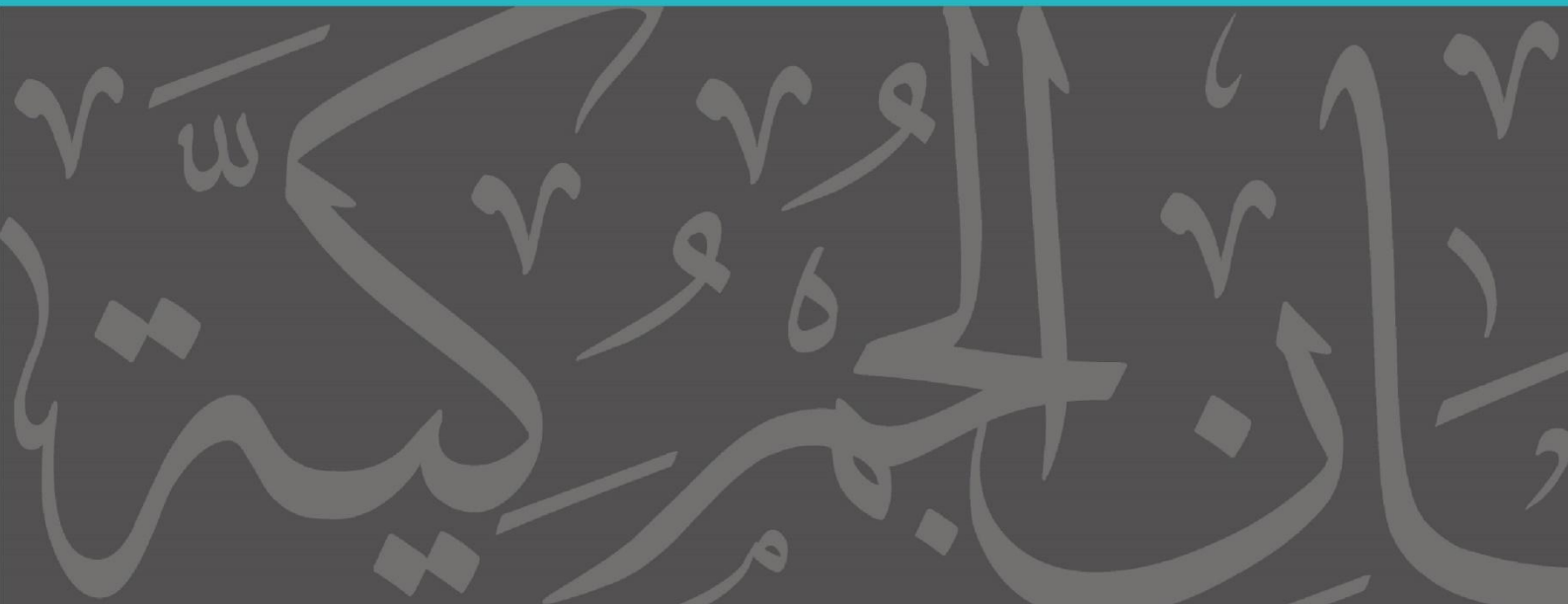




الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Compendium of Principles Derived from the Decisions of the Tax Appeal Committees For the Year 2025





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

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Tax and Customs Committees
1448 AH - 2026 AD**



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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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Introduction

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

Therefore:

In recent time the efforts made by the courts and judicial Committees in various parts of the Kingdom of Saudi Arabia, and the rulings and decisions issued by them, constitute a priceless jurisprudential and judicial wealth, and a result that should be given attention and care. Considering the commercial and industrial revolution that Saudi Arabia is experiencing under Saudi Vision 2030, many people are facing numerous challenges in Tax cases. From the perspective of social responsibility that the General Secretariat of the Zakat, Tax, and Customs Committees adopts, it has sought to establish a solid foundation and reference for Committees members, taxpayers, and interested parties. This includes the publication of the "Principles Derived from the Decisions of the Tax Appeal Committees for 2025 AD," which effectively contributes to addressing Tax disputes, thereby reducing the prolongation of litigation; as these documents clarify what the appeal Committees have settled on in their decisions. This will reflect on shortening the duration of litigation for concerned parties, easing the burden on the judge, and achieving the principle of transparency that the General Secretariat pursues, in addition to providing practical aspects for the relevant authorities in legal and regulatory research, especially academic and training institutions, among others.

The Secretariat was keen to identify the principles settled in the Taxes Appeals Committees in order to achieve the Secretariat's goals of reducing efforts and knowing the judicial precedents of the Appeals Committees, which will reduce the number of cases filed before it, if the parties to the case have previously informed the head of the Committees about the subject matter of the case they intend to file.

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



Speech of the Secretary General of the Zakat, Tax and Customs Committees

Praise be to Allah alone. Therefore:

Based on the vision and values of the General Secretariat of Zakat, Tax and Customs Committees (GSTC), which has taken upon itself to excel in the capacity to resolve Zakat, tax, and customs disputes; adopt innovative and effective methods; enhance transparency and impartiality; foster cooperation among the parties of the Zakat, tax, and customs ecosystem; and play an active role in raising the efficiency of legal review. This is in a manner that contributes to achieving the objectives of Saudi Vision 2030 by empowering prompt justice and adopting the values of transparency and innovation, through supporting the Zakat, Tax and Customs Committees in the prompt resolution of the disputes presented before them, and providing backing and support to the committees at all stages by conducting studies and research, and serving the taxpayers by clarifying the laws, decisions, and judicial precedents, and updating them periodically. Among this is the project of (the Principles Derived from the Decisions of the Tax Appeal Committees for the Year 2025 AD).

