as verifying the retained earnings balance, due to the absence of financial statements that can be relied upon—The department therefore concludes to dismiss Plaintiff's objection regarding the withholding tax assessment for the period 2014-2017.

**Item Third:** Late Payment Fine:

Based on the foregoing, and upon reviewing the relevant statutory provisions, it is evident that the late payment fine is calculated from the date the tax becomes due on Taxpayer. However, in cases where the tax is due based on an estimated assessment, the calculation of the late payment fine should commence from the date ZATCA notifies taxpayer of the tax assessment. In this instance, Plaintiff cannot afford to pay the tax difference resulting from the estimated assessment until ZATCA issues the assessment in question. Accordingly, the Department ruled to amend Defendant's Decision by calculating the late payment fine starting from the date of notification of the estimated tax assessment.



**Fourth Item** Fine for Failure to File the Return for 2017:

It appears, upon reviewing the case file, that Plaintiff's objection submitted to ZATCA included this fine, which was imposed on the company for 2017 under the assessment. Plaintiff argued in their statement of objection presented to ZATCA that the tax return was submitted on the due date. The Department, since ZATCA's memorandum of reply did not address this point, considers that the burden of proof rests with ZATCA, as it was the entity that issued the assessment and included this fine. Given ZATCA failed to clarify the reason for imposing this fine, the Department satisfies to accept Plaintiff's objection regarding the fine for failure to file the return for 2017.

**Decision:**

**First:** Dismiss Plaintiff's objection regarding (Income Tax for 2014-2017) item.

**Second:** Dismiss Plaintiff's objection regarding (Withholding Tax for 2014-2017) item.

**Third:** Amend Defendant's Decision on (Late Payment Fine) item as to conclusion reached in this Decision.

Fourth: Accept Plaintiff's objection to (Fine for Failure to File the Return for 2017) item.

This Decision was delivered in presence of the parties. The Department set (30) days for receiving a copy of the Decision via the website of the General Secretariat of Zakat, Tax and Customs Committees. Either party to the Case may appeal against the Decision within thirty (30) days from the day following the date set for receipt of the Decision, whereafter, the Decision shall be final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-278  
Case No.: IW-25154-2020

**Key words:**

**Income Tax – Objection to Tax Assessment – Salary and Wage Differences – Withholding Tax Charged on Non-Resident Companies – Withholding Tax on Amounts Related to Services Provided by Non-Resident Companies – Late Payment Fine.**

**Abstract**

Appellant (Taxpayer) filed this case to reverse the Primary Decision No. (ISZR-2020-91), regarding Tax Assessment of 2009 and 2010, as Taxpayer's appeal included the following: 1. (salary and wage differences of 2009 and 2010) Item, which includes objection to the primary Decision regarding the same, as Taxpayer claims that these expenses must be deducted, as they are documented and necessary to carry out the activity that generates taxable income. The Department found that these wages were paid to labor who were not registered with General Organization for Social Insurance ("GOSI"). The Department also found that expenses that Taxpayer may deduct from its Tax Base are expenses incurred and supported by documents, and that labor registration in GOSI is not a requirement for accepting the deduction of salary and wage expenses. Taxpayer submitted documents supporting its claim regarding the amounts in question; 2. (withholding tax charged on non-resident companies by 15%) Item, which includes objection to the primary Decision regarding the same, as Taxpayer claims that services provided by ..... Company (Egyptian) represent, according to the contract, the provision of software to Taxpayer for reselling thereof to its customers and does not include any services, hence, they are not subject to withholding tax due to the lack of a source of income. As for services provided by ..... Company (Egyptian), they represent the sale of Internet services that are classified as international telecommunication services, and this type of service is subject to a withholding tax of only (5%), not (15%). The Department found that amounts received by non-resident parties are in exchange for software sales to customers rather than marketing services, and since the contract did not clarify that these amounts paid are in exchange for using property rights, they are not considered royalties subject to withholding tax; 3. (withholding tax on amounts related to services provided by non-resident companies by 5%) Item, which includes objection to the primary Decision regarding the same, as Taxpayer claims that the primary Decision was mistaken regarding the tax charged on Taxpayer pursuant to ZATCA's Assessment, deciding the payment of tax as a resolution of the dispute. The Department found that Taxpayer's appeal relates to the amount that accepted before the Primary Department, and that Taxpayer's acceptance of that amount resolved the dispute; and 4. (late payment fine) Item, which includes objection to the Primary Department's Decision regarding the same, as Taxpayer claims that the fine, in the event of a genuine dispute, is only imposed from the date of issuance of the final Decision. The Department found that the primary Decision regarding the late payment fine is related to items dismissed by the Primary Department, which are (salary and wage differences of 2009 and 2010) and (withholding tax charged on non-resident companies by 15%); and since this Department accepted these two items, the associated fine is dismissed accordingly. The Department decided to accept Taxpayer's appeal on items (salary and wage differences of 2009 and 2010),





(withholding tax charged on non-resident companies by 15%), and (late payment fine) and remand the case on item (withholding tax on amounts related to services provided by non-resident companies by 5%).

### Instruments:

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

### Parties' Defenses

#### Defenses of Appellant (Zakat Payer)

##### **Item First:** Salary and Wage Differences:

Taxpayer argued that these differences represent incidental salaries related to employees contracted during their probation period and are recorded under a separate item until the end of the probation period and the formal approval of their appointment. It is worth noting that the company's business activity is service-based and relies primarily on human capital, which necessitates the recruitment of certain employees. Accordingly, skilled and trained labor must be available, and a probation period is set to ensure the employee's readiness. These salaries are thus classified as incidental salaries. Furthermore, the employment contracts of these individuals explicitly state that they will be under a probationary period. In addition, the company's accounts and records are audited by a certified auditor licensed to practice in the Kingdom, who did not raise any reservations regarding these salaries. The Committee, however, stated that the salary differences represent commissions and bonuses, which is factually incorrect, as these differences pertain to salaries rather than bonuses or commissions, indicating that the Adjudicating Body did not properly understand the nature of the expense before issuing its Decision. As for the certified accountant's statement, a certificate of salaries and wages was submitted to ZATCA by a certified accountant in accordance with the request and based on the financial statements. However, incidental salaries were not included in that certificate because they are classified under a separate account, distinct from the salaries and wages account.

##### **Item Second:** Withholding Tax Charged on Non-Resident Companies:

Taxpayer argued that the services provided by the Egyptian (A) Company represent, according to the contract, the provision of software needed by Appellant for resale to its clients and do not include any services, hence, they are not subject to withholding tax due to the lack of a source of income. As for the services provided by the Egyptian (B) Company, they represent the sale of Internet services that are classified as international telecommunication services, and this type of service is subject to a withholding tax of only (5%), not (15%).

##### **Item Third:** Withholding Tax on Amounts Related to Services Provided by Non-Resident Companies:

Taxpayer argued that there was an error in the Adjudicating Body's Decision regarding the tax amount calculated based on ZATCA's assessment, which the company had agreed to pay in order to resolve the dispute. The Decision stated that the tax amount was SAR (135,715), whereas the amount reflected in ZATCA's assessment—and approved by the company—was SAR (13,256). Accordingly, the company requests that the approved tax amount be corrected to SAR (13,256) only.



### Arguments of the respondent (ZATCA)

#### **Item First:** Salary and Wage Differences:

ZATCA countered by stating that the differences were not approved because they represent salaries for employees who are not under the Taxpayer's sponsorship and due to Taxpayer's failure to provide supporting documentary evidence, based on Article (12) of the Income Tax Law, as well as Articles (10) and (9) of its Implementing Regulations.

#### **Item Second:** Withholding Tax Charged on Non-Resident Companies:

ZATCA argued that it applied a 15% withholding tax rate because the amounts were paid to an associated company, in accordance with Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law. It also stated that amounts due among associated companies do not require the customary payment method, as they are settled through accounting entries and do not necessitate actual cash payment. Furthermore, ZATCA noted that Taxpayer's contracts did not clearly indicate that the transactions were for international telecommunication services or purchases, but rather appeared to be contracts for the use of software, as governed by the terms of those contracts. Accordingly, the objection was rejected based on Articles (2) and (68) of the Income Tax Law, Paragraph (a) of Article (5) of the same Law, and Article (63) of its Implementing Regulations.

#### **Item Third:** Withholding Tax on Amounts Related to Services Provided by Non-Resident Companies:

ZATCA argued that Taxpayer, before the Adjudicating Body, acknowledged and accepted ZATCA's action regarding this item, relying on Article (108) of the Law of Civil Procedures.

### Committee's Response to Defenses.

#### **Item First:** Salary and Wage Differences:

The Department finds that the core of the dispute lies in the non-deduction of salaries and wages paid to employees who are not under Taxpayer's sponsorship and the failure to provide certificates issued by GOSI. It is evident, upon examining the documents submitted in the case file, that wages were paid to employees who were not registered with GOSI. since expenses that Taxpayer may deduct from its Tax Base are expenses incurred and supported by documents; and since labor registration in GOSI is not a requirement for accepting the deduction of salary and wage expenses; and since Taxpayer has submitted documents supporting its claim regarding the amounts in question; Therefore, the Department satisfies to accept Taxpayer's appeal and reverse the appealed Decision for the stated grounds.

#### **Item Second:** Withholding Tax Charged on Non-Resident Companies:

The Department found that the Primary Department decided to impose a withholding tax on the amounts in question for paying thereof to related parties without clarification of the type of transaction that took place between parties or whether it was among services on which the withholding tax is imposed; and by reviewing the grounds of the primary Decision, which upheld ZATCA's procedure on the grounds that the non-resident (A) party had obtained those amounts from the resident party in exchange for providing marketing services of software; and by reviewing the terms of the agreement concluded between parties, the Department found that Taxpayer is responsible for providing marketing services, and the amounts received by the non-resident party are in exchange for software sales to customers, not for marketing services; and since the agreement did not clarify that these amounts are paid in exchange for the use of property rights, therefore, they are not considered a type of royalty subject to withholding tax, hence, the correct classification of this transaction is to consider thereof as a supply of goods and does not entail an obligation on Taxpayer to deduct withholding tax rate upon transferring funds to a non-resident party. This classification is well-known to ZATCA, as it was stated in ZATCA's FAQs (Question No. 82) related to the purchase of computer software from abroad,



which ZATCA confirmed in its answer that such purchase is not subject to withholding tax. Based on the foregoing, the Department satisfies to accept Taxpayer's appeal and reverse the primary Decision delivered in this regard.

With regard to transactions with (B) Company, the Department found that services provided by the non-resident company are related to Internet services; and since ZATCA's Decision to subject the amounts in question was based on the consideration that the transaction was conducted with an unrelated party, without clarification of the type of transaction that took place between parties; and since the disputed transaction was regulated by Income Tax Law and its Implementing Regulations prior amendment that imposed a rate of (15%) on the amounts transferred to related parties, which was calculated based on a rate of (5%); and since the amendments made to the Implementing Regulations of Income Tax Law were after the payment as well as the date of the Assessment on Taxpayer; and since the tax provisions are not applied retroactively; therefore, this Department satisfies that Taxpayer has the right to calculate a rate of (5%) on the amounts transferred to .... Company. Accordingly, the Department decided to accept Taxpayer's appeal and reverse the primary Decision delivered in this regard.

**Item Third:** Withholding Tax on Amounts Related to Services Provided by Non-Resident Companies:

The Department found that Taxpayer's appeal lies in the amount related to the non-resident company, which the primary Decision confirmed Taxpayer's agreement with ZATCA's view; and since Taxpayer's appeal was based on the fact that the amount approved by Taxpayer according to ZATCA's Assessment was SAR (13,256) and not the amount contained in the primary Decision, which is SAR (135,715), which Taxpayer requested to be amended; and since Taxpayer's appeal lies in the amount accepted by the Primary Department; and since Taxpayer's approval resolved the dispute; and since the Department found that the amount contained in the Assessment is SAR (13,256); Therefore, the Department decided to remand the case on item in question for consideration by the Primary Department to determine the correct amount that Taxpayer agreed to pay.



### Decision:

**First:** Accept in form the appeal filed by Taxpayer/ ..... Company, CR No. (...), TIN No. (...), against Decision No. (ISZR-2020-91) delivered by the Second Department for the Determination of Income Tax Violations and Disputes in Riyadh issued in Case No. (IW-1895-2018), in connection with Tax Assessment of 2009 and 2010.

**Second: On Merits:**

1. Accept the appeal filed by Taxpayer regarding the item (Late payment fine), and overturn the decision taken by the second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds mentioned therein.
2. Regarding the item (Withholding tax imposed on nonresident companies at a 15% rate):
  - a. Accept the appeal filed by Taxpayer regarding transactions with (...) Company , and overturn the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds mentioned therein.
  - b. Accept the appeal filed by Taxpayer regarding transactions with (...) Company , and overturn the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds mentioned therein.
  - c. Accept the appeal filed by Taxpayer regarding the item (Withholding tax imposed on nonresident companies at a 15% rate), and cancel the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds mentioned therein.
  - d. Accept the appeal filed by Taxpayer regarding the item (Late payment fine), and overturn the Decision taken by the second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the grounds mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-283  
Case No.: I-29439-2020

**Key words:**

**Income Tax – Objection to Tax Assessment – Capital Gains Tax – Late Payment and Concealment Fine.**

**Abstract**

Appellant (Taxpayer) filed this case to overturn Objections Committee Decision No (2/5), regarding the tax assessment for 2003. Taxpayer's appeal centers specifically on challenging the Primary Objection Committee's Decision on the capital gains tax. Taxpayer argues that no tax should be imposed on exit as a loss was incurred from the sale. The Committee has found that there was no profit from the sale based on the agreed-upon amount. As for the item (Late payment and concealment fine, the Taxpayer's appeal centers specifically on challenging the Primary Objections Committee's Decision regarding this item. The Taxpayer claims that ZATCA had all necessary information before the assessment was made. Additionally, the taxpayer argues that there is a technical disagreement that does not justify imposing a late payment fine, as it was not proven that the Taxpayer concealed any information that would have affected the imposed tax amount. Therefore, the Department ruled to accept the Taxpayer's appeal regarding all items, subject matter of the case.

**Instruments:**

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defense**

**Defenses of Appellant (Zakat Payer)**

**Item First:** Capital Gains Tax:

Taxpayer argued that the capital gains were calculated upon the exit of the foreign partner without taking into account whether a loss had occurred. Taxpayer also requested that no tax be imposed on the exit transaction, as a loss was realized from the sale.

**Item Second:** Late Payment and Concealment Fine:

Taxpayer argued that there was no justification for imposing the fine, claiming that ZATCA had all necessary information before the assessment was made. Additionally, the matter involves a technical disagreement that does not justify imposing a late payment fine.



## Committee's Response to Defenses.



### **Item First:** Capital Gains Tax:

The Department found that the dispute lies in calculation of capital gains resulting from the exit of the foreign partner, as Taxpayer requests not to calculate an income tax on exit, due to the loss incurred from the sale, and that sale amount is less than the amount calculated by ZATCA; and by reviewing the documents submitted by Taxpayer, including the Articles of Association, the audited financial statements for the specified period, and the sale agreement, which shows that the total amount transferred for the sale of shares amounted to (USD 6,194,022), equivalent to (SAR 23,227,583); and upon comparing the book value with paid amounts; and whereas the Department did not find any profits from the sale as per the agreed-upon amount, therefore, it satisfies that ZATCA has no right to impose income tax on amounts in question. Accordingly, the Department, by majority vote, decided to accept Taxpayer's appeal and reverse the Decision of the First Primary Committee for Zakat and Tax in Jeddah.

### **Item Second:** Late Payment and Concealment Fine:

Since it has not been proven before this Department that Taxpayer concealed any information that would affect the amount of tax imposed on it; and since the Department has accepted Taxpayer's appeal regarding capital gains; and since the disputed fine is linked to that item, it shall be nullified when its basis is voided, therefore, this Department decides to accept Taxpayer's appeal and overturn the Decision of the Primary Committee for Zakat and Tax Committee in Jeddah in this matter.

## Decision:

**First:** Accept the appeal filed by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form against Decision No. (2/5) taken by the First Primary Committee for Zakat and Tax Objections in Jeddah of 1434 AH related to tax assessment for 2003 AD.

### **Second: On Merits:**

1. Accept the appeal filed by the Taxpayer regarding the item (Capital gains tax), and overturn the Decision of the First Primary Committee for Zakat and Tax Objections in Jeddah, in accordance with the grounds mentioned therein.
2. Accept the appeal filed by the Taxpayer regarding the item (Late Payment and Concealment Fine), and overturn the Decision of the First Primary Committee for Zakat and Tax Objections in Jeddah, in accordance with the grounds mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-284  
Case No.: I-30704-2020

**Key words:**

**Income Tax – Objection to Tax Assessment – Five-Year Statute of Limitations – Depreciation Differences - Inclusion of Proprietor's Salary - Bank Deposit Differences - Carried-Forward Losses.**

**Abstract**

Appellant (Taxpayer) filed this case to overturn Objections Committee Decision No (IFR-2020-76), regarding the tax assessment for the period 2007-2015. Taxpayer's appeal focuses on the following items: 1. (Five-Year Statute of Limitations (for the period 2007-2011), where Taxpayer appeals the Adjudicating Body's ruling on this point, asserting that ZATCA did not establish any evidence of tax evasion. Since the Department finds that Taxpayer's appeal did not involve a case of tax evasion, it concludes that ZATCA is not entitled to conduct an assessment for the period 2007-2011. 2. (Depreciation Differences for Fixed Assets for the period 2012-2015): Taxpayer appeals the ruling of the Adjudicating Body, claiming that depreciation was calculated based on Schedule No. (4). The Department finds that ZATCA did not provide sufficient evidence to prove Taxpayer's depreciation calculations were inconsistent with the applicable regulations. 3. (Proprietor's Salary for the period 2012-2015): Taxpayer objects to the Adjudicating Body's Decision, arguing that the partner's salary is akin to an employee's salary, deductible from the Zakat base as an allowable expense. However, the Department notes that Paragraph (b) of Article (13) of the Income Tax Law stipulates that "No deduction is allowed for the following: b. Any amounts paid or benefits offered to a shareholder, partner, or any of their relatives which constitute salaries, wages, awards, or the like". 4. (Bank Deposit Differences for the period 2012-2015): Taxpayer appeals the Adjudicating Body's Decision regarding this item, asserting that the deposit differences resulted from certain rejected transfers that were returned to the account. The differences were reconciled in the financial statements approved by the certified accountant. The Department found that ZATCA did not provide evidence proving that the disputed amounts represented undeclared revenue. 5. (Losses Subject to 25% Deduction for 2012): Taxpayer's appeal lies in objecting to the Adjudicating Body's ruling, claiming that the losses had been audited and approved by the certified accountant in the financial statements, and that the differences had been reconciled in the approved financial records. Since the Department accepted Taxpayer's appeal regarding the bank deposit differences but rejected the appeal related to the proprietor's salary for 2012, it concludes that the loss amount for 2012, to which the 25% limitation applies, is the adjusted amount determined by ZATCA following Taxpayer's appeals concerning both the bank deposit differences and the proprietor's salary. As such, the Department ruled to reject the Taxpayer's appeal regarding the item (Business owner's salary for the period 2012-2015), and accept the remaining items.





## Instruments:

- [Article \(13/B\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH-](#)

## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

**Item First:** Five-Year Statute of Limitations for the period 2007-2011:

Taxpayer argued that ZATCA did not provide any evidence that the return was filed with the intent of tax evasion and further stated that returns were filed for all relevant years, and no such intention existed. Furthermore, the accounts are unrelated to the return's accuracy, and any filing or accounting error does not reflect actual revenue. Therefore, ZATCA is not entitled to conduct assessment after the lapse of five years.

**Item Second:** Inclusion of Proprietor's Salary:

Taxpayer argued that, according to GOSI Certificate, the partner's salary is akin to an employee's salary and is therefore deductible under the salaries and wages category in Taxpayer's return.

**Item Third:** Bank Deposit Differences:

Taxpayer argued that some of the transfers had been rejected and that the resulting differences were reconciled in the financial statements approved by the certified accountant.

**Fourth Item** Carried Forward Losses Capped at 25%:

Taxpayer argued that there were losses which had been audited and approved by the certified accountant in the financial statements.

### Arguments of the respondent (ZATCA)

**Item First:** Five-Year Statute of Limitations for the period 2007-2011:

ZATCA maintained its position as detailed in its memorandum, asserting that its Decision was consistent with the provisions of Article (65) of the Income Tax Law.

**Item Second:** Inclusion of Proprietor's Salary:

ZATCA maintained its position as detailed in its memorandum, asserting that its Decision was consistent with the provisions of Article (13) of the Income Tax Law.

**Item Third:** Bank Deposit Differences:

ZATCA maintained its position as detailed in its memorandum, asserting that its Decision was consistent with the provisions of Paragraph (3) of Article (57) of the Implementing Regulations of the Income Tax Law.

**Fourth Item** Carried Forward Losses Capped at 25%:

ZATCA maintained its position as detailed in its memorandum, asserting that its Decision was consistent with the provisions of Paragraph (1) of Article (11) of the Implementing Regulations of the Income Tax Law.



## Committee's Response to Defenses.



### **Item First:** Five-Year Statute of Limitations for the period 2007-2011:

The tax returns for the period 2007-2011 were governed by the provisions of the Tax Law and its Implementing Regulations which organize the process and procedure for amending the assessment. Article (65/A) explicitly states: "The Department may, with a reasoned notification, make or amend a tax assessment within five years of the deadline specified for filing the tax declaration for the taxable year". Stability of legal and financial positions is a fundamental goal affirmed by the law by stipulating that ZATCA shall not exceed the five-year period to reopen the assessment except in the case of tax evasion, and also in such case ZATCA shall not exceed ten years to exercise its right to reopen the assessment. Since, reopening the assessment without relying on what the regulator has stipulated as previously stated, does not achieve the goal of stabilizing the financial and legal positions of Taxpayers, and given that the subject of the Taxpayer's appeal does not involve a case of tax evasion, this Department concludes that ZATCA is not entitled to conduct an assessment for the period (2007-2011). As such, this Department decides to accept Taxpayer's appeal on all items appealed by the Taxpayer for the period (2007-2011).

### **Item Second:** Inclusion of Proprietor's Salary:

Article (13.b) of the Income Tax Law states: "No deduction is allowed for the following: (b) Any amounts paid or benefits offered to a shareholder, partner, or any of their relatives which constitute salaries, wages, awards, or the like". This Department therefore decides to reject the Taxpayer's appeal and uphold the primary Decision in this regard.

### **Item Third:** Bank Deposit Differences:

Considering that Taxpayer keeps its accounts according to audited financial statements, and therefore bank deposits do not always represent the opposite side of revenue, and given that revenue is recognized according to the accrual basis of accounting and is not directly linked to cash collection at the time of sale in all cases, and considering that bank accounts include multiple transactions and are not limited to cash sales, And, upon reviewing the attached documents, it was found that the Taxpayer submitted a bank statement showing returned checks as well as issued and refunded foreign transfers. Therefore, it is not possible to accept all deposits as income without verification. Furthermore, ZATCA has not provided any evidence to prove that the disputed amounts are undeclared income, and since ZATCA has not proven its claim in this regard, this Department therefore decides to accept the Taxpayer's appeal and overturn the primary Decision in this matter.

### **Fourth Item** Carried Forward Losses Capped at 25%:

Since this Department has accepted Taxpayer's appeal regarding the bank deposits item and rejected the appeal regarding proprietor's salary for 2012, the amount of losses for 2012 on which the 25% rate is applied is the amount adjusted by ZATCA's Decision on Taxpayer's appeal regarding both the bank deposits item and proprietor's salary item. Therefore, this Department decides to amend the primary Decision by determining that Taxpayer is entitled to deduct 25% of 2012 losses after adjusting these losses based on the Department's Decision regarding the bank deposits and proprietor's salary items.



### Decision:

**First:** Accept in form the appeal filed by Taxpayer/ Enterprise/Factory ..., CR No. (...), TIN No.(...), against Decision No. (IFR-2020-76) delivered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh issued in Case No. (I-7731-2019), in connection with Tax Assessment for the period 2007-2015.

### Second: On Merits:

1. Accept the Taxpayer's appeal regarding the item (prescription for the period 2007-2011), and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the reasons and grounds stated in this Decision.
2. Accept the Taxpayer's appeal regarding all appealed items for the period (2007-2011), and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the reasons and grounds stated in this Decision.
3. Accept the Taxpayer's appeal regarding the item (depreciation differences for fixed assets for the period 2012-2015), and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the reasons and grounds stated in this Decision.
4. Reject the Taxpayer's appeal regarding the item (business owner's salary for the period 2012-2015), and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the reasons and grounds stated in this Decision.
5. Accept the Taxpayer's appeal regarding the item (bank deposit differences for the period 2012-2015), and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the reasons and grounds stated in this Decision.
6. Accept the Taxpayer's appeal regarding the item (25% loss for 2012), and amend Decision of the First Department for Determination of Income Tax Violations and Disputes In Riyadh stating the Taxpayer entitlement to deduct 25% of its 2012 losses, after adjusting these losses based on the Department's Decision regarding the bank deposits and owner's salary items, in accordance with the reasons and grounds stated in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-302  
Case No.: I-25254-2020

**Key words:**

**Income Tax – Objection to Estimated Tax Assessment.**

**Abstract**

Appellant (Taxpayer) is requesting to overturn Primary Decision No (IFR-2020-51) regarding the tax assessment for the period (2012-2017). Taxpayer's appeal centers on the objection to the primary Decision upholding ZATCA's action of disregarding the financial statements and conducting an estimated assessment, claiming that it submitted the required financial statements at the time. The Department has found that Taxpayer provided audited financial statements for the disputed years, along with supporting documents such as bank statements and trial balances for these disputed years as requested by ZATCA. Since ZATCA has not provided any evidence before this Department to justify disregarding Taxpayer's submitted documentation, nor has it presented any proof to contradict Taxpayer's claims, Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

**Instruments:**

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties' Defenses**

**Defenses of Appellant (Zakat Payer)**

**Item:** Estimated Assessment:

Taxpayer argued that the required documents were submitted on time and that ZATCA had issued confirmation of receipt, affirming the inappropriateness of ZATCA's action in applying the estimated assessment method. Taxpayer further contended that Article (57.3) of the Implementing Regulations of the Income Tax Law—on which the Department based its appealed Decision, applies only in cases where the documents have not been submitted, which does not apply to Taxpayer's case, as receipt of the documents was confirmed by ZATCA.



### Arguments of the respondent (ZATCA)

**Item:** Estimated Assessment:

ZATCA countered by stating that it requested the trial balances and bank statement from Taxpayer, who failed to do so. As a result, ZATCA resorted to the estimated assessment method, relying on Article (16.2) and Article (57.3) of the Implementing Regulations of the Income Tax Law in its Decision.

### Committee's Response to Defenses.

Since the tax base is primarily calculated based on Taxpayer's returns, and Taxpayer is required to furnish evidence substantiating the information contained therein, and Upon reviewing the documents attached to the case file, it appears that the Taxpayer submitted audited financial statements for the disputed years, as well as supporting documents, including bank statements and audit balances for these years, which were requested by ZATCA. Since ZATCA has not presented any evidence to this Department to justify disregarding what the Taxpayer submitted, and has not provided any proof to rely on in deviating from what the Taxpayer has admitted to, as such, this Department concludes by accepting the appeal and overturning the primary Decision in its entirety.

### Decision:

**First:** Accept in form the appeal filed by Taxpayer/ ....Company, CR No. (...), TIN No (...), against Decision No. (IFR-2020-51) delivered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh issued in Case No. (I-6332-2019), in connection with Tax Assessment for the period 2012-2017.

**Second: On Merits:**

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-51  
Case No.: IW-25974-2020

**Key words:**

**Income Tax - Withholding Tax - Objection to Tax Assessment- Approval of Foreign Purchases - Approval of Supporting Service Costs - Withholding Tax on Paid Amounts - Late Payment Fines.**

**Abstract**

Appellant (Taxpayer) filed this appeal seeking to overturn ZATCA's Decision on tax assessment for 2011 to 2012, with regard to the item (Approval of foreign purchases), since Taxpayer's appeal lies in withholding tax on paid amounts. Since the Department found that disputed amount was against services received by Taxpayer from non-resident parties subject to withholding tax, and that Taxpayer provided proof of paying withholding tax on such disputed services, and the item (Approval of support services costs), since ZATCA did not specify the nature of amounts that it rejected from its total dealings with this company, as expenses to which the taxpayer demands to be approved are documented for purposes of charging income tax. With regard to (Withholding tax on paid amounts), since Taxpayer relied on an international tax agreement subject of the disputed, which concludes that that the Decision is flawed in a manner that necessitates the Decision be overturned, together with the item (delay fines), since there is a contradiction which makes the Decision flawed in a manner that necessitates it to be overturned. Accordingly, the dispute is not settled as stipulated in wording of the Decision. As such, the Department decided to accept the Appeal Zakat payer's appeal.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

**Item First:** Approval of Foreign Purchases:

Taxpayer argued that the expenses in question are necessary business expenses and do not include any non-deductible items. Therefore, they should be recognized as actual expenses eligible for deduction.

**Item Second:** Approval of Supporting Service Costs:

Taxpayer argued that these expenses represent materials and supplies imported into the Kingdom and are not subject to withholding tax.