The General Secretariat has also accorded special importance to the decisions issued by the Appeal Committees and the principles they contain; as they represent the essence of settled judicial jurisprudence, distinguished by their adaptability for continuous development and change according to the latest developments of reality, because their establishment aims to resolve disputes presented before the judicial Committees. Furthermore, the knowledge of them limits disagreements and disputes; which is considered a preemptive prevention and a protection for the financial positions of the stakeholders, and an assistance to them in their positions before the committees.

This prestigious status of the principles of the Zakat, Tax and Customs Committees necessitates working to extract and publish them to the public; in realization of the principle of transparency, highlighting the ongoing efforts, and enriching the academic arena, so as to become a fertile ground for scholars, specialists, and research centers.

What the Secretariat is undertaking—in accordance with its role through publishing these principles— is nothing but a confirmation of its relentless pursuit to achieve everything that would raise the level of justice to its befitting standard, and that is thanks to the support and directives of the blessed leadership which spares no effort in its generous support for the legislative and regulatory environment.

In conclusion, I extend my profound gratitude to my Lord, the Custodian of the Two Holy Mosques, King Salman bin Abdulaziz, and his trustworthy Crown Prince, His Royal Highness Prince Mohammed bin Salman bin Abdulaziz, the Prime Minister - may Allah preserve them - for their sponsorship and unlimited support for the judicial activities in various fields. I also extend my abundant thanks to the personnel of the General Secretariat for their distinguished efforts in issuing this product, which I hope will achieve its objectives and be a qualitative addition in the legal field.

Secretary-General

Abdullah bin Abdulrahman Al-Suhaibani



Methodology

The Secretariat has been keen to select the settled principles of the Committees, which possess a general nature applicable to a multitude of cases rather than opinions tied to a specific case, and which are not statutory texts. Given the varying facts and circumstances of tax lawsuits, they have been arranged and categorized by subject matter.

The work required establishing a solid plan and a meticulous methodology to present them in an easy and accessible manner. The work was divided into several stages as follows:

- Conducting a meticulous inventory of the final decisions of the Appeal Committees.
- Distinguishing between what was mentioned in the stated principles by way of narration regarding the parties to the lawsuit, and the principles that express the committee's opinion.
- Extracting the committee's specific opinions often mentioned in the grounds of the decision, which have a character of generality and express a rule applicable to similar cases.
- Recording the appeal decision number in which the principle was mentioned, even if it was repeated in multiple decisions.
- Merging the identically worded principles into a single principle, with the mention of the decisions in which they were stated.
- Merging the principles that are identical in meaning and similar in drafting into a single principle, while choosing the best, clearest, and broadest draftings, alongside merging the draftings in a few instances.
- Classifying the principles according to subjects.
- Numbering the principles sequentially.
- Not publishing any principle upon which the practice has currently settled in the applicable laws and newly issued circulars, unless there is a benefit in mentioning it.
- To facilitate referencing the appeal decision, the Appeal Committee's decision from which the principle was extracted has been placed. This was done by placing the Appeal Committee's decision on the analytical template, through which the decision's foundation, the facts, the grounds, and the operative part of the decision were highlighted.
- If there is more than one decision from which the principle was extracted, it suffices to place a single decision, with a reference to the number and data of similar decisions, if any.
- Ensuring the deletion of all identifying data indicating the parties to the lawsuit or other parties without impacting the decision.



Principles Derived from the Decisions of the Tax Appeal Committee



Income Tax



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes

Decision No. IR-2025-240407
Case No. I-2024-240407

Principle No. 1

- Comparable companies shall not be accepted in the transfer pricing analysis unless their independence and the adequacy of their financial information are proven, and the assessment, along with its associated penalties, shall be recalculated whenever their exclusion or acceptance results in an adjustment to the interquartile range.

Facts

This is to consider the appeal submitted on 06/08/2024 by / (...), Resident ID No. (...), in his capacity as the legal representative of the appellant company pursuant to the Commercial Registration along with the appeal submitted by the Zakat, Tax and Customs Authority on 08/08/2024, against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City bearing No. (ISR-2024-230244), issued in lawsuit No. (I-2024-230244) pertaining to the tax assessment for the year 2019 AD, in the lawsuit submitted by the taxpayer against the Zakat, Tax and Customs Authority, wherein the decision of the Resolution Circuit ruled as follows:

First: To accept the lawsuit submitted by the Plaintiff / Branch of (...) Company, Commercial Registration No. (...), against the Defendant / Zakat, Tax and Customs Authority, procedurally.

Second: On the merits:

- 1- To annul the Defendant's decision regarding the transfer pricing item, according to the stated grounds.
- 2- To annul Defendant's decision regarding the late payment penalty item, according to the stated grounds.