**Item Third:** Adoption of Withholding Tax Rate of 15% Instead of 5% on Technical Service Fees Paid to Related Non-Resident Parties:

Taxpayer argued against the retroactive application of the ministerial Decision. Therefore, they request annulment of ZATCA's action imposing an additional 10% withholding tax on technical and consultancy service fees paid to related non-resident parties for 2011-2012.

### Committee's Response to Defenses:

**Item First:** Approval of Foreign Purchases:

Since it is evident that disputed amount was in exchange for services received by Taxpayer from non-resident parties subject to withholding tax, since dispute on this item is documentary, and since Taxpayer provided evidence of paying withholding tax on these disputed services, this led the Department to accept Taxpayer's appeal.

**Item Second:** Approval of Supporting Service Costs:

Whereas it has been established that Taxpayer submitted supporting documentation for all transactions conducted with the company, and since ZATCA did not specify the nature of the amounts it rejected from the total transactions with this company, and given that this is the case, the expenses for which Taxpayer seeks approval are considered documented for income tax calculation purposes. This is without prejudice to the Primary Department's Decision stating that Taxpayer did not submit payment documents for amounts claimed to be deducted. Since the dispute between Taxpayer and ZATCA was not regarding payment, but rather regarding proof of expense incurred based on supporting documents, which led the Department to accept Taxpayer's appeal and to overturn the Primary Department's Decision in its ruling regarding this item.

**Item Third:** Adoption of Withholding Tax Rate of 15% Instead of 5% on Technical Service Fees Paid to Related Non-Resident Parties:

Since the Department found that Ministerial Decision No (1776), by which withholding rate was adjusted from (5%) to (15%) and on which the primary Decision was based, was issued on a date subsequent to the date of legal due date of withholding tax on Taxpayer. Since Taxpayer paid the amount to a non-resident person before the ministerial Decision on which ZATCA based its claim of (15%), and since ZATCA did not present evidence contradicting Taxpayer's claim of having made the payments before the Ministerial Decision No. (1776) issued on 18/05/1435 AH. Since the Department has established that provisions contained in the Ministerial Decision apply after due date of disputed withholding tax. Since it is established effects of statutory provisions do not retroactively apply to events that occurred prior to their issuance, in application of the principle of non-retroactivity of laws. Therefore, the Department concludes Taxpayer's right of charging (5%) on amounts paid to non-resident person.





### Decision:

**First:** In form, Accept the appeal filed by Zakat payer/ Company (.....), CR No. (.....), TIN (.....), against Decision No. (IZD-2020-13) delivered by the **First Department for Determination of Income Tax Violations and Disputes In Dammam** issued in Case No. (IW-7-2018), in connection with Tax Assessment of 2011 and 2012.

**Second: On Merits:**

1. Accept Taxpayer's appeal regarding the item (approval of foreign purchases in the amount of SAR (979,492) for 2011), and overturn First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, according to reasons and grounds set forth in this Decision.
2. Accept Taxpayer's appeal regarding the item (Approval of support services costs in the amount of SAR (1,140,318) for 2011), and overturn First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, according to reasons and grounds set forth in this Decision.
3. Accept Taxpayer's appeal regarding the item (withholding tax on amounts paid to ... India, and overturn First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, according to reasons and grounds set forth in this Decision.
4. Accept Taxpayer's appeal regarding the item (withholding tax on amounts paid to (...), UK for 2011), and cancel First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, and return the case to it regarding this item for consideration on merits, according to reasons and grounds set forth in this Decision.
5. Accept Taxpayer's appeal regarding the item (withholding tax at 15% instead of 5% on technical services fees paid to related non-resident entities), and overturn First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, according to reasons and grounds set forth in this Decision.
6. Accept Taxpayer's appeal regarding the item (delay fines), overturn First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, and return the case to the same Department for consideration on merits, in accordance with reasons and grounds set forth in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-277  
Case No.: I-7854-2019

**Key words:**

**Income Tax – Objection to Estimated Tax Assessment – Late Payment and Fraud Fines.**

**Abstract**

Appellant (Taxpayer) filed this case to reverse the Objection Committee's Decision No. (7/23), regarding Tax Assessment for the period 2009-2014, as Taxpayer's appeal included the following: As for (Estimated Assessment for the period 2009-2014) item, which includes objection to the Decision of the Primary Objection Committee regarding the same; Taxpayer claims that the accounts were disregarded, Tax Reassessment was made, and amounts were claimed more than once for the same period, despite that the profit margin does not exceed (6%) at best. The Objection Committee, by examining invoices issued by ZATCA, found that the amounts paid were deducted from the amounts claimed after Tax Reassessment, hence, the tax should not be imposed twice on the same amount. As for (Late Payment and Fraud Fine for the period 2009-2014), which includes objection to the Primary Objection Committee's Decision regarding the same; Taxpayer claims that ZATCA imposed late payment and fraud fines, despite that these fines are subsets of the fine for failure of submission of tax return. Taxpayer also claims that tax is always paid on its due date, and that there is no criminal intent by Taxpayer to deceive or mislead ZATCA. The Objection Committee found that: As for the late payment fine, Taxpayer can only be charged with fines after knowing Tax Assessment or expected to know thereof. As for the fraud fine, Taxpayer is presumed innocent until proven guilty under compelling evidence that can be relied upon to support that claim. The Department decided to accept Taxpayer's appeal on item (late payment and fraud fines) and dismiss Taxpayer's appeal on item (Estimated Assessment).

**Instruments:**

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

#### **Item First:** Estimated Assessment:

Taxpayer claims that the accounts were disregarded, Tax Reassessment was made, and an arbitrary tax estimate was applied, resulting in the same amounts being claimed twice for the same period without any deduction or accounting for pre-paid amounts. Additionally, Taxpayer mentioned that the profit margin does not exceed 6% at best.

#### **Item Second:** Late Payment and Fraud Fines:

Taxpayer argued that the Decision annulled the fine for failure of submission of tax return but imposed a late payment and fraud fines, despite the latter being a derivative of the former. Furthermore, Taxpayer asserted that the tax is paid on time (30/04) on annual basis and argued that there was no criminal intent for fraud or misrepresentation.

### Arguments of the respondent (ZATCA)

#### **Item First:** Estimated Assessment:

ZATCA defended the integrity of its procedure, stating that it was carried out in accordance with regulatory requirements following a field inspection of Taxpayer. It explained that after comparing data, information, and analyses, it became clear that Taxpayer submitted financial statements that did not accurately reflect the scale of their business, as they concealed significant unreported revenues, in violation of Article (56.1/2) of the Implementing Regulations of the Income Tax Law. Consequently, ZATCA resorted to an estimated assessment based on Article (36.b) of the Income Tax Law.

#### **Item Second:** Late Payment and Fraud Fines:

ZATCA argued that the imposition of a 25% fraud fine on the tax difference owed was due to Taxpayer submitting false information with the intent of tax evasion, in violation of Article (61.a) of the Income Tax Law, as well as Sub-paragraphs (1) and (4) Article (77.b) of the same law. Additionally, ZATCA imposed a late payment fine based on Article (77.a) of the Income Tax Law and Paragraph (1.b) of Article (68) of its Implementing Regulations.

## Committee's Response to Defenses.

#### **Item First:** Estimated Assessment:

Since the basis for calculating the Tax Base is to be made based on data and documents, most importantly the financial statements audited by the chartered accountant; and by reviewing the grounds of dispute, the Department found that Taxpayer does not have contra accounts that can be relied upon in imposing the tax thereon; and since the Objection Committee issued its Decision to calculate the estimated net income at a rate of (10%); and since Taxpayer failed to provide documents supporting its claim that the profit rate was determined lower than the rate included in the Objection Committee's Decision; and with regard to Taxpayer's claim for double imposition of the tax for the same period; and since the Department, by examining invoices issued by ZATCA, found that the amounts paid were deducted from the amounts claimed after Tax Reassessment, hence, the tax should not be imposed twice on the same amount; and since the Department found that the Primary Committee's Decision was sound and valid; Therefore, the Department satisfies to dismiss Taxpayer's appeal and uphold Jeddah First Primary Committee's Decision for item in question.

**Item Second: Late Payment and Fraud Fines:**

With regard to the late payment fine, since Taxpayer can only be charged with fines after knowing Tax Assessment or expected to know thereof; Therefore, the Department satisfies to amend the calculation of the late payment fine, to be calculated from the date of informing Taxpayer of ZATCA's Assessment including the tax difference until the date of payment.

With regard to the fraud fine; and since the Case was filed in general regarding the same without attributing a clear specific act that can be charged against Taxpayer, which entails that Taxpayer is presumed innocent until proven guilty under compelling evidence that can be relied upon to support that claim; Therefore, the Department satisfies to accept Taxpayer's appeal and reverse the Objection Committee's Decision for item in question.

**Decision:**

**First:** Accept in form the appeal filed by Taxpayer/ ..... Establishment, CR No. (...), TIN No. (...), against Decision No. (7/23) delivered by the First Primary Committee for Zakat and Tax Objections in Jeddah of 1439 AH, in connection with Tax Assessment for the period 2009-2014.

**Second: On Merits:**

1. Dismiss Taxpayer's appeal on item (Estimated Assessment of 2009 to 2014); and uphold the Decision of the First Primary Committee for Zakat and Tax Objections in Jeddah, according to the grounds stated in this Decision.
2. As for item (late payment and fraud fines of 2009 to 2014):
  - A. Accept Taxpayer's regarding the late payment fine and amend the Decision of the First Primary Committee for Zakat and Tax Objections in Jeddah by imposing the late payment fine from the date of informing Taxpayer of ZATCA's Assessment including the tax difference until the date of payment, according to the grounds stated in this Decision.
  - B. Accept Taxpayer's regarding the fraud fine and reverse the Decision of the First Primary Committee for Zakat and Tax Objections in Jeddah, according to the grounds stated in this Decision.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-5  
Case No.: I-34233-2021

**Key words:**

**Income Tax - Objection to Tax Assessment - Permanent Establishment**

**Abstract**

Appellant (Taxpayer) is requesting to overturn Primary Decision No (IFR-2020-283), regarding tax assessment for the period (2009-2017). Taxpayer's appeal specifically centers on its objection to the Primary Department's classification of the agreement with the foreign company as constituting a permanent establishment, leading to the imposition of income tax and late payment fines. The primary's Decision to uphold ZATCA was based on the conclusion that the British company was a permanent establishment due to Taxpayer's activities under the agreement, inferring an agency relationship, and that Taxpayer was acting on behalf of the non-resident company and entering into contracts on its behalf. However, Taxpayer argues that it is independent of (...) Company and that the agreement does not establish a dependent relationship between Taxpayer and that company. Since the services agreed upon in the framework agreement are provided upon Taxpayer's request under a separate request letter, each service requested by Taxpayer constitutes an independent contract, indicating that there is no subordination of Taxpayer to that company, which would require the contract with other parties to be made on behalf of and for the benefit of the principal. As such, the concept of a permanent establishment for that company does not apply, in accordance with the Double Taxation Avoidance Agreement signed with the Government of the United Kingdom and Northern Ireland. Consequently, the appeal is accepted, and the primary Decision is overturned.

**Instruments:**

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)



## Parties' Defenses

### Defenses of Appellant (Zakat Payer)

#### **Item:** Permanent Establishment:

Taxpayer argues that the Department has not provided sufficient evidence to prove that Taxpayer is operating as a permanent establishment for the company. The only evidence cited is the framework agreement signed with the company, which contradicts the Department's conclusion. Taxpayer asserts that this agreement, by itself, does not create ongoing obligations or rights between both parties unless there is a separate purchase order, which is a standard practice in the business world, and the agreement does not become binding merely upon signing, as confirmed by Article (2) thereof. Consequently, the provisions of Article (2.c) and Article (4) of the Income Tax Law, as well as Article (5.3/b) of the Double Taxation Avoidance Agreement between KSA and the UK, are not applicable in this case. Additionally, the amounts received by the Taxpayer on behalf of (...) Company are not subject to tax in KSA.

### Committee's Response to Defenses.

#### **Item:** Permanent Establishment:

Upon examining the agreement concluded between both parties, this Department has established that Taxpayer is independent from (...) Company. The terms of the Agreement do not indicate a dependent relationship between Taxpayer and that Company. The services agreed upon in the framework agreement are provided upon a separate written request from Taxpayer for each service, making each service requested by Taxpayer, in essence, a separate contract. This relationship does not establish a dependency of Taxpayer on that Company, which would require contracts with third parties to be made in the name of and for the benefit of the principal. Therefore, the concept of a permanent establishment for that Company is not met according to the Double Taxation Avoidance Agreement signed with the Government of the United Kingdom and Northern Ireland. As such, this Department ruled to accept Taxpayer's appeal and overturn the primary Decision with regard to this item.

### Decision:

**First:** Accept in form the Appeal filed by the Taxpayer/ (...) CR. No. (...), Decision No. (...) delivered by the First Department for Determination of Income Tax Violations and Disputes In Riyadh rendered in Case No. (...) related to tax assessment for years from 2009 to 2017.

#### **Second: On Merits:**

1. Accept the appeal filed by the Taxpayer regarding not considering the non-resident company as a permanent establishment, and overturn the Decision issued by the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the grounds mentioned therein.
2. Accept the appeal filed by Taxpayer regarding the delay penalty, deciding to forfeit the penalty due to the loss of its origin, and overturn the Decision issued by the First Department for Determination of Income Tax Violations and Disputes In Riyadh, in accordance with the grounds mentioned therein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-181  
Case No.: I-33196-2020

**Key words:**

**Income Tax – Objection to Tax Assessment – Advertising Publicity Revenues– Late Payment Fine.**

**Abstract**

Appellant (Taxpayer) requested reversal of the Primary Decision No. (IZJ-2020-160) with regard to tax assessment for the period (2005-2011). With regard to Item (Income Tax Imposed on Advertising and Publicity Revenues), Taxpayer filed its appeal to challenge confirmation of ZATCA's action by the Primary Department with regard to disregarding contra accounts and performing estimated assessment. The Department decided that ZATCA had no right to perform the assessment for the period (2005-2008) based on the fact that reopening the assessment without considering provisions stipulated previously by Legislator did not ensure maintenance of Taxpayers' financial and legal positions. With regard to the period (2009-2011), the Department was satisfied with the validity of the Decision under appeal issued by the Primary Department. As for Item (Fine for Late Payment of Income Tax Imposed on Advertising and Publicity Revenues), Taxpayer appealed that fines shall not be imposed from the tax due date in case of technical dispute over related items resulting therefrom. The Department found that ZATCA's tax assessment was based on estimated profits. Since it is not impossible for Taxpayer to know the estimated assessment conclusion without being informed of the same by ZATCA, the Department was satisfied that Taxpayer cannot be held accountable for the fine imposed for late payment of the tax difference until being informed of the amended assessment. Therefore, ZATCA was entitled to impose such fine as of the date of informing Taxpayer of its amended assessment in accordance with Article (68.1.B) of the Implementing Regulations of Income Tax Law, which gives ZATCA the right to impose a fine for late payment of due tax based on the assessment performed thereby. Therefore, the Department decided to accept the Appeal with regard to both items related to the period (2005-2008) and late payment fine, and reject the Appeal with regard to the period (2009-2011).