Whereas this resolution was not accepted by the taxpayer, who submitted an appeal brief reviewed by the Circuit, containing the following:

As the taxpayer objects to the appealed decision of the Resolution Circuit, they request regarding the item of (Transfer Pricing - pertaining to comparable companies and the interquartile range) the annulment of the Circuit's resolution. The taxpayer stated that the independence indicator ... of the company is (A+), which indicates that the company is independent and not part of a group, and that the shareholders' equity percentage is less than (25%) of



the total company share; thus, there is no issue with the branch's independence, which refutes the Authority's claim. The taxpayer referred to the Arabic translation document of the local file for transfer pricing, and a screenshot from the database showing the company's independence indicator. Regarding the company's activities, the taxpayer provided a screenshot from the database explaining the nature of the company's activities, and provided a translation of the screenshot stating the following: "The company primarily operates in providing accounting services. The company provides accounting, auditing, internal auditing, regulatory and compliance, corporate recovery, forensic accounting, and risk management services." Accordingly, the company's activities are limited to professional services and do not include discussion and negotiation with banks regarding loans on behalf of clients as the Authority claims. As for the item of (Transfer Pricing - pertaining to determining the profit level indicator of the branch), the taxpayer requests the annulment of the Circuit's resolution regarding this item based on the following grounds: First: The capability and technical competence of the branch during the year 2019 AD. The taxpayer indicated that the branch did not have sufficient capabilities to execute active projects during the year 2019 AD, and at that time the branch had only 12 employees, 8 of whom provided services to clients, and the experience and specializations of the eight employees did not serve the objectives and type of active projects in the year 2019 AD. Consequently, the branch relied entirely on (...) UAE to lead and execute projects, and this support is based on the business model of (...) Group, which allows the group's offices to provide support based on the specific requirements of a project; therefore, the branch's role was limited to administration and coordination activities, which are routine activities. The taxpayer submitted the roles of the branch employees and their job descriptions for the year 2019 AD, a sample of email communications of the subsidiary companies of (...) to maintain client relations, the group's business model, and the functional profile of the branch. Second: The functional profile of the branch for the year 2019 AD: The functional profile includes a functional analysis of the tested party, through which the functions performed, assets used, and risks assumed are determined. The taxpayer added that during 2019, the branch performed limited functions and tasks that included routine activities such as administrative and coordination tasks; the assets owned by the branch were offices, computers, etc., and the risks assumed by the branch were low-risk considering that the branch performed low-value tasks. Therefore, the branch can be classified as a low-value, limited-risk, and limited-asset advisory service provider. Third: The Operating Margin (OM) cannot be applied as an appropriate profit level indicator: The taxpayer pointed out that the esteemed Resolution Circuit stated, based on the Authority's memorandum, that the Operating Margin (OM) was used in the years prior to the year in dispute, and as such, the Operating Margin (OM) must be used as an appropriate profit level indicator. The Authority also stated that in the event of a change in the profit level indicator, the branch must provide convincing reasons for this change (such as a change in the branch's activity). Based on the guidelines stated in the Transfer



Pricing Guidelines in Saudi Arabia, specifically Paragraph 4.2.4.3 regarding the selection of the profit level indicator when applying the Transactional Net Margin Method (TNMM), the operating margin applied by the Authority in its assessment is more appropriate when analyzing marketing and distribution activities, and the Mark-up on Total Costs (MOTC) is more appropriate when analyzing manufacturing and service activities. Since there is no dispute over the fact that the branch is a service provider, it is clear that the most appropriate profit level indicator should be the Mark-up on Total Costs (MOTC), with adjustments if necessary. The taxpayer provided references from the Guidelines: Operating Margin (OM) as a profit level indicator - Transfer Pricing Guidelines in Saudi Arabia, Paragraph 4.2.4.3 states: "Operating margin or declaration on sales: ...This method aims to measure the profitability of companies and sectors of various sizes and is not used to calculate the capital employed in generating profit. Using operating profit as a measure of cash flow reduces the impact of accounting, financing, and tax policies on profits. The Authority considers it appropriate to apply this method to marketing and distribution activities." Given that the branch is a low-value, limited-risk, and limited-asset advisory service provider, the Operating Margin (OM) cannot be considered an appropriate profit level indicator, as it only applies to entities performing distribution or marketing activities. Mark-up on Total Costs (MOTC) / Net Cost Plus Mark-up - Transfer Pricing Guidelines in Saudi Arabia, Paragraph 4.2.4.3 states: "Net cost plus mark-up margin: This is the ratio of earnings before interest and taxes or operating profits to total costs. This indicator serves as a measure of declarations from the total operating cost of the person (excluding interest and taxes). When using this indicator, the presence of functional differences has no impact on the analysis, assuming they are reflected in the level of sales and general and administrative expenses as it is possible to include a number of items within the cost of sales or operating expenses. This indicator is usually appropriate for use in manufacturing operations and service providers, where the person's costs reflect the activities, they perform. The tested party typically controls the cost of each unit produced, quantities produced, labor, and operating expenses." The taxpayer added that transfer pricing is a dynamic and changing concept, studied independently each year. Simply because the branch adopted the Operating Margin (OM) as a profit indicator in its previous years does not mean the same indicator must be adopted every year. Furthermore, according to the transfer pricing bylaws and guidelines in Saudi Arabia, taxpayers are required to comply with transfer pricing documentation requirements for each fiscal year separately, where applicable; accordingly, the transfer pricing position adopted by the Authority in its previous assessments (i.e., fiscal years from 2016 to 2018) cannot be adopted in subsequent years, as transfer pricing bylaws require a contemporaneous exercise to determine and consider all relevant facts and details for taxpayers for each fiscal year separately.