**Instruments:**

- [Articles \(65/A\) of Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(68.1.b\) of the Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)





## Parties Defenses:

### Defenses of Appellant (Zakat Payer)

#### **Item First:** Income Tax Imposed on Advertising and Publicity Revenues:

Taxpayer argued that he was stranded in Lebanon due to the COVID-19 pandemic at the time the Department issued its Decision, which prevented him from communicating or keeping up with the establishment's affairs. As a result, the establishment's employees were unable to take any action, as they did not have the authority to do so without authorization from the owner. Additionally, the separation of revenues and expenses for each agency into distinct departments is merely an organizational measure aimed at determining the net income and viability of each agency. Furthermore, if ZATCA considered this activity to be conducted by a non-resident, then why did it not rely on the submitted financial statements, which were approved by a certified accountant, and instead assess the tax on an estimated basis—despite acknowledging the royalties included in those statements and calculating withholding tax accordingly?

#### **Item Second:** Late Payment Fine:

Taxpayer appealed that the fine shall not be imposed from the tax due date due to the existence of a dispute between both parties regarding the same. They further contended that fines are not levied from the tax due date when a technical dispute exists over related items resulting therefrom.

## Committee's Response to Defenses.

#### **Item First:** Income Tax Imposed on Advertising and Publicity Revenues:

The Department's examination of the appealed Decision, nor ZATCA's opinion during the dispute proceedings before that Department, indicated any accusation against Taxpayer of committing tax evasion in a manner suggesting an intentional concealment of information. Given this, the reopening of the tax assessment is neither valid nor consistent with the provisions of Article (65/a), which provides that a tax return for a given tax year shall be deemed final after five years from the end of the prescribed filing deadline, unless the Authority exercises its right to make adjustments within that period, or proves the intent to commit tax evasion through the submission of an incomplete return within ten years from the end of the prescribed filing deadline. Additionally, in such a case, ZATCA's right to reassess is bound by the condition of not exceeding ten years. Since reopening the assessment without considering provisions stipulated previously by Legislator did not ensure maintenance of Taxpayers' financial and legal positions, the Department was satisfied that ZATCA had no right to perform the assessment for the period (2005-2008), and decided to accept Taxpayer's Appeal on all items contested for the period (2005-2008).

#### **Item Second:** Late Payment Fine:

The Department found that ZATCA's tax assessment was based on estimated profits. Since it is not possible for Taxpayer to know the estimated assessment conclusion unless notified of the same by ZATCA, the Department decided that the fine for late payment of the tax difference cannot be imposed on Taxpayer unless he is informed of the amended assessment conclusion, and accordingly, ZATCA had the right to impose such fine as of the date of notifying Taxpayer of its amended assessment in accordance with Article (68.1.b) of Implementing Regulations of Income Tax Law, which gave ZATCA the right to impose a fine for late payment of the tax due subject to ZATCA's assessment. As such, the Department concluded that the fine should be imposed as of the date of informing Taxpayer of ZATCA's assessment.



### Decision:

**First:** In form, Accept Appeal filed by Taxpayer (..... Institution), C.R No., TIN (...), Against the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No. (.....) rendered in Case No. (...) with relation to tax assessment for the period (200-2011 AD).

**Second: On Merits:**

1. With relation to Item (Income Tax Imposed on Advertising and Publicity Revenues):
  - A. Accept Taxpayer Appeal regarding that Item for the period (2005-2008 AD), and overturn the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned herein.
  - B. Reject Taxpayer Appeal regarding that Item for the period (2009-2011 AD), and uphold the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned herein.
2. Accept Taxpayer Appeal with regard to Item (Fine for Late Payment of Income Tax Imposed on Advertising and Publicity Revenues), and amend the Decision taken by **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, so that the Decision confirms imposing the fine as of the date of informing Taxpayer of ZATCA assessment, in accordance with grounds and merits mentioned herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-54  
Case No.: I-23098-2020

**Key words:**

**Income Tax – Objection to Tax Assessment.**

**Abstract**

Appellant (Taxpayer) filed this case to overturn Primary Decision No (I-10690-2019), regarding tax assessment for 2011. Taxpayer's appeal centers specifically on ZATCA's initial acceptance of the Taxpayer's objection in form, but later it required the objection to be submitted electronically, which was not realized due to a malfunction in ZATCA's website. However, ZATCA's written acknowledgment on the hand-delivered objection confirms its acceptance in form. As such, this Department has established that Taxpayer submitted the objection by hand within the prescribed period. Accordingly, the Department ruled to accept the appeal and remand the case.

**Instruments:**

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)

**Parties' Defenses**

**Defenses of Appellant (Zakat Payer)**

Defenses of Appellant (Zakat Payer)

**Item:** Tax Assessment for 2011:

Taxpayer argued that their objection was submitted within the statutory period, as they manually received the contested tax assessment notice No. (...) dated 14/08/1438 AH on 24/02/1439 AH under ZATCA's manual receipt report. In addition, the objection was filed under objection letter registered at Appellee under No. (...) dated 14/04/1439 AH, confirming the fact that ZATCA accepted the objection in form for the period 2008-2010. However, for the period 2011-2015, ZATCA required the objection to be submitted electronically. Multiple attempts were made to enter objection data into the system, but the system did not respond, and this issue was communicated to ZATCA's employee. In addition, the address to which tax assessment was sent was incorrect and did not pertain to the establishment.



### Arguments of the respondent (ZATCA)

**Item:** Tax Assessment for 2011:

ZATCA argued that Taxpayer's objection was rejected due to the expiration of the statutory objection period, based on Article (66.a) of the Income Tax Law and Article (60) of its Implementing Regulations.

### Committee's Response to Defenses.



**Item:** Tax Assessment for 2011:

Having taken cognizance of subject matter of dispute, since it is established that the objection was accepted in form by ZATCA according to the instructions written down in the hand-delivered objection letter. Since this Department found that Taxpayer submitted objection by hand within the statutory period, and since ZATCA did not provide the justification for rejecting thereof; therefore, it turns out that Taxpayer had submitted the objection within the statutory period. Thereupon, this Department annuls the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Dammam** and remands the Case for reconsideration on merits.

### Decision

**First:** In form, Accept the Appeal filed by Zakat payer/ Enterprise (....), C.R. No. (...), TIN (...), against Decision No. (...) delivered by the Third Department for Determination of Income Tax Violations and Disputes in Dammam rendered in Case No. (...) related to tax assessment for 2011.

**Second: On Merits:** Overturn the Decision rendered by the **First Department for Determination of Income Tax Violations and Disputes In Dammam** and remand the Case for reconsideration on merits according to grounds and reasons stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-72  
Case No.: W-66142-2021

**Key words:**

**Income Tax – Objection to Tax Assessment – Withholding Tax.**

**Abstract**

Appellant (Taxpayer) requested to annul Primary Decision No. (ISR-2021-429) on 2011 tax assessment. As for the Item (Withholding Tax), Taxpayer's challenge is based on the grounds that it should not be treated as a taxable person in accordance with the agreement concluded with KSA government, which included exemption from all direct and indirect taxes. The Department has become clear that Taxpayer claimed that the amounts paid to the non-resident entities were in exchange for services provided outside KSA; therefore, the withholding tax shall not be imposed on such services. The judgement rests on some pillars, the most important of which are its grounds, including litigants' requests and defenses side by side with examination and discussion of supporting documents to reach a proper ruling in accordance with established judicial principles. Taxpayer Appeal regarding Item (Late Payment Fine) was filed to challenge the Primary Department conclusion regarding the withholding tax, which required imposing a late payment fine, if any. Therefore, the Department decided to accept the Appeal and reconsider the Case.

**Instruments:**

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

**Parties Defenses:**

**Appellant's (Taxpayer's) Arguments**

**Item: Withholding Tax:**

Taxpayer argued that it is a diplomatic organization affiliated with (...) University, established under a founding agreement signed by all Arab countries. Furthermore, Taxpayer operates in the Kingdom based on an agreement signed between it and KSA Government, ratified by Royal Decree No. (M/9) dated 19/08/1411 AH, which included the exemption of the establishment's funds from all direct and indirect taxes, customs duties, and other fees. Therefore, Taxpayer is not considered a taxable person in the First place. Moreover, the nature of Taxpayer's activities is not tied to a specific location, as the satellites are in space orbits, not within the Kingdom. Hence, the condition for applying withholding tax under paragraph (8/a) of Article (5) of the Income Tax Law does not apply.



### Arguments of the respondent (ZATCA)

**Item:** Withholding Tax:

ZATCA contended that Taxpayer did not provide any supporting documents for the claims made. Therefore, Taxpayer's objection was dismissed, pursuant to Article (58/a.5) of the Income Tax Law and Article (57.3) of the Implementing Regulations of the Income Tax Law.

### Committee's Response to Defenses



**Item:** Withholding Tax:

This Department established that Taxpayer argues that the amounts paid to non-resident entities were for services rendered outside the Kingdom; therefore, the withholding tax shall not be imposed on such services. Since the Decision subject of appeal was found to be devoid of discussion of a fundamental pleading of Taxpayer, which was that the amounts paid to non-residents should not be subject to withholding tax, as they were paid for services rendered outside the Kingdom. Therefore, the Decision is deemed flawed and must be overturned, thus the Primary Department did not use the same in adjudicating on subject of the dispute. To ensure Taxpayer's right to two levels of litigation, this Department overturned the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh with regard to this Item, and returned the Case for reconsideration on merits in light of Taxpayer arguments raised before the Primary Department.

### Decision:

**First:** In form, Accept the appeal submitted by Zakat payer/ (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (...) rendered in Case No. (...) related to tax assessment for 2011.

**Second: On Merits:**

1. Accept Taxpayer Appeal regarding Item (Withholding Taxes) , cancel the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, and return the Case to that Department for reconsideration on merits according to the reasons and grounds stated herein.
2. Accept Taxpayer Appeal with regard to Item (Late Payment Fine), overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the Case for reconsideration on merits according to reasons and grounds stated herein.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Appeal Committee for Tax Violations and Disputes  
First Appellate Department for Income Tax Violations and  
Disputes in Riyadh

Decision No.: IR-2022-80  
Case No.: ZIW-31523-2020

**Key words:**

**Income Tax - Objection to Tax Assessment - Unrecognized Revenues - Demolition Costs - Excess Loan Returns Above Permitted Level - Financial Statements.**

**Abstract:**

Appellant (Taxpayer) requested to overturn Primary Decision No. (IZJ-2020-155) with regard to (2009-2013) tax assessment . As for the item (Statute of Limitations for the period 2009-2012), Taxpayer's Appeal was based on their objection to the assessment made after the prescribed period of five years from the tax due date. The Department found that Taxpayer argued for assessment statute of limitations before the Primary Department and, therefore, became satisfied that ZATCA had no right to make an assessment with regard to such amounts related to income tax base due to the lapse of the prescribed five-year period during which ZATCA was entitled to make a reassessment. As for Taxpayer's Appeal with regard to (Withholding Tax), it turned out that Taxpayer submitted its supplementary objection after the expiration of the prescribed period scheduled for objection before ZATCA. With regard to the item (2013 Revenues Not Recognized in Books), Taxpayer challenged ZATCA's amendment regarding this item because revenues disclosed in tax returns were consistent with the financial statements. Since the audited financial statements were based on validity and integrity presumptions and constituted the main supporting documents with relation to revenues recognized in financial statements with regard to long-term contracts in accordance with the approved accounting standards, and ZATCA failed to provide any evidence in objection to these statements, it was decided that there were no proper grounds for ZATCA's action to reverse Taxpayer's return. With regard to the item (2013 Demolition Costs), Taxpayer argued that this item shall be deducted because it is documented and necessary for the activity generating the taxable income. Upon reviewing the invoices, it turned out that they are consistent with the amounts mentioned in the cost statement for the project construction contract, and Taxpayer has submitted documents supporting their statements and proving that these expenses were deductible. Taxpayer's Appeal with regard to the item (Excess Loan Returns Above Permitted Level for 2013) was based on the necessity for deducting this item because it resulted from currency exchange differences and could not be considered as loan returns, and since the loan return expenses that may be deducted from profits adjusted for tax purposes are calculated based on the equation mentioned in Article (9.2) of the Implementing Regulations of the Income Tax Law, and Taxpayer did not submit any documents to the contrary of those submitted by ZATCA or to challenge the validity or integrity of its action. Accordingly, the Department ruled to accept Appellant objection with regard to income tax, revenue unrecognized in books, and demolition costs items, and reject its appeal regarding other items.





## Instrument:

- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- Article (9.2) of [the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)

## Parties Defenses

### Defenses of Appellant (Zakat Payer)

**Item First:** Statute of Limitations for the Period 2009-2012:

Taxpayer argued that the assessment was made after the expiration of the statutory five-year period specified in Article (65.a) of the Income Tax Law.

**Item Second:** Revenue Unrecognized in Books for 2013:

Taxpayer argued that they calculated the revenues using the percentage of completion method and that the revenues disclosed in the returns match the financial statements.

**Item Third:** Demolition Costs for 2013:

Taxpayer argued that these expenses pertain to construction costs and contract-specific expenses, and ZATCA rejected these expenses without providing a clear justification for the rejection. Taxpayer further explained that the nature of these expenses is essential for generating taxable income, as it is impossible to build without demolishing. Additionally, in the industrial sector, it is standard practice to treat such expenses as construction costs.

**Fourth Item** Excess Loan Returns Above Permitted Level for 2013:

Taxpayer argued that this amount represents bank commission expenses incurred during the financial period, which are productive expenses related to the business activity and recorded in the company's accounting books and records. Furthermore, a part of these payments represents exchange rate differences and currency conversion, which should not be treated as loan returns.

### Arguments of the respondent (ZATCA)

**Item First:** Revenue Unrecognized in Books for 2013:

ZATCA maintained that its Decision was in line with Article (8) of the Income Tax Law and Article (57.3) of its Implementing Regulations.

**Item Second:** Demolition Costs for 2013:

ZATCA maintained that its Decision was in line with Article (12) of the Income Tax Law and Article (57.3) of its Implementing Regulations.

**Item Third:** Excess Loan Returns Above Permitted Level for 2013:

ZATCA maintained that its Decision was in line with Article (9.2) of the Income Tax Law and Article (57.3) of its Implementing Regulations.