Also, this resolution was not accepted by the Authority, which submitted an appeal brief reviewed by the Circuit, summarizing the following:



As the Authority objects to the appealed decision of the Resolution Circuit, regarding the item of (Transfer Pricing), it indicated that it adheres to what was stated in its response memorandum submitted to the Resolution Circuit, and refers to it to avoid repetition and prolongation. Regarding company (...) and (...) and (...), the Authority asserts the incorrectness of the Circuit's resolution to accept the taxpayer's objection, where it accepted the taxpayer's objection based on Attachments (7.1) to (7.8) submitted by the taxpayer. Upon reviewing the attachment, it became clear that the financial information is incomplete and inadequate (as financial information must be available showing sales, cost of sales, operating costs, and profit for the year), making it impossible to conduct a comparability analysis under this information as it is insufficient to clarify the financial position of the comparable companies. This was previously clarified by the Authority to the taxpayer in the transfer pricing report and in the preliminary and final assessment notices, and the Authority details below the reasons for rejection for each company:

- 1) (...): The Authority provided a screenshot from the database showing the lack of financial information for the year 2019 AD, and the taxpayer did not attach (Attachments 7.1 to 7.8) any additional documents for the financial information for the year 2019 AD.
- 2) (...): The Authority provided a screenshot from the database showing the lack of financial information for the years 2017-2019, noting that the database used is the same by both the Authority and the taxpayer; therefore, the taxpayer must clarify the source of the financial information for the years 2017-2018. Without contradicting the Authority's previous opinion, the financial information provided by the taxpayer does not include the operating profit, making it impossible to reach the result of the operating margin for the comparable company.
- 3) (...): The Authority provided a screenshot from the database showing the lack of financial information for the years 2017-2018, noting that the database used is the same by both the Authority and the taxpayer; therefore, the taxpayer must clarify the source of the financial information for the years 2017-2018. Without contradicting the Authority's previous opinion, the financial information provided by the taxpayer does not include the operating profit, making it impossible to reach the result of the operating margin for the comparable company, whereas Paragraph 4.3.2 of the Transfer Pricing Guidelines states: "The instructions do not specify a particular database, and the Authority will not automatically reject the use of data obtained from specific databases if that database is accessible to the Authority. However, taxpayers must prove the appropriateness of using a specific database in the analysis. Financial information for independent transactions or data of independent persons can be obtained, and public databases and other available information sources can be used in most cases. In addition to the above, the use of confidential information for comparison or relying on it in any way for analysis purposes will not be permitted." Accordingly, the Authority affirms the exclusion of



these companies due to the unavailability of financial information, and the Authority has provided evidence proving the deficiency of this information and the impossibility of using it in the comparability analysis.

Second: Regarding company (...), (...), (...), (...), (...), (...), (...):

- 1) (...): The Authority provided a screenshot from the database showing the existence of a subsidiary 100% owned by the comparable company. 2
- 2) (...): The Authority provided a screenshot from the database showing that the company is a 100% subsidiary of the parent company, in addition to the existence of two companies in the group that are at least 99% subsidiaries of the parent company, and the independence indicator of the company is D according to the database.
- 3) (...): The Authority provided a screenshot from the database showing that the company is a 100% subsidiary of the parent company, in addition to several companies in the group being subsidiaries of the parent company with varying percentages, and the independence indicator of the company is D according to the database.
- 4) (...): The Authority provided a screenshot from the database showing the existence of two subsidiaries 100% owned by the comparable company.
- 5) (...): The Authority provided a screenshot from the database showing the existence of a subsidiary 85% owned by the comparable company.
- 6) (...): The Authority provided a screenshot from the database showing the existence of two subsidiaries owned by the comparable company at 100% and 60% respectively.

The circuit that issued the appealed resolution annulled the Authority's decision and accepted the taxpayer's objection based on Attachments (7.1) to (7.8) submitted by the taxpayer, and based on the text of the Circuit's resolution which stated: "It is evident that the Defendant's rejection lacks validity, as the rejection was based on an 'assumption', whereas it should have performed its duty to examine the companies, verify their comparability, and provide logical reasons based on the regulations and transfer pricing guidelines. Thus, the Circuit deems it appropriate to accept the Plaintiff's objection and annul the Defendant's decision." The Authority replies to this that the text of the resolution indicates that the Authority's exclusion of these companies was based on an assumption, which contradicts the facts and realities, as the Authority examined these companies to verify their comparability and rejected these companies based on the examination result which showed that these companies negate one of the most important factors of the comparability analysis, which is independence. Based on Article Three of the Transfer Pricing Bylaws which states: "For the purposes of income tax, the terms and conditions of transactions



between related persons must be similar to the terms and conditions of comparable transactions conducted between independent persons", in addition to Paragraph 3.2.1 of the Transfer Pricing Guidelines, which defined an aspect of considering persons as related persons, as follows: "The transfer pricing bylaws included considerations for control through ownership. If a person's ownership is 50% or more of a legal person, it is presumed that the owner controls that legal person." And also based on what is stated in Paragraphs 4 and 4.3, respectively, of the Transfer Pricing Guidelines: "The objective of the comparability analysis is to assess the degree of comparability between transactions between related persons and independent transactions, and is considered one of the foundations upon which the application of the arm's length principle rests", "Specific margins achieved by independent persons similar to related persons are used as indicators of the arm's length nature of the prices of transactions between related persons, based on the premise that if independent persons achieved specific margins from one or more transactions, it can be considered that if a related person achieved the same margins from its transactions with related persons, the prices of those transactions must comply with the arm's length principle." Accordingly, it is clear to the Authority that the comparability analysis is based on comparing the transactions of related parties with the transactions of independent persons; therefore, if the independence factor of the comparable companies is negated, they must be excluded from the comparability analysis; which clarifies the exclusion of these companies due to the negation of the independence factor. Regarding the (Late payment penalty) item, the Authority adheres to what was stated in its response memorandum submitted to the Resolution Circuit, and refers to it to avoid repetition and prolongation, and states that upon returning to the taxpayer's objection submitted to the Authority to verify their objection to the appealed item, it was found that they did not object to this item for the year 2019 AD and had not previously raised it before the Authority, as it is obligatory for the Plaintiff to object to this item first before the Authority in accordance with the statutory procedures stipulated in Article (5) of the Rules of Operation for Zakat, Tax, and Customs Circuits. The Authority imposed the late payment penalty on the unpaid tax differences by the statutory due date based on Article No. (77) of the Income Tax Law, and Article (68) of the Implementing Regulations of the Income Tax Law.