## Committee's Response to Defenses:

### **Item First:** Statute of Limitations for the Period 2009-2012:

Upon examining the dispute subject matter by the Department, it was evidenced by the appealed Decision that ZATCA performed its assessment for the period (2009-2021) after five years of the end of the prescribed period for submitting tax returns of disputed years, as ZATCA's assessment was performed on 21/08/1439 AH. The Department also determined that Taxpayer argued for assessment statute of limitations before the Primary Department, and therefore concluded that ZATCA has no right to make an assessment with regard to such amounts related to income tax base due to the lapse of the prescribed five-year period during which ZATCA was entitled to make a reassessment. Accordingly, the Department decided to annul the primary Decision with regard to these items for the period (2009-2012) and confirm Taxpayer's right to hold accountable for this period in accordance with their tax returns submitted to ZATCA.

### **Item Second:** Revenue Unrecognized in Books for 2013:

Upon reviewing the dispute subject matter by the Department, it turned out that Taxpayer provides construction and contracting services, and such works are recognized based on the percentage of completed works in accordance with requirements of the approved accounting standards. ZATCA did not make clear the default committed by Taxpayer with regard to recognizing their revenues from such works and the violation committed with regard to the relevant accounting standards. Also, ZATCA's assessment did not include any grounds justifying Taxpayer's return amendment, and also the primary Decision did not clarify those grounds. Since the audited financial statements were based on validity and integrity presumptions and constituted the main supporting documents with relation to revenues recognized in financial statements with regard to long-term contracts in accordance with the approved accounting standards, and ZATCA failed to provide any evidence in objection to these statements, it was decided that there were no proper grounds for ZATCA's action to reverse Taxpayer's return. Therefore, the Department decided to accept Taxpayer's Appeal and reverse the primary Decision regarding this item.

### **Item Third:** Demolition Costs for 2013:

Upon examining the dispute subject matter by the Department, it turned out that Taxpayer presented to the Department the documents supporting direct costs and other costs related to the project construction contract with a total amount of (SAR 15,778,247.29), including invoice number, amount, and date. Taxpayer also submitted copies of the invoices registered in the aforementioned 2013 statement. Upon reviewing invoices, it became clear that they are consistent with the amounts mentioned in cost statement related to the project construction contract. Accordingly, since Taxpayer submitted the documents supporting their claims and proving that these expenses are deductible, and since ZATCA failed to provide any documents challenging those provided by Taxpayer, the Department decided to accept Taxpayer's Appeal and reverse the primary Decision delivered in this regard.

### **Fourth Item** Excess Loan Returns Above Permitted Level for 2013:

Upon examining the dispute subject matter by the Department, since the loan return expenses that may be deducted from profits adjusted for tax purposes are calculated based on the equation mentioned in Article (9.2) of the Implementing Regulations of the Income Tax Law, ZATCA's action was based on the provisions of the Implementing Regulations with relation to calculation of excess loan returns above permitted level, since anything in excess shall be considered non-deductible expense, since Taxpayer did not provide any evidence to the contrary of the documents submitted by ZATCA or challenging the validity and integrity of ZATCA's action, the Department decided to dismiss Taxpayer's Appeal and confirm the primary Decision taken in this regard.



### Decision:

**First:** In form, Accept the Appeal filed by Zakat payer/ Company (....), C.R No. (....), TIN (...), Against the **First Department for Determination of Income Tax Violations and Disputes In Jeddah** Decision No. (.....) issued in Case No. (.....), with regard to tax assessment for the period (2009-2013 AD).

**Second: On Merits:**

1. With regard to the Item (Prescription for the period 2009-2012 AD):
  - A. Accept Taxpayer Appeal regarding that Item in terms of income tax, and overturn the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned in this Decision.
  - B. Accept Taxpayer Appeal regarding that Item in terms of withholding tax, and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned in this Decision.
2. Accept Taxpayer Appeal regarding that Item (Revenues Not Recognized in Books for the year 2013), and overturn the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned in this Decision.
3. Accept Taxpayer Appeal regarding that Item (2013 Demolition Costs) overturn the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned in this Decision.
4. Accept Taxpayer Appeal regarding that Item (Excess Loan Returns Above Permitted Level for the year 2013), and uphold the Decision of the **First Department for Determination of Income Tax Violations and Disputes In Jeddah**, in accordance with grounds and merits mentioned in this Decision.

May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.



## Value-Added Tax



## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Value-Added Tax Violations and Disputes in Riyadh

Decision No.: 2022-81-VR  
Case No.: V-47294-2021

#### Key words:

Value-Added Tax - Liability for Tax Payment - Case Admissibility.

#### Abstract

Plaintiff's claim against Defendant concerns the payment of VAT amounting to SAR (159,375), resulting from the sale of real estate to Defendant, in addition to legal fees amounting to SAR (31,875). It was established by the Department that Defendant did not respond to the claim despite being notified of its existence, and since the recipient of the goods or services (Defendant) bears the burden of the VAT payment, the Department resolves to obligate Defendant to pay SAR (159,375).

#### Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(67.8\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/1/1425 AH-](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Common VAT Agreement of GCC States , November 2016.](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(14\) of the Implementing Regulations of Value Added Tax Law issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)

#### Parties' Defenses

##### Appellant's (Taxpayer's) Arguments

#### Item: Real Estate Sale:

Plaintiff's representative (the seller) argued for obligating the Defendant (the buyer) to pay VAT amounting to SAR (159,375) resulting from the sale of real estate to Defendant.



### Committee's Response to Defenses.



Given that the fundamental principle for bearing the burden of VAT payment rests with the recipient of the supplied goods or services, and given that it has been established before the Department that Plaintiff is the party responsible for collecting VAT from the buyer in their capacity as the supplier of the properties in question, and considering Article (14) of the Implementing Regulations of the VAT Law, which states: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity or those received by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity where the Reverse Charge Mechanism applies, as well as on the Import of Goods into the Kingdom”. Therefore, the Department satisfies to accept Plaintiff's case.

### Decision:

1. Accept Plaintiff's case in form.
2. Obligate Defendant, ..., CR No. (...), to pay Plaintiff ..., National ID No. (...), VAT of (SAR 159,375).

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Value-Added Tax Violations and Disputes

Decision No.: 2022-121-VR  
Case No.: R-67923-2021

#### Key words:

Value Added Tax – Late Payment Fine – Validation of the Procedure.

#### Abstract

Taxpayer requests annulment of ZATCA's Decision imposing late payment fines for Q4 2019, amounting to SAR (38,000), as well as for Q2 2020, SAR (17,901), both resulting from two real estate supply transactions. The Department determined that ZATCA verified the existence of real estate supplies that Plaintiff did not declare, nor did they provide any justification for their failure to do so. Furthermore, Plaintiff, regarding (Late Payment Fine) for Q2, stated that the delay was due to their belief that the First residence was not subject to tax according to the previous law. However, the provisions of the Agreement, the Law, and the Implementing Regulations clearly set out the tax concept of economic activity and its aspects of practice, in accordance with the principle that ignorance of the law is not a valid excuse, thereby ensuring fairness among those addressed by the case. Accordingly, the case is dismissed on merits.

#### Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles \(43\) and \(42\) of Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH.](#)
- [Common VAT Agreement of GCC States , November 2016. ratified by Royal Decree No. \(M/51\) dated 03/05/1438 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Articles \(56.2\) and \(14\) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)

#### Parties' Defenses

##### Defenses of Plaintiff (Zakat Payer):

**First:** Late Payment Fine Resulting from a Real Estate Supply Transaction:

Taxpayer argued that they object to the late payment fines for Q4 2019, amounting to SAR (38,000), and for Q2 2020, amounting to SAR (17,901), both resulting from two real estate supply transactions. They stated that the delay was due to their belief that the First residence was not subject to tax according to the previous law.





### Defendant (ZATCA) Defenses

#### **First: Late Payment Fine Resulting from a Real Estate Supply Transaction:**

ZATCA, based on the shared database with the Ministry of Justice, found that there were real estate supply transactions that Plaintiff did not declare, nor did they provide any justification for their failure to do so. The supply transaction is subject to the standard VAT pursuant to Article (14) of the Implementing Regulations of the VAT Law, which states: “Without prejudice to Article two of the Law, for the purposes of applying the Agreement and the Law in the Kingdom, the Tax is imposed on all Taxable Supplies of Goods and Services made by a Taxable Person in the Kingdom in the course of carrying on their Economic Activity”. Plaintiff’s argument in their statement of claim that the property was for personal residence does not invalidate ZATCA’s procedure, as the title deed number associated with the building permit and the construction contract submitted by Plaintiff differs from the deed number relied upon by ZATCA during the reassessment. Furthermore, upon reviewing Plaintiff’s return for the contested period, ZATCA found it to be inaccurate, necessitating amending the return and issuing a final assessment notice, which resulted in a difference in the value of the tax due that was not paid on the due date. Accordingly, a late payment fine was imposed. In response to Taxpayer’s argument, there is no exemption from VAT on the First residence; rather, the State, represented by the Ministry of Housing, bears the amount of the tax.

### Committee's Response to Defenses.

The Department established that the dispute centers on Plaintiff’s objection to Defendant’s Decision to impose late payment fines for Q4 2019, amounting to SAR (38,000), and for Q2 2020, amounting to SAR (17,901), both resulting from two real estate supply transactions. As for the late payment fine for Q2 2020, it arose from Defendant’s amendment of Plaintiff’s tax return for Q4 2019, in order to add sales based on the shared database with the Ministry of Justice and pursuant to Article (14) of the Implementing Regulations. Plaintiff objected on the grounds of a misunderstanding of the Law. However, the provisions of the Agreement, the Law, and the Implementing Regulations clearly set out the tax concept of economic activity, its aspects of practice, and which supplies are subject to tax, leaving no ambiguity, in accordance with the principle that ignorance of the law is not a valid excuse, thereby ensuring fairness among those addressed by the case, and that there is no distinction between the obligation to comply with the Law and an exemption from doing so. Furthermore, the fine for submission of incorrect tax return resulted from ZATCA’s reassessment and the identification of VAT due. Therefore, the Department, pursuant to Article (42.1) of the Value Added Tax Law, finds Defendant’s procedure to be valid.



### Decision:

**First:** Accept Plaintiff's case in form.

**Second: On Merits:** Dismiss the case filed by Plaintiff, holder of National ID No. (...), seeking the annulment of ZATCA's Decision to impose late payment fines for Q4 2019, amounting to SAR (38,000), and for Q2 2020, amounting to SAR (17,901).

**Third:** This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Value-Added Tax Violations and Disputes in Dammam**

**Decision No.: VD-2022-74**  
**Case No.: V-49937-2021**

**Key words:**

**Value Added Tax – Tax Period Reassessment – VAT Payment – Export of Services for the Tax Period – Export of Goods.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision regarding the final reassessment for the VAT period of December 2018. Whereas, for (Export of Services for the Tax Period), Taxpayer's objection is based on ZATCA's calculation of the difference between the company's sales as reported in previous tax returns and the company's budget. The Department found that Plaintiff's employees had indeed rendered services within the Kingdom of Bahrain, and ZATCA did not challenge the validity of the supporting documents nor provide evidence that the client's place of residence is within KSA. Furthermore, regarding (Export of Goods), Taxpayer maintains that the company failed to submit the documents requested by ZATCA to verify its claim, most notably the employment contracts with its Bahrain-based client and a letter from the client demonstrating their business relationship with the company. Consequently, the Department satisfies to accept the case regarding (Export of Services for the Tax Period) and dismiss the same with respect to (Export of Goods) item.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Common VAT Agreement of GCC States , November 2016.](#)
- [Article \(33\) of the Implementing Regulations of Value Added Tax Law issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### **Item First:** Export of Services:

Taxpayer objected to the final reassessment for the VAT period of December 2018, specifically regarding the item "Export of Services" for the tax period, asserting that such services are subject to zero-rated VAT.

#### **Item Second:** Export of Goods:

Taxpayer objected to the final reassessment for the VAT period of December 2018, specifically regarding the item "Export of Goods for the Tax Period," asserting that such services are subject to zero-rated VAT.

### Defendant (ZATCA) Defenses

#### **Item First:** Export of Services:

ZATCA, upon reviewing the invoices, POs, and documents submitted by Plaintiff during their objection proceedings, determined that the requirements for treating the zero-rated export of services, as set forth in Article (33) of the Implementing Regulations of the VAT Law, were not met. Specifically, Plaintiff did not provide evidence of the client's place of residence, nor did they provide proof that the client or any other person did not benefit from the services while present in the Kingdom. Furthermore, a review of the invoices submitted by Plaintiff revealed that the location was specified as within KSA, thereby confirming that the services were rendered inside the Kingdom. Accordingly, ZATCA maintains the validity of its Decision to reassess and subject the revenues to the standard VAT.

#### **Item Second:** Export of Goods:

ZATCA argued that it requested the supporting documents from Plaintiff during the objection stage, based on Article (66.6) of the Implementing Regulations. Upon reviewing the submitted documents—which included a statement of these sales, related invoices, and a report from the "FASAH" system—ZATCA was unable to reconcile the reported sales with the FASAH data, nor could they be matched with the data of the (Saudi Customs) due to Plaintiff's failure to submit the relevant export customs declarations or provide the corresponding customs declaration numbers. Consequently, and based on Article (32.3) of the Implementing Regulations of VAT Law, and given that Plaintiff failed to provide any of the export documentation specified under Article (32.3) of the Regulations despite being requested to do so, ZATCA maintains the validity of its reassessment Decision and the application of the standard VAT rate on the revenues in question.



## Committee's Response to Defenses.



### **Item First:** Export of Services:

Given that the company submitted invoices, Pos, and numerous documents supporting that its employees were rendering services within the Kingdom of Bahrain, and ZATCA did not challenge the validity of these documents, except to argue that the company must provide evidence that its client or any other person did not receive the company's services within the Kingdom of Saudi Arabia, constituting a reversal of the rules of evidence, as it was incumbent upon ZATCA to present evidence refuting the company's claim based on the documents submitted for review, rather than requiring Plaintiff to provide evidence against themselves. Nevertheless, the copies of employee exit/re-entry visas to Bahrain indicated the purpose as "visit" rather than "work," with some durations approximately coinciding with work completion dates outside KSA. Furthermore, the attachment referred to by ZATCA contained no evidence establishing the client's residence within KSA. Based on the foregoing, ZATCA's conclusion on this point rests on mere probability and is unsupported by evidence, thus warranting its disregard.

### **Item Second:** Export of Goods:

The Department determined that ZATCA's amendment of the company's return was based on the company's failure to provide contracts with its clients, as well as the export documents (Fasah statement and customs declaration) for verification against the company's export statement and substantiating the disputed amount. Furthermore, the submitted invoices and receipts pertain to only two clients according to Plaintiff's statement. The company did not submit the documents requested by ZATCA to verify its claim—most notably the employment contracts with its Bahrain-based client and a letter from the client demonstrating their business relationship with Plaintiff company. Furthermore, the trial balance—which was one of the key reasons ZATCA rejected the company's claim—was not submitted, neither during the filing of the case nor during the pleading stage, thus necessitating dismissal of the company's case on this particular point.

### **Decision:**

1. Accept the company's case with respect to its objection concerning the item "Export of Services" for the tax period in question, and annul ZATCA's assessment issued in this regard.
2. Dismiss the company's case with respect to its objection concerning the item "Export of Goods" for the tax period in question.

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Value-Added Tax Violations and Disputes In Dammam

Decision No.: 2022-198-VR  
Case No.: V-44520-2021

#### Key words:

Value Added Tax – Real Estate Supply – Real Estate Financing – Tax Exemption – Tax Invoice.

#### Abstract

Plaintiff seeks obligating Defendant to pay VAT, amounting to SAR (29,800.00), resulting from the sale of a property to Defendant. Whereas, the dispute centered around the supply of the property to Defendant and its subsequent sale to Defendant's client through real estate financing. The Department found that Defendant's client is not obligated to pay the Real Estate Transaction Tax (RETT), having been exempted pursuant to Royal Order No. (A/84), and that the amount was paid prior to the completion of the sale through the designated system. Therefore, the Department ruled to accept Plaintiff's case.

#### Instruments:

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 11/6/1441 AH](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Common VAT Agreement of GCC States , November 2016.](#)
- [Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)
- [Article \(3\) of RETT Implementing Regulations issued by Ministerial Resolution No. \(712\) dated Safar 15, 1442 AH](#)

#### Parties' Defense

##### Plaintiff's Defenses

**First:** Real Estate Sale Tax:

Plaintiff seeks obligating Defendant to pay VAT, amounting to SAR (29,800.00), resulting from the sale of a property to Defendant.



### Defendant's (Bank) Defenses:

#### **First: Real Estate Sale Tax:**

The Bank argued that it had financed the property under an Islamic Murabaha financing arrangement, which is compliant with Sharia law and approved by SAMA. Under this structure, the financed party (end beneficiary) informs the financier (Bank) of their desire to obtain full ownership of a specific asset—in this case, the property—and requests assistance in financing its purchase. The financed party then recommends that the financier purchase the property from an external supplier (the original property owner), followed by the financed party undertaking to purchase the asset from the financier. The financier requires the mortgaging of the property as collateral to ensure the financed party's commitment to acquiring the property and fulfilling their obligations. Consequently, the financier acquires the property from the external supplier in its own name (at the request of the financed party). At this point, the financier becomes the legal owner of the property, and the external supplier must issue an invoice to the financier, addressed in the financier's name. The financier pays the external supplier for the supplied property. Once the financier becomes the owner of the property, they subsequently enter into an agreement with the financed party, according to which the financier supplies the property to the financed party for a consideration. The property ownership is then registered directly in the name of the financed party (the end beneficiary) by the external supplier, and the property is simultaneously mortgaged in favor of the financier under the same title, provided that the agreed consideration is then paid in installments over a predetermined period. The fees charged by the financier include the cost price of the property (the principal amount), an agreed-upon profit margin, and other possible fees.

Since the property owner (the external supplier) sold the unit to the bank (the financier) and transferred ownership to the bank, the responsibility for imposing and calculating VAT on the property (First sale) lies with the property owner. Following the transfer of property ownership from the property owner to the bank, the transaction constitutes a supply of goods and is subject to VAT. However, the property owner did not provide the bank with any tax documents in accordance with Article (53) of the Implementing Regulations of VAT Law. Furthermore, the subsequent supply of the property (the second sale) by the bank to the end beneficiary is also considered a supply of goods and is subject to VAT. Therefore, the bank is required to calculate VAT on the full amount due for the property supply, including all installments (covering the original amount as well as any other taxable services included in the periodic installments), implying that the bank is obligated to issue a valid tax invoice addressed to the end beneficiary. Additionally, we refer to Article (40) of the Common VAT Agreement of GCC States, which provides: “1. The Taxable Person is obligated to pay Tax due on taxable supplies of Goods and Services to the Competent Tax administration in the Member State in which the place of supply is located. 2. Any Person that states a Tax amount on any invoices issued by him becomes obligated to pay this Tax amount to the Competent Tax Administration in the Member State in which the place of supply is located”. Accordingly, the aforementioned article confirms that the property owner is responsible for calculating and paying VAT to GAZT, currently ZATCA, in KSA.





### Committee's Response to Defenses.

The Department established that the property was supplied to Defendant, which subsequently sold to their client under a real estate financing arrangement, as documented in the deed dated 28/02/1442 AH, corresponding to 15/10/2020. Since Defendant imposed VAT on Plaintiff, as reflected in the attached invoice dated 17/09/2020, given that any legal transaction transferring the ownership or possession of the property for the purpose of ownership or benefit acquisition is subject to 5% VAT of the total RETT, regardless of the property's condition, form, or use at the time of the transaction, unless exempted under Royal Order No. (A/84) or Article (3) of RETT Implementing Regulations, since Defendant's client is not required to pay RETT, as they are exempted based on Royal Order No. (A/84), and considering the Department established that the tax in question is RETT that was paid prior to sale completion through the system, the Department resolves to accept the case and obligate Defendant to pay SAR (29,800) to Plaintiff.

### Decision:

Accept the Case filed by Plaintiff, (...), holder of National ID No. (...), seeking obligation of Defendant/ ..... Bank, CR No. (...), to pay an amount of SAR (29,800) (twenty-nine thousand eight hundred riyals) to Plaintiff .

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. According to Article (42) of the Rules of Tax Dispute and Violation Committee Procedures, this Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Value-Added  
Tax Violations and Disputes in Riyadh

Decision No.: 2022-160-VR  
Case No.: V-62682-2021

**Key words:**

**Value-Added Tax – Final Assessment Notice – Submission of a Legitimate Excuse – Terminal Throat Illness – Extension of the Objection Period.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision regarding the final assessment notice for Q3 2020. It has been established to the Department that Plaintiff provided evidence indicating their affliction with a terminal throat illness during that period, a condition that persists as observed by the Department during their appearance before it, where they could only speak with significant difficulty. Consequently, the Department considers this to be a legitimate excuse that entitles Plaintiff to resubmit their objection to ZATCA for initial consideration within thirty (30) days from the date this Decision is recorded in the case file on the system. Therefore, the Department ruled to accept the case in form and enable Plaintiff to resubmit their objection to Defendant within thirty (30) days.

**Instruments:**

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)
- [Common VAT Agreement of GCC States, dated November 2016, ratified by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)
- 

**Parties' Defenses**

**Defenses of Plaintiff (Zakat Payer):**

**First:** Final Assessment:

Taxpayer stated their objection to the final assessment notice for Q3 2020, citing their affliction with terminal throat illness.



## Defendant (ZATCA) Defenses

### **First:** Final Assessment:

ZATCA maintained that Plaintiff did not file an objection according to the provisions of Tax Dispute and Violation Committee Procedures, as Article (2) thereof stipulates: "Any person against whom a Decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a Decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a Taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a Decision thereon, take any of the following actions: 2. File a lawsuit directly before the dispute committee". Based on the foregoing, Plaintiff should have initially submitted their objection to ZATCA before filing their case with the General Secretariat of Tax Committees. Consequently, filing the case before the General Secretariat prior to fulfilling this procedure renders it flawed in form.

## Committee's Response to Defenses.

Since Plaintiff provided evidence indicating their affliction with a terminal throat disease during that period, a condition that persists as observed by the Department during their appearance before it, where they could only speak with significant difficulty, the Department considers this to be a legitimate excuse that entitles Plaintiff to resubmit their objection to ZATCA for initial consideration within thirty (30) days from the date this Decision is recorded in the case file on the system.

### **Decision:**

Accept the case in form and enable Plaintiff to resubmit their objection to Defendant within thirty (30) days from the date of the Decision's deposit in the case file.

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the Decision within 30 days from the day following specified delivery date.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Value-Added  
Tax Violations and Disputes in Dammam

Decision No.: VD-2022-216  
Case No.: V-65965-2021

**Key words:**

Value-Added Tax – VAT Refund – Real Estate Supply – Tax Invoice – Case Dismissal.

**Abstract**

Plaintiff seeks obligating Defendant to refund the VAT amounting to SAR (42,5000, resulting from the supply of real estate valued at SAR (500,000), specifically related to a residential land plot located in Ash Shulah neighborhood in Dammam. Since the Department established that Plaintiff is not entitled to charge VAT, as their VAT registration was not effective at the time of property transfer, and given that Plaintiff did not prove the issuance of a tax invoice at the time of the sale, the Department decided to dismiss the case.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 11/6/1441 AH](#)
- [Article 2 of Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Articles \(30\) and \(26.2\) of the Common VAT Agreement of GCC States , dated November 2016, ratified by Royal Decree No. \(M /51\) dated 03/05/1438 AH.](#)
- [Article \(14\) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)

**Parties' Defenses:**

**Plaintiff's Defenses**

**First: VAT Refund:**

Taxpayer argued for obligating Defendant to refund VAT, totaling SAR (42,500), resulting from their supply of real estate valued at SAR (500,000).

**Defendant's Defenses:**

**First: VAT Refund:**

The company contended that Plaintiff failed to present either a registration certificate or tax invoice, having instead signed a written declaration, and that the transaction was processed in accordance with the issued circular regarding the state's assumption of tax liability for First homes, noting that Plaintiff subsequently registered and made the payment to ZATCA on 11/11/2019, after having sold the property to the company on 10/11/2019.



### Committee's Response to Defenses.



Whereas the original burden of payment of tax as an indirect tax on received goods and services is on customer or buyer (the recipient of the goods and services), except if excluded by virtue of a specific provision from paying the tax on the goods and services received under specific cases mentioned in Article (30) of Common VAT Agreement of GCC States. Upon examining the case facts, it becomes evident that Plaintiff was not entitled to impose the tax, as their VAT registration was on (11/11/2019) with an effective date of (01/12/2019), which was not in effect at the time of the property transfer. Furthermore, since Plaintiff failed to provide evidence of issuing a tax invoice at the time of sale, the Department satisfies to dismiss the case.

### Decision:

To dismiss Plaintiff case.

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Value-Added  
Tax Violations and Disputes in Dammam

Decision No.: VD-2022-315  
Case No.: V-48622-2021

**Key words:**

**Value Added Tax – Final Reassessment – Standard-Rated Local Taxable Sales – Fine for Submission of Incorrect Tax Return – Late Payment Fine – Plaintiff's Case Dismissal.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision regarding the reassessment for VAT period of Q1 2019. Whereas, Plaintiff's objection regarding (Standard-Rated Local Taxable Sales), is based on the amendment of the standard-rated local taxable sales for the tax period in question. The Department determined that Plaintiff did not provide the necessary documents that would prove the validity of their defenses regarding the accuracy and integrity of the tax return for the disputed tax period, merely stating that the tax was paid twice. Furthermore, Plaintiff did not disclose the transaction in the exempt section of their tax return. With respect to the late payment fine, the First item led to the affirmation of ZATCA's procedure, and since the failure to pay the due tax difference resulted directly therefrom, related matters thus follow the same ruling. Regarding the fine for submission of incorrect tax return, the Department determined there existed discrepancies between Plaintiff's filed tax return and the audit findings, which revealed unreported tax differences that Plaintiff had failed to declare in their tax period. Therefore, the Department ruled to dismiss Plaintiff's case.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Articles \(42.1\) and \(43\) of Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Articles \(14\), \(56.2\), and \(59.1\) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income - formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)
- [Common VAT Agreement of GCC States, dated November 2016, ratified by Royal Decree No. \(M/51\) dated 03/05/1438 AH.](#)

**Parties' Defenses**

**Defenses of Plaintiff (Zakat Payer):**

**Item First:** Standard-Rated Local Taxable Sales:

Taxpayer argued their objection to ZATCA's amendment of standard-rated local taxable sales for the VAT period of Q1 2019.



### Defendant (ZATCA) Defenses

#### **Item First:** Standard-Rated Local Taxable Sales:

ZATCA stated that Plaintiff declared their return for the tax periods in question, as well as the standard-rated local taxable sales, amounting to SAR (170,000). Exercising its granted authority, ZATCA amended the mentioned item to SAR (2,782,500) due to sales transactions that were not declared by Taxpayer in their tax return, based on data from the Ministry of Justice. Consequently, ZATCA exercised its authority and subjected these amounts to VAT.

### Committee's Response to Defenses.

Given that Defendant's amendment was made after referencing Plaintiff's records with the Ministry of Justice, which revealed standard-rated local taxable sales amounting to SAR (2,612,500), since Plaintiff did not provide the necessary documents that would prove the validity of their defenses regarding the accuracy and integrity of the tax return for the disputed tax period, merely stating that the tax was paid twice, given that this does not affect the matter as the transaction consists of two supply operations, and considering that Plaintiff did not disclose the transaction in the exempt section of their tax return, the Department resolves to dismiss Plaintiff's case and uphold Defendant's procedure.

### Decision:

To dismiss Plaintiff case.

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**





## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Value-Added Tax Violations and Disputes in Jeddah

Decision No.: VJ-2022-502  
Case No. V-2021-57813

#### Key words:

**Value-Added Tax – Field Inspection Fine – VAT Collection on Healthcare Services Provided to Citizens –Upholding ZATCA’s Decision.**

#### Abstract

Taxpayer seeks annulment of ZATCA’s Decision regarding the imposition of a field inspection fine, where the dispute concerns the imposition of a fine for violating the provisions of the Law or Regulations, amounting to SAR (10,000), due to Plaintiff’s collection of VAT on healthcare services provided to a citizen. It was found by the Department, based on Item (7) of Royal Order No. (A/86), that the State bears the VAT on behalf of citizens benefiting from private healthcare services and private education. However, upon reviewing the invoices submitted by the Defendant, it was established that VAT was collected from citizens in return for healthcare services. Therefore, the Department ruled to dismiss Plaintiff’s case.

#### Instruments:

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Item \(7\) of Royal Order No. \(A/86\) dated 18/4/1439 AH](#)
- [Article 45 of Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)
- [Common VAT Agreement of GCC States , November 2016.](#)

#### Parties’ Defenses

##### Defenses of Plaintiff (Zakat Payer):

##### **First:** Healthcare Services:

Taxpayer argued, in their objection to the imposition of SAR (10,000) for violating the provisions of the Law or Regulations, due to Plaintiff’s collection of VAT on healthcare services provided to a citizen.



### Committee's Response to Defenses.



Item (7) of Royal Order No. (A/86) dated 18/04/1439 AH states: "The State bears the VAT on behalf of citizens benefiting from private healthcare services and private education". The Department, upon reviewing the invoices submitted by Defendant, which substantiated the collection of VAT from citizens in exchange for healthcare services, and in light of Article (45.3) of the Value-Added Tax Law, which provides: "A fine not exceeding fifty thousand (50,000) riyals shall be imposed on any Person that: -3. violates any other provision of the Law or the Regulations.", concludes to uphold Defendant's action in imposing the field inspection fine.