On Monday, 24/03/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 04:15 PM in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote litigation procedures; based on the provisions of Item No. (1) Of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH; and upon calling the litigants, / (...) attended, National ID No. (...), in his capacity as the attorney for the taxpayer under Power of Attorney No. (...) issued on 14/05/1445 AH, and Law Practice License No. (...). Also attended / (...) (National ID No. ...), in her capacity as the representative of the Zakat, Tax and Customs Authority under an



authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs and Compliance bearing No. (...) dated 19/03/1445 AH. Upon asking the taxpayer's attorney what he would like to add, he stated that he adheres to what was previously submitted in this lawsuit. Upon presenting this to the Authority's representative, she answered that the Authority submitted a supplementary memorandum via the CRM system under number (...). Upon asking both parties what they would like to add, they decided to rest their case on what was previously submitted. Accordingly, the Circuit decided to postpone the consideration of the lawsuit to the hearing on Tuesday, 22/04/2025. The hearing concluded at 04:45 PM.

On Tuesday, 22/04/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 11:00 AM in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH; and upon calling the litigants, / (...) attended, National ID No. (...), in his capacity as the attorney for the taxpayer under Power of Attorney No. (...) issued on 14/05/1445 AH, and Law Practice License No. (...), and the Authority's representative / (...) attended (National ID No. ...), under an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs bearing No. (...) dated 19/03/1445 AH. Upon asking the taxpayer's attorney what he would like to add, he stated that he adheres to what was previously submitted in this lawsuit. Upon presenting this to the Authority's representative, she answered by adhering to what was previously submitted in this lawsuit, and upon asking both parties what they would like to add, they decided to rest their case on what was previously submitted. And after closing the pleadings and deliberation.

Grounds of the Decision



Whereas upon reviewing the case documents and the appeal brief submitted by the taxpayer and the Zakat, Tax and Customs Authority, the Circuit found that the conditions for considering the appeal procedurally have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and resolutions, making both appeals acceptable procedurally, as they were submitted by persons with capacity, and within the statutory due date prescribed for their execution.

On the merits, and whereas regarding the appeal of the two parties concerning the item of (Transfer Pricing - pertaining to comparable companies and the interquartile range), and whereas Article (62) of the Income Tax Law states:

"a. The Authority has the right to correct and adjust the tax stated in the declaration to make it compliant with the provisions of this Law, and it has the right to make a tax assessment if the taxpayer fails to file their declaration ",



and Paragraph (a/2) of Article (63) of the Income Tax Law, pertaining to tax evasion procedures, states that:

"a. For the purpose of determining the tax, the Authority has the right to: 2. Re-characterize transactions the form of which does not reflect their substance and place them in their true form." Paragraph (c) of the same Article states that: "c. The Authority may reallocate income and expenses in transactions that occur between related parties, or parties belonging to the same entity to reflect the income that would have been generated had the parties been independent and unrelated." Based on Paragraph (11) of Article (10) of the Implementing Regulations of the Income Tax Law, which states that: "The following expenses may not be deducted: 11- The value of materials supplied or the value of services provided by parties related to the taxpayer exceeding the prices used between independent parties, and the Authority shall issue the rules for determining the fair prices for transactions conducted between related parties in accordance with internationally accepted standards." Based on Paragraph (a/1) of Article (5) of the Transfer Pricing Bylaws, which states: "a- For the purposes of these Bylaws, transactions between related persons shall be identical to or comparable with independent transactions in any of the following cases: 1- The absence of significant differences that materially affect the financial indicator subject to examination under the appropriate transfer pricing method." Furthermore, Paragraph (b) of Article (12) of the Transfer Pricing Bylaws states the following: "The Authority may adjust the financial indicator if the financial indicator derived from the transaction between related persons or from aggregated transactions falls outside the arm's length range, provided that the financial indicator is adjusted in a manner that most accurately reflects the characteristics and circumstances of the case and falls within the arm's length range." Based on Article (15) thereof, pertaining to general obligations, which states: "a- The Authority has the authority to request any information related to transactions between related persons that it deems necessary to perform its regulatory functions and achieve the objectives of these Bylaws. b- Without prejudice to the provisions of Article Nineteen: (Exceptions) of these Bylaws, a taxpayer who is a party to a transaction between related persons must maintain documentation proving that these transactions are conducted on an arm's length basis. c- The taxpayer must maintain sufficient documentation containing economic information and analyses to prove that the terms of its intercompany transactions are conducted in accordance with the arm's length principle, and such documentation must be available for review by the Authority upon request. d- The Authority must be provided with the documentation related to transactions between related persons upon the Authority's request within the period specified by the Authority, provided that the period is not less than thirty (30) days from the date of the request." Based on Paragraph (4.3.4) of the Transfer Pricing Guidelines, which states: "Each person found during the database search must be evaluated to determine their comparability with the tested party. In this regard, each person must be evaluated to determine their comparability in terms of functions performed, risk characteristics, industry, and any other relevant factor – as the case may be. The Authority does not consider