### Decision:

Dismiss Plaintiff's case due to the established validity of Defendant's Decision to impose the field inspection fine.

This Decision was issued in the presence of both litigants, in accordance with provisions of Article (56) of Law of Civil Procedure. and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. This Decision shall be deemed final and enforceable in accordance with Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Value-Added Tax Violations and Disputes in Jeddah**

**Decision No.: VD-2022-388**  
**Case No.: V-62606-2021**

**Key words:**

**Value Added Tax – Final Assessment Notice – Fine for Submission of Incorrect Tax Return – Late Payment Fine – Acceptance of Plaintiff's Case.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision regarding the final assessment for VAT period of Q3 2018, as well as the imposition of fines for submission of incorrect tax return and late payment. The Department, regarding (Standard-Rated Local Taxable Purchases), established that Plaintiff attached two installment invoices valued at SAR (184,077) and SAR (193,581), both excluding VAT, and an invoice totaling SAR (377,658). However, Plaintiff did not submit supporting documents for the tax deduction concerning the remaining difference in the excluded purchases. As for the items (Fine for Submission of Incorrect Tax Return) and (Late Payment Fine), the validity of Defendant's Decision to amend certain items was not proven, nor was evidence provided to the contrary. Consequently, related matters follow the same ruling. Therefore, the Department ruled to accept Plaintiff's claim regarding (Standard-Rated Local Taxable Purchases) and amend Defendant's Decision regarding (Fine for Submission of Incorrect Tax Return) and (Late Payment Fine).

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Articles \(22.1\), \(28\), \(42.1\), \(43\), and \(50\) of Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Article \(49.7\) of the Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(48\) of the Common VAT Agreement of GCC States, November 2016.](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

**Item:** Standard-Rated Local Taxable Purchases:

in their objection to the Final Assessment Notice for the VAT period of Q3 2018, Taxpayer argued against Defendant's action of excluding a portion of the standard-rated local taxable purchases (5%), on the grounds that they are not eligible for deduction due to the lack of supporting documentation, pursuant to Article (48) of the Agreement and Article (49) of the Regulations.

### Committee's Response to Defenses.

Plaintiff attached two installment invoices valued at SAR (184,077) and SAR (193,581), both excluding VAT, and an invoice totaling SAR (377,658). However, Plaintiff did not submit supporting documents for the tax deduction concerning the remaining difference in the excluded purchases. Therefore, the Department finds merit in Plaintiff's claim to deduct these two invoices.

### Decision:

**First:** Accept Plaintiff's case regarding standard-rated local taxable purchases for the VAT period of Q3 2018 in question resulting from the Final Reassessment Notice.

**Second:** Amend Defendant's Decision regarding the fine for submission of incorrect tax return in accordance with the First clause of the operative part hereof.

**Third:** Amend Defendant's Decision regarding the late payment fine in accordance with the First clause of the operative part hereof.

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable. The date of entering Decision in the e-system of the General Secretariat is considered the date of Decision delivery.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Value-Added  
Tax Violations and Disputes In Riyadh

Decision No.: VSR-2022-920  
Case No.: V-64004-2021

**Key words:**

**Value-Added Tax – Acceptance of the Case in Form and On Merits – VAT Payment – Proof of Valid Notification.**

**Abstract**

ZATCA requests that Defendant be obligated to pay the VAT and late payment fines for the following VAT periods: (Q1, Q2, Q3, and Q4 of 2018, December 2019, and January, February, and March of 2020), and demands the seizure of Defendant's assets and their obligation to pay an amount of SAR (372,496.25). Given that Plaintiff submitted a request to amend the claimed amount to SAR (605,838.25), and considering that it has become apparent to the Department that Defendant failed to fulfill its tax obligations within the statutory period despite being notified of the necessity of payment and informed of the suspension of services, coupled with Defendant's failure to respond to the case, which constitutes negligence and dereliction in performing its tax obligations towards the State's rights, the Department ruled to obligate Defendant to pay Plaintiff, ZATCA, an amount of SAR (605,838.25).

**Instruments:**

- [Article \(15.2\) of Tax Disputes and Violations Committee Procedures issued by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Article \(67.8\) of the Income Tax Law issued by Royal Decree No. \(M/1\) dated 15/1/1425 AH](#)
- [Value Added Tax Law promulgated by Royal Decree No. \(M/113\) dated 02/11/1438 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance's Decision No. \(1535\) of 11/06/1425 AH, as amended.](#)
- [Article \(59\) of the Implementing Regulations of Value Added Tax Law issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)
- [Common VAT Agreement of GCC States , November 2016.](#)

**Parties' Defenses**

**Plaintiff's (ZATCA's) Arguments**

**First:** Claim for VAT Payment Late Payment Fines:

ZATCA requests that Defendant be obligated to pay the VAT and late payment fines, totaling SAR (605,838.25), for the following VAT periods: (Q1, Q2, Q3, and Q4 of 2018, December 2019, and January, February, and March of 2020).



### Committee's Response to Defenses.

The Department determined that Defendant violated Article (59) of the Implementing Regulations of the VAT Law, which stipulates: "Payment of Tax due by a Taxable Person in respect of a Tax Period must be made at the latest by the last day of the month following the end of that Tax Period". Defendant failed to fulfill its tax obligations within the statutory period despite being notified of the necessity of payment and informed of the suspension of services, coupled with Defendant's failure to respond to the case, which constitutes negligence and dereliction in performing its tax obligations towards the State's rights.

### Decision:

Obligate Defendant, ... Company, CR No. (...), to pay Plaintiff, ZATCA, an amount of SAR 605,838.25 (Six hundred five thousand, eight hundred thirty-eight riyals and twenty-five halalas), representing VAT in question and the fines resulting therefrom.

This Decision was issued in the presence of both litigants in accordance with Article (21) of Rules of Tax Dispute and Violation Committee Procedures. The Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days, as it deems appropriate. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Appellate Department for Value-Added Tax and  
Excise Goods Violations and Disputes in Riyadh

Decision No.: VA-2022-175  
Case No.: V-70546-2021

**Key words:**  
**Value-Added Tax – Supply.**

**Abstract**

Appellant (Taxpayer) seeks annulment of Primary Decision No. (VR-2021-337), arguing that the supply of the property in question is exempt from VAT, stating that the property was used as a permanent residence by the owner's heirs before the transfer, based on Article (9.7) of the Implementing Regulations of the VAT Law. The Department determined that the property in dispute falls under the cases exempt from VAT under the aforementioned Article. Therefore, The Department hereby ruled to accept the appeal and dismiss the primary Decision.

**Instruments:**

- [Article \(40.2\) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Value Added Tax Law, issued by Resolution of the Board of Directors of the General Authority of Zakat and Income -formerly- No. \(3839\) dated 14 Dhu al-Hijjah 1438 AH corresponding to 14 November 2016](#)

**Parties' Defenses**

**Defenses of Appellant (Zakat Payer)**

**Item:** Property Supply:

Taxpayer reported that the property in dispute is exempt from VAT, stating that the property was used as a permanent residence by the owner's heirs before the transfer, based on Article (9.7) of the Implementing Regulations of the VAT Law.





### Arguments of the respondent (ZATCA)

**Item:** Property Supply:

Defendant mistakenly referred to ZATCA as Plaintiff's adversary, and stated that the sold house consists of two title deeds, one of which was sold to Plaintiff, and VAT was collected on the sale transaction. Due to the ambiguity regarding the house's taxability, Defendant inquired with ZATCA about the procedure and was instructed to collect VAT because the house comprised two title deeds, both of which were sold – one to Appellant and the other to a different buyer. Defendant further stated that they delayed remitting the VAT to ZATCA pending clarification on the house's tax status, given that the house was occupied by the heirs of (...) and was not rented out.

### Committee's Response to Defenses.

**Item:** Property Supply:

The Appellate Department determined that the property in question is considered one of the cases exempted from VAT, in accordance with Article (9.7) of the Implementing Regulations of the VAT Law. Consequently, the Department satisfies to accept the appeal and annul the primary Decision in question.

### Decision:

**First:** Accept the Appeal filed by/..., holder of National ID No. (...), In form for submission during the statutory period.

**Second:** Accept the Appeal filed by/..., holder of National ID No. (...), and annul Decision No. (VR-2021-337) delivered by the First Department for Determination of Value-Added Tax Violations and Disputes in Riyadh and obligate Appellee, ....., holder of National ID No. (...), to refund the disputed tax amount of ... to Appellant , (...), holder of National ID No. (...).

This Decision was issued in the presence of both litigants, and shall be deemed final and enforceable as per Article (42) of Tax Dispute and Violation Committee Procedures.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



# Excise Tax



**Committee for Determination of Tax Violations and Disputes**  
**First Department for Determination of Excise Tax Violations and Disputes in Riyadh**

**Decision No.: ER-2022-20**  
**Case No.: E-75082-2021**

**Key words:**

**Excise Tax – Calculation of the Tax Due – Late Payment – Annulment of Defendant's Decisions.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision imposing excise tax, as well as the cancellation of registration and related amendments, and the waiver of the tax difference. The dispute arises from Plaintiff's objection to Defendant's Decision regarding the tax period for January and February 2020 and the associated fines, specifically in relation to the amendment of Plaintiff's tax return without providing the basis used to determine the retail selling prices of excise goods. Plaintiff, regarding the basis for calculating the due tax, objects to the failure to be provided with the standard price list agreed upon among the tax authorities in the GCC countries for reference when determining the retail selling price of their products, or being permitted to set the retail selling price of their products. Defendant, in response, claims to have provided Plaintiff with the calculation method and the prices used via email. However, the Department, based on the documents submitted in the case, finds no evidence that Defendant furnished Plaintiff with the bases used in calculating the due tax amount. Therefore, the Department ruled to annul ZATCA's Decision.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. \(26040\) dated 21/04/1441 AH](#)
- [Excise Tax Law promulgated by Royal Decree No. \(M/86\) dated 27/08/1438 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) of 15/01/1425 AH](#)
- [Articles \(1\) and \(17.4\) of Implementing Regulations of the Excise Tax Law issued by Decision No. \(19-3-2\) of the Board of Directors of GAZT, dated 10/09/1440 AH, corresponding to 15/05/2019.](#)
- [the Implementing Regulations of Income Tax Law, issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Article \(6.2\) of the Common Excise Tax Agreement of GCC States.](#)



## Parties' Defenses

### The Plaintiff's Defenses

#### **Item First:** Retail Sale Price Calculation:

Plaintiff objects to ZATCA's failure to provide them with the method used to calculate the retail sale prices of its excise goods. This objection is based on Article (17.4) of the implementing Regulations of the Excise Tax Law, which states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Accordingly, ZATCA, in its issued assessment, has violated the provisions of Article (17) of the Regulations by failing to specify how retail selling prices were determined, which resulted in additional tax liabilities and associated fines. Furthermore, we would like to highlight the provisions of Article (8.1) of the Regulations, which states the following: "The Retail Sales Price shall be determined, in accordance with the provisions of the Agreement". Moreover, Article (6.2) of the Common Excise Tax Agreement of GCC States stipulates: "The value on which the tax is imposed on other excisable goods shall be determined based on the retail sale price of these goods, provided that such price shall be the price determined by the importer or producer of the excisable goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". Accordingly, we would like to point out that the prices determined by ZATCA do not comply with the provisions stated above, as follows: 1. The retail sale prices are not based on the prices set by the importer or producer of the excise goods (i.e., the company in this case). 2. The standard price list agreed upon among the tax authorities in the GCC member states was not shared, which could have been used as a reference in determining prices. The company respectfully requests your esteemed committee to accept this appeal and grant access to the standard price list agreed upon by the tax authorities in the GCC member states for reference in determining the retail selling price of its products, or allow the company to determine the retail sale price of its products, using invoices issued by major retail stores, such as supermarkets or grocery stores. In addition to the foregoing, the company requests the full nullification of the tax and related fines, at least until an agreement on the retail selling prices of its products is reached for the disputed tax period in question.

#### **Item Second:** Late payment fine:

The company objects to this fine and requests its full nullification for the following grounds: The company fundamentally disputes the tax assessment itself; therefore, the tax obligation and all related fines should be annulled. Furthermore, ZATCA must specify the due date for tax payment in its issued assessment notice, and no late payment fine should be imposed before the expiration of the prescribed payment due date, pursuant to the following legal provisions: This unequivocally demonstrates a distinction between the tax due for the tax period declared by the taxpayer in their periodic self-assessment for each tax period—where the taxpayer has full knowledge of their tax liability since they voluntarily report it—and the tax due as determined through an assessment issued by ZATCA. The due date for payment is clearly specified before the date indicated in the assessment notice. Since the assessed taxpayer was unaware of the tax liability prior to the issuance of the assessment, they were not required to self-declare this tax before receiving ZATCA's assessment notification. Based on the foregoing, the company objects to the calculation and imposition of the late payment fine and the failure to specify a payment deadline within the assessment itself, as this contravenes the aforementioned legal provisions. The company hereby requests the complete nullification of the late payment fine amounting to SAR (87,933.38).



## Defendant (ZATCA) Defenses

### **Item First:** Retail Sale Price Calculation:

ZATCA, upon reviewing Plaintiff's statement that ZATCA did not provide them with the method for calculating the retail sale prices of the company's excise goods, confirms that it did, in fact, provide Plaintiff with the calculation method and the prices used via email. Regarding the discrepancies in the calculation of prices for products subject to excise tax, Plaintiff submitted multiple disclosures of the prices of products subject to the excise tax. Given that Plaintiff failed to clarify the reasons for the price changes or provide supporting invoices and dates, ZATCA calculated the prices of certain products based on the highest price provided by Plaintiff, using the highest price for each product, based on Article (6.1) of the Common Excise Tax Agreement of GCC States, which provides "The value on which the tax is imposed on other excise goods shall be determined based on the retail selling price of these goods, provided that such price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher" and Article (8) of the Implementing Regulations of the Excise Tax Law.

### **Item Second:** Late payment fine:

A late payment fine was imposed for the aforementioned tax periods, due to the outcome of the assessment process. Article (22) of the Excise Tax Law stipulates "Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid". Accordingly, ZATCA upholds the validity of its Decision issued against Plaintiff and the resulting fines.

## Committee's Response to Defenses.

The Department notes that the definition of the tax base in Article (1) of the Implementing Regulations of the Excise Tax Law states that it is: (The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT). Similarly, Article (6.2) of the Common Excise Tax Agreement of GCC States stipulates "The value on which the tax is imposed on other excise goods shall be determined based on the retail sale price of these goods, provided that such price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher". The Department further finds that, according to the case file, Plaintiff's goods were cleared by the Saudi Customs based on valid import declaration and tax return in accordance with Article (17) of the Implementing Regulations. Plaintiff had submitted all required documents and import declarations. However, Defendant failed to provide Plaintiff or the Department with the basis used to calculate the excise tax due, thereby violating Article (17.4) of the Implementing Regulations. Additionally, Defendant did not present any evidence proving that Plaintiff engaged in any misrepresentation regarding the submitted data, nor did it substantiate the validity of its claim. Furthermore, Article (17) of the Implementing Regulations of the Excise Tax Law, which pertains to ZATCA's assessment of due tax, states: "The written notification shall include the grounds, on which the Authority calculates the amount of the Tax Due". Since the Department has not been provided with evidence, based on the documents submitted in the case, that Defendant has furnished Plaintiff with the basis used in calculating the excise tax due. Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.



Regarding the late payment fine, since it resulted from Defendant's amendment of Plaintiff's tax return, and given the First item led to the annulment of Defendant's Decision, and considering the late payment fine is a consequence thereof, the associated penalty follows the same ruling. Therefore, Plaintiff's claim is deemed valid.

#### Decision:

**First:** Accept the case in form.

**Second:** Annul Defendant's, ZATCA's, Decisions against Plaintiff/ ... Company C. R. No. (...) Subject of the case.

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



Committee for Determination of Tax Violations and  
Disputes  
First Department for Determination of Excise Tax  
Violations and Disputes In Riyadh

Decision No.: ER-2022-135  
Case No.: E-83199-2021

**Key words:**

**Excise Tax – Absence of Tax Stamps Fine – Cigarettes – Case Dismissal.**

**Abstract**

Taxpayer seeks annulment of ZATCA's Decision imposing a fine for the absence of tax stamps. However, Taxpayer did not deny the violation but instead claimed that the supplier engaged in commercial fraud, without providing purchase invoices or disclosing the supplier's name. Taxpayer's representative further requested that only a warning be deemed sufficient as a penalty, given their client's ignorance of the law. However, the Department finds that the argument of ignorance of the law, as presented by Taxpayer's representative during the session, does not constitute a valid legal argument in the case. Therefore, the Department ruled to dismiss Taxpayer's case.

**Instruments:**

- [Tax Dispute and Violation Committee Procedures issued by Royal Decree No. \(26040\) dated 21/04/1441 AH](#)
- [Excise Tax Law promulgated by Royal Decree No. \(M/86\) dated 27/08/1438 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Implementing Regulations of the Income Tax Law promulgated by Minister of Finance Decision No. \(1535\) of 11/06/1425 AH](#)
- [Article \(9.3\) of the Implementing Regulations of the Excise Tax Law issued by Decision No. \(19-3-2\) of the Board of Directors of GAZT, dated 10/09/1440 AH, corresponding to 15/05/2019.](#)

**Parties' Defenses**

**The Plaintiff's Defenses**

**Item First:** Absence of Tax Stamps Fine:

Plaintiff did not deny the violation but instead claimed that the supplier engaged in commercial fraud, without providing purchase invoices or disclosing the supplier's name. Taxpayer's representative further requested that only a warning be deemed sufficient as a penalty, given their client's ignorance of the law.





### Defendant's (ZATCA's) Arguments

**Item First:** Absence of Tax Stamps Fine:

ZATCA stated that its representative conducted an on-site inspection of Plaintiff's premises and examined the products offered for sale during the field campaign to verify compliance with the Excise Tax Law and its Implementing Regulations. Upon inspection, Plaintiff was found to be in violation of Article (9) of the Implementing Regulations of the Excise Tax Law, which states "Valid Tax Stamps shall be affixed to the designated Excise Goods, and shall be activated prior to releasing for consumption in the Kingdom....". The inspection revealed that the seized products (regular cigarettes) in Plaintiff's possession lacked the required tax stamps. (Attached). 2. ZATCA, upon confirming Plaintiff's violation of the provisions of the Excise Tax Law and its Implementing Regulations as outlined above, imposed a fine of SAR 10,000 on Plaintiff, pursuant to Article (23.3) of the Excise Tax Law, which states: "A fine not exceeding fifty thousand (50,000) riyals shall be imposed on any Person that violates any other provision of the law or its regulations." **Third:** Requests: Based on the above, ZATCA requests Honorable Committee to: 1. Rule for the dismissal of the case for the reasons stated above and, as a precautionary measure, uphold ZATCA's action in question. ZATCA reserves the right to provide further responses and clarifications until pleadings closing.

### Committee's Response to Defenses.

**Item First:** Absence of Tax Stamps Fine:

Since the Committee found that Plaintiff violated Article (9.3) of the Implementing Regulations of the Excise Tax Law, which clarifies that the responsibility for affixing valid tax stamps on the specified excise goods and activating thereof lies with the registered entity that offers or will offer these goods for consumption in the Kingdom, and given that the Department finds that the argument of ignorance of the law, as presented by Taxpayer's representative during the session, does not constitute a valid legal argument in the case, the Department therefore concludes that Plaintiff's violation is established.

### Decision:

**First:** Accept the case in form.

**Second:** To dismiss Plaintiff case.

This Decision was delivered in presence of both litigants as a final and enforceable under Tax Dispute and Violation Committee Procedures. The date of entering Decision in the e-system of the General Secretariat of Zakat, Tax, and Customs Committees is considered the date of Decision delivery.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



## Committee for Determination of Tax Violations and Disputes

### First Department for Determination of Excise Tax Violations and Disputes In Riyadh

Decision No.: ER -2022-41  
Case No.: E-78116-2021

#### Key words:

**Excise Tax - Tax Differences.**

#### Abstract

Taxpayer seeks annulment of ZATCA's Decision regarding the fifth tax period of 2020 and the late payment fine. As for tax differences, since Defendant added tax differences attributed to the importation of goods at customs due to Plaintiff's failure to disclose thereof in their tax return, given Defendant failed to provide evidence establishing its right, according to the regulations and laws, to claim the tax differences from Plaintiff, and considering that, concerning the late payment fine, the contested fine stems from the assessment of the disputed tax period, and since the aforementioned fine resulted from excise tax that was not paid within the prescribed statutory period, the Department therefore decided to annul Defendant's Decisions.

#### Instruments:

- [the Tax Dispute and Violation Committee Procedures issued by Royal Order No. \(26040\) of 21/04/1441 AH](#)
- [Excise Tax Law promulgated by Royal Decree No. \(M/86\) dated 27/08/1438 AH.](#)
- [Income Tax Law promulgated by Royal Decree No. \(M/1\) dated 15/01/1425 AH](#)
- [Articles \(1\) and \(8.4\) of the Implementing Regulations of the Excise Tax Law issued by Decision No. \(19-4-2\) of the Board of Directors of GAZT, dated 10/09/1440 AH, corresponding to 15/05/2019.](#)
- [Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. \(1535\) dated 11/06/1425 AH.](#)
- [Article \(6.2\) of the Common Excise Tax Agreement of GCC States.](#)



## Parties' Defenses

### Defenses of Plaintiff (Zakat Payer):

#### Item First: Tax Differences:

Taxpayer stated that, as is customary and well-known, the Saudi Customs is the responsible entity for collection if the imported goods fall under the category of excise goods. They questioned why the initial 25 customs declarations were cleared under an exempt customs item, only for the item to be subsequently changed, compelling them to pay the excise tax on the final three (3) customs declarations and leading to the cessation of imports five months prior to ZATCA's communication. 2. Taxpayer further elaborated, according to our understanding, excise goods are only cleared after: A. The designated excise tax in the customs declaration is collected by the Saudi Customs before clearance (as occurred in the recent shipments). B. A declaration and commitment are signed to ensure payment within a specified period set by the Saudi Customs (no commitment was made, nor were declarations signed), negating Taxpayer's awareness that the goods fell under excise goods category and direct accountability for the tax differences to the responsible entities; 1. (Customs Clearance Office): This office is responsible for assigning the related items in the customs declaration and is the entity that communicates directly with the Saudi Customs. As is known, the clearance office is responsible for assigning the related items in the customs declarations, while the trader merely collects the incoming customs data; 2. (The Saudi Customs): is the Decision-making body and approved the (exempt) customs item submitted by the Customs Clearance Office by establishing customs items exempt from excise taxes and subsequently changing these items. Ultimately, we (declared) the imported products using the purchase invoice to the Customs Clearance Office. The customs declaration includes a description of the goods (electronic shisha parts) and reflects a duty-free code. Supporting documents will be provided for your review and clarification. Assigning customs items is not within our jurisdiction—it falls under the responsibility of the Customs Clearance Office, which communicates directly with ZATCA. Furthermore, we did not submit any excise tax returns because the official customs declarations issued by the relevant authority explicitly stated that all imported products were "exempt" from excise tax. Additionally, we did not receive any notifications from your office through any means of communication requesting the submission of excise tax returns. In conclusion, in light of the foregoing, we respectfully request that your esteemed committee rule in favor of accepting our case, hold the responsible party accountable for any tax differences, and absolve us of any liability.

### Defendant (ZATCA) Defenses

#### Item First: Tax Differences:

ZATCA argued that, upon examination of the relevant documents, it was revealed that Plaintiff imports goods subject to the excise tax (electronic cigarette parts) that were not disclosed in their tax return. ZATCA maintained that these goods are directly related to excise goods (electronic shisha/cigarettes) and are therefore subject to the excise tax. Given that Plaintiff failed to disclose thereof in their return, they were subjected to the excise tax based on the retail price disclosed by Plaintiff, in accordance with Article (2) of the Implementing Regulations of the Excise Tax Law, which stipulates: "An Excise Tax shall be imposed on the following Goods: (a) Tobacco Products; (b) Soft Drinks; (c) Energy Drinks; (d) Sweetened Drinks; (e) Electronic devices and tools used for smoking, vaping and alike; (f) Liquids consumed in electronic devices and tools used for smoking, vaping and alike", as well as Article (17) of the same Regulations, which states: "The Authority shall calculate the Tax Due amount on the Excise Goods, in accordance with the provisions of the Regulations; if the person liable for the payment of the Tax due: a. Fails to



comply with the conditions to file an import declaration or submitted an incorrect import declaration; b. Fails to comply with the conditions to file an Excise Tax Return or submitted an incorrect Excise Tax Return ...”, and Paragraph (2) of the same Article, which provides: “For the purposes of this Article, an incorrect import declaration or Excise Tax Return shall mean any import declaration or Excise Tax Return which has led to an incorrect calculation of the Tax Due”. ZATCA, as a result of the Plaintiff’s violation of the aforementioned statutory provisions, and due to the existence of outstanding excise tax differences that were not paid on the due date, imposed a late payment fine based on Article (22) of the Excise Tax Law, which states: “Any Person who fails to pay the Tax due during the period specified by the Regulations shall be liable to a fine equal to 5% of the value of the unpaid Tax for each month or part thereof for which the Tax has not been paid.”. Accordingly, ZATCA requested dismissal of Plaintiff’s case.

### Committee's Response to Defenses.

#### **Item First:** Tax Differences:

The Department, upon reviewing the case documents and the claims, defenses, and arguments presented by both parties, established that the dispute centers on Plaintiff’s objection to Defendant’s Decision regarding the fifth tax period of 2020 and the late payment fine. As for tax differences, since Defendant added tax differences attributed to the importation of goods at customs due to Plaintiff’s failure to disclose thereof in their tax return. The Department, upon examination of the Case file and Plaintiff’s presented documentation, notes that the definition of the tax base in Article (1) of the Implementing Regulations of the Excise Tax Law states that it is: (The value of Excise Good on which Tax is imposed, equals to the retail sales price determined by the importer or producer, or the standard price agreed on these goods in accordance with the Agreement, whichever is higher; exclusive of Tax due and VAT). Similarly, Article (6.2) of the Common Excise Tax Agreement of GCC States stipulates “The value on which the tax is imposed on other excise goods shall be determined based on the retail sale price of these goods, provided that such price shall be the price determined by the importer or producer of the excise goods, or according to the standard price list that shall be periodically agreed upon between the tax authorities in the GCC countries, whichever is higher”. The Department further finds that, according to the case file, Plaintiff’s goods were cleared by the Saudi Customs based on a valid formal clearance after providing all required documents, including the customs declaration, which indicated the type of goods without any misrepresentation by Plaintiff, and without any reservation or notification from the Saudi Customs regarding any concerns about the goods. Additionally, it is established that the claim for tax differences against Plaintiff was made after a significant period of time. Defendant did not provide proof, as required by the applicable laws and regulations, justifying its claim against Plaintiff for the alleged tax differences, nor did it prove the validity of these tax differences or demonstrate any errors in the invoices and records provided by Plaintiff to the customs officer during clearance, nor did it establish any deception by Plaintiff in their disclosures. Since the legal principle holds that (the burden of proof lies on the plaintiff), and according to the legal maxim (“There should neither be harming (of others without cause), nor reciprocating harm (between two parties)”), and since claiming amounts against Plaintiff after the lapse of time without a legal basis could cause unjustified harm to Plaintiff, which is not supported by the relevant laws, and it is established that Plaintiff’s taxable goods were cleared based on complete invoices submitted to the Saudi Customs without evidence of any deception, and there was no reservation or doubt raised by the Saudi Customs at the time regarding the validity of these documents, nor did the Saudi Customs or Defendant demonstrate, prior to the clearance, any suspicion about the correctness of the retail price. Whereas it is established to the Department that the purpose of the provision under Article (8) of the Implementing Regulations is to allow Defendant to exercise the right to verify at the time of document submission and not after clearance without notifying Plaintiff of any doubts about



the correctness of the retail price. This purpose is confirmed by the final part of Article (8.2) of the Implementing Regulations, which states: "... the Authority or Saudi Customs shall have the right to reject such prices and determine the correct price to be used for calculating the Tax Due, in accordance with the provisions of the Regulations". Accordingly, Defendant's action lacks a valid legal basis and must be dismissed.

As for the late payment fine, the contested fine stems from the assessment of the disputed tax period, since the aforementioned fine resulted from excise tax that was not paid within the prescribed statutory period, given the preceding ruling resulted in the annulment of Defendant's Decision, and considering that the late payment fine is a consequence thereof, the associated penalty follows the same ruling, the Department therefore decided to annul Defendant's Decision.

#### Decision:

**First:** Accept the case in form.

**Second:** Annul Defendant's (ZATCA's) Decision issued against (...), holder of National ID No. (...), owner of (...) Est., CR No. (...), Subject of the case.

This Decision was issued in the presence of both litigants, and the Department set a thirty days' period for receiving a copy of the Decision and may extend such period for another thirty days. Any litigant may appeal the Decision within 30 days from the day following specified delivery date. After expiry of this period, the Decision shall be deemed final and enforceable.

**May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.**



**Successfully Completed, Thanks to  
Allah**