providing a large amount of information obtained from a database as sufficient to accept the selected persons for comparison unless the comparability of these people is verified." Based on Paragraph (4.3.6) of the Guidelines, containing: "To prevent the effect of exceptional cases and values falling outside normal limits, a statistical approach is required in calculating the arm's length range. Accordingly, the prices/values falling within the interquartile range are considered the appropriate range for margins based on arm's length prices. Although any point falling within this range can be considered to comply with the arm's length principle, the Authority considers the use of the median in determining the transfer pricing policy to be the most appropriate application unless the taxpayer proves otherwise in specific cases." Paragraph (4.3.2) also included: "The instructions do not specify a particular database, and the Authority will not automatically reject the use of data obtained from specific databases if that database is accessible to the Authority. However, taxpayers must prove the appropriateness of using a specific database in the analysis. Financial information for independent transactions or data of independent persons can be obtained, and public databases and other available information sources can be used in most cases. In addition to the above, the use of confidential information for comparison or relying on it in any way for analysis purposes will not be permitted." Based on Paragraph (3.3.4) of the Guidelines, containing: "For the purposes of normalizing the data of comparable persons, the search scope must include data for three consecutive years, and the comparable persons must not have incurred losses during the years included in the scope of analysis. The arm's length range is calculated using the weighted average for the years included in the scope of analysis. All other search criteria must be compatible with the tested party, as the taxpayer must be able to support all the steps taken for the purpose of obtaining a set of comparable persons." Based on the foregoing, as the dispute over the Authority's non-acceptance of the comparable companies lies in them being "a subsidiary of a group of companies, and that a group of companies is not limited only to shareholders, but includes the existence of subsidiaries to the entity, which applies to the company." Upon the Circuit's review of the case file, it was found that the Authority provided a screenshot from the database showing that all the companies (... , ... , ... , ... , ... , ... , ...) are not independent, in that some are 100% subsidiaries of parent companies and exist in subsidiary groups, which clarifies that the apparent independence indicator is (D), and that the Authority argues that these companies are not independent based on the screenshot attached in its appeal from the (...) platform, whereas the taxpayer argues with screenshots from the same site making it clear that the companies are classified as (A) and that they are independent. Consequently, regarding the Authority's appeal concerning company (...), by comparing the screenshots provided by the taxpayer, it is clear that the Authority provided screenshots from the (...) site, and it is evident that the subsidiary's accession to the company was on 10/2019, i.e., in the year subject of the dispute, while the taxpayer provided a screenshot clearly for the year 2023, i.e., a year subsequent to the year of the dispute. Given that the aforementioned company is indeed not



independent, which clarifies that the apparent independence indicator is (F), the validity of the Authority's decision in not to accept the comparable company is evident, as the lack of independence impacts the market price since it will be affected by the controlling entities. Therefore, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the company (...).

As for the Authority's appeal concerning company (...), and by comparing the screenshots provided by the taxpayer and the Authority, the Circuit found that the Authority provided screenshots from the (...) site, and it is evident that the accession date of the two subsidiaries to the aforementioned company was prior to the end of the year 2019 AD. The taxpayer did not provide any document indicating the year in which the screenshot was saved from the site. Given that the aforementioned company is indeed not independent, which clarifies that the apparent independence indicator is (D), the validity of the Authority's decision in not to accept the comparable company is evident, as the lack of independence impacts the market price since it will be affected by the controlling entities. Therefore, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding company (...). Regarding company (...), where the dispute lies in the Authority's argument that the taxpayer did not provide the financial information for the year 2019 AD concerning the referenced company; upon the Circuit's review of the case file and the submitted documents, it found the Authority's argument to be valid, as the Authority updated the years approved in the study to include the years 2017-2019 in accordance with Paragraph (3.3.4) of the Transfer Pricing Guidelines as follows: "It is necessary to determine the years that fall within the scope of analysis. The years falling within the scope of analysis are considered the years in which the date of the taxpayer's transactions between related persons, the prices of which will be verified for compliance with the arm's length principle, falls." Therefore, the Circuit concludes to accept the Authority's appeal regarding company (...).

As for the taxpayer's appeal concerning company (...), where the dispute lies in considering the comparable company as a subsidiary of a group of companies rather than an independent one to be relied upon; upon the Circuit's review of the case file and the supplementary memorandum submitted by the Authority, it was found that it argues the company belongs to a group of companies and the activity of the subsidiaries is different: "contracting, loan solutions for individuals, interior design," and that the company's activity includes discussion and negotiation with banks regarding loans on behalf of clients. By reviewing the company's website in the screenshot provided in the Authority's memo, it is evident that the company's primary activity is providing consultancy in multiple fields including tax, legal, accounting, and auditing, and not as the Authority claims. As for its argument that the activity of the subsidiaries is different, it was found that there is no impact on the comparable company. It is also evident that the Authority did not provide any documents proving that the company is not comparable, and since the taxpayer



provided the documents proving their point of view, the Circuit concludes to accept the taxpayer's appeal and annul the Resolution Circuit's decision regarding company: (...).

Regarding the Authority's appeal on the (Late payment penalty) item, based on the text of Paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stated the following: "In addition to the penalties set forth in Article Seventy-Six of this Law and in Paragraph (b) of this Article, the taxpayer must pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay, which includes delay in the payment of the tax required to be withheld and advance payments, calculated from the tax due date until the payment date." And based on Paragraph (1) of Article (68) of the Implementing Regulations of the Income Tax Law issued by Ministerial Decision No. (1535) dated 11/06/1425 AH which stated the following: "1% of the unpaid tax for every thirty days of delay shall be added to the penalties set forth in the previous Article in the following cases: b- Delay in paying the tax due under an Authority assessment." And based on Paragraph (3) of Article (67) of the same Regulations, containing: "The unpaid tax means the difference between what the taxpayer paid by the statutory due date and the tax due for payment under the provisions of the Law, including adjustments made by the Department that have become final as stated in Paragraph (2) of Article Seventy-One of these Regulations, including the objected cases where the penalty is calculated from the statutory due date for submitting the declaration and payment." Based on the foregoing, whereas the Circuit's resolution on the (Transfer Pricing - pertaining to comparable companies and the interquartile range) item referred to above concluded with To accept the Authority's appeal regarding the companies: (...), accordingly, the Circuit concludes to amend the decision of the Resolution Circuit in the late payment penalty item to state that the Authority has the right to reassess the taxpayer after taking into consideration the companies accepted for comparison according to the issued appellate resolution, obtaining the interquartile range, and recalculating the penalties based on the new assessment. Therefore, the Circuit concludes to amend the Resolution Circuit's decision regarding the Authority's appeal on the (Late payment penalty) item.

Whereas regarding the appeal of the taxpayer and the Authority on the remaining items subject of the lawsuit. And whereas the Circuit shall not be faulted for adopting the grounds of the appealed resolution without addition if it deems that those grounds suffice without introducing anything new, because in upholding them based on the grounds they carry, it confirms that it did not find in the challenges directed at the resolution anything that warrants a response beyond what those grounds contained. Since this is the case, and it was established that the appealed resolution concerning the dispute regarding the appealed items was consistent with the sound grounds upon which it was built and which are sufficient to carry its ruling, as the issuing Circuit undertook the scrutiny of the crux of the dispute therein and arrived at the conclusion stated in its ruling, and whereas this Circuit did not note anything that



warrants rectification or commentary in light of the defenses raised before it. Therefore, this Circuit concludes to reject the taxpayer's appeal and reject the Authority's appeal and uphold the decision of the Resolution Circuit subject of the appeal in its resulting conclusion regarding the remaining items subject of the lawsuit, based on its underlying grounds.

Decision

First: To accept the appeal procedurally submitted by the taxpayer / Branch of (...) Company, Commercial Registration No. (...), TIN (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2024-230244) issued in lawsuit No. (I-2024-230244) pertaining to the tax assessment for the year 2019 AD.

Second: On the merits:

- 1- Regarding the appeal of the two parties on the item of (Transfer Pricing - pertaining to comparable companies and the interquartile range-):
 - a) To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the companies: (... , ... , ...).
 - b) To reject the Authority's appeal and uphold the Resolution Circuit's decision regarding the companies: (... , ... , ... , ... , ... , ... , ... , ...).
 - c) To accept the taxpayer's appeal and annul the Resolution Circuit's decision regarding the company: (...).
- 2- To amend the Resolution Circuit's decision regarding the Authority's appeal on the (Late Payment Penalty) item.
- 3- To reject the taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (Transfer Pricing - pertaining to determining the profit level indicator of the branch-).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes

Decision No.

IR-2025-235218

Case No.

ZIW-2024-235218

Principle No. 2

- The determining factor in excluding import differences from the base is establishing their causes and justifications through supporting documentation; merely stating the reasons for the differences without proving their validity is insufficient.

Facts



This is to consider the appeal submitted on 23/04/2024 AD by / (...), National ID No. (...), in his capacity as the authorized representative of the Appellant Company pursuant to Power of Attorney No. (...) dated 11/07/1444 AH, and Law Practice License No. (...), and the appeal submitted by the Zakat, Tax and Customs Authority (ZATCA) on 28/04/2024 AD, were reviewed against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City No. (IZD-2024-9692) issued in Case No. (ZIW-2019-9692) pertaining to the Zakat and Tax Assessment for the years from 2009 AD to 2016 AD, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the Resolution Circuit's decision ruled the following:

- 1- Annulment of the Defendant's decision regarding the statute of limitations item for the years from 2009 AD to 2013 AD.
- 2- Inadmissibility of considering the withholding tax item for the years from 2009 AD to 2016 AD due to prior adjudication.

Whereas this decision was not accepted by the Taxpayer, it submitted an appeal against it, and a decision was issued by this Circuit to remand the case back to the Resolution Circuit to consider its merits pursuant to Decision No. (IR-2023-71376) dated 06/08/2023 AD. Subsequently, the Resolution Circuit issued Decision No. (IZD-2024-9692) dated 18/03/2024 AD, stating: "1- Annulment of the Defendant's decision regarding the statute of limitations item for the years from 2009 AD to 2013 AD. 2- Inadmissibility of considering the withholding tax item for the years from 2009 AD to 2016 AD due to prior adjudication." Accordingly, the Circuit decided to resume the consideration of the case, and the Taxpayer submitted an appeal brief summarizing the following:



Regarding the Taxpayer's appeal against the Resolution Circuit's decision pertaining to the item of (Statute of Limitations related to Withholding Tax for the years from 2009 AD to 2013 AD), the Taxpayer argued that the Authority did not provide any reason for imposing the withholding tax, citing Article (Sixty-Five) of the Income Tax Law. Regarding the (Withholding Tax item for the years from 2009 AD to 2016 AD), the Taxpayer requested the annulment of the Circuit's decision on this item, stating that the Authority assessed a withholding tax of (14.7) million Riyals without providing any basis for the assessment or how the tax was calculated, and submitted an analysis for all years from 2009 AD to 2016 AD.

Furthermore, the decision was not accepted by the Zakat, Tax and Customs Authority, which submitted an appeal against the contested decision pursuant to an appeal brief summarizing the following:

Regarding the Authority's appeal against the Resolution Circuit's decision pertaining to the item of (Statute of Limitations for the years from 2009 AD to 2013 AD), the Authority appealed the Resolution Circuit's decision, clarifying that it conducted a reassessment based on a written approval from the Company, pursuant to the Implementing Regulations for Zakat Collection, which stipulated in Paragraph (8) of Article (Twenty-One) regarding the years from 2007 AD to 2016 AD. As for the assessment for the year 2013 AD, since the period is from 01/01/2013 AD to 31/12/2013 AD, and the final deadline for submitting the declaration is 30/04/2014 AD, the Authority stated that the Resolution Circuit overlooked the assessment that was issued correctly and statutorily within the period, and instead relied on the assessment issued after the objection result on 08/05/2019, whereas the Authority had issued the assessment on the Taxpayer on 20/11/2018 AD. It stated that it issued the assessment on the Taxpayer for the disputed years because the submitted declarations contained incorrect information, affirming that the assessment is subject to the provisions of Article (Twenty-One) of the Implementing Regulations for Zakat Collection. Regarding the following items: (Hospitality expenses for 2013 AD), (Foreign currency exchange losses for 2013 AD), (Other allowances for 2013 AD), (Foreign purchases differences – Imports for 2013 AD), (Commercial accounts payable and dues to related parties for 2013 AD), (Deductions from the Zakat base for 2013 at the value appearing in the financial statements), (Depreciation differences and fixed assets for the years 2013 AD to 2015 AD), (Repair and maintenance expenses exceeding the permissible limit), (Received SMS messages for 2013 AD), and (Net profit before tax), the Authority clarified that the Circuit issuing the decision did not examine or discuss the above items in accordance with the conclusion reached by the Appeal Circuit's decision. Therefore, the Authority requests upholding its decision and remanding the items for the disputed years to the Circuit issuing the decision to be considered on their merits.

On Monday, 30/06/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at exactly 09:00 AM, in the presence of its members whose names are recorded in the minutes, via video conferencing



in accordance with remote litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Decree No. (25711) dated 08/04/1445 AH. Upon calling the litigants, the Authority's representative / (...) (National ID No. ...) attended, pursuant to an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs under No. (...) dated 19/03/1445 AH. The Taxpayer or its representative did not attend despite being duly notified of the date of this hearing. Upon asking the Authority's representative if he had anything to add, he responded by adhering to what was previously submitted in this case. As the case is ripe for judgment in its current state, and after closing the pleadings and deliberation.

Grounds of the Decision



Upon reviewing the case documents and the statements of appeal submitted by the Taxpayer and the Zakat, Tax and Customs Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the two appeals are acceptable procedurally, as they were submitted by parties with the proper capacity and within the statutory prescribed period.

On the merits, regarding the Authority's appeal concerning the (Statute of Limitations item for the years from 2009 AD to 2013 AD), whereas the Resolution Circuit issued decision No. (IZD-2021-938) dated 27/07/2021 AD without fully exhausting its jurisdiction to adjudicate all the Plaintiff's requests, as it did not rule on the following items: (Hospitality expenses for 2013 AD), (Foreign currency exchange losses for 2013 AD), (Other allowances for 2013 AD), (Foreign purchases differences – Imports for 2013 AD), (Commercial accounts payable and dues to related parties for 2013 AD), (Deductions from the Zakat base for 2013 AD at the value appearing in the financial statements), (Received SMS messages for 2013 AD), (Net profit before tax for 2013 AD), and (Late Payment Penalty item). As the Circuit did not exhaust its jurisdiction, the First Appeal Circuit for Income Tax Violations and Disputes issued its decision No. (IR-2023-71376) dated 06/08/2023 AD in Case No. (ZIW-2021-71376), which ruled to accept the Authority's appeal, annul the Resolution Circuit's decision, and remand the case back to it. Accordingly, the Resolution Circuit issued its decision No. (IZD-2024-9692) dated 18/03/2024 AD in Case No. (ZIW-2019-9692), which ruled to (1- annul the Defendant's decision regarding the statute of limitations item for the years from 2009 AD to 2013 AD. 2- Inadmissibility of considering the withholding tax item for the years from 2009 to 2016 due to prior adjudication). Whereas the Authority submitted its appeal against this decision in Case No. (ZIW-2024-235218) dated 23/04/2024 AD, and whereas the Resolution Circuit's decision No. (IZD-2024-9692) dated 18/03/2024 AD in Case No. (ZIW-2019-9692) concluded by adhering to its decision, in addition to the



inadmissibility of considering the withholding tax item due to prior adjudication, this necessitated the issuance of a decision from the Resolution Circuit encompassing all of the Authority's requests and ruling on their merits so that the Circuit exhausts its jurisdiction by issuing a decision covering all the Authority's requests. Whereas Paragraph (3) of Article (Thirty-Seven) of the Rules of Operation for Zakat, Tax and Customs Committees issued by Royal Order No. (25711) dated 08/04/1445 AH stipulates that: "3- If the Appeal Circuit decides to annul the decision of the Resolution Circuit issued on the grounds of lack of jurisdiction, accept an incidental plea resulting in preventing the continuation of the case, inadmissibility of consideration due to prior adjudication, non-hearing of the case due to the lapse of time, non-procedural acceptance, or non-acceptance of the case due to lack of specification, it shall remand the case to the Resolution Circuit that issued the decision to consider the merits, unless the circumstances of the case are ripe for judgment, the circumstances require an expedited judgment, or the subject matter is one upon which the decisions or principles of the Appeal Circuits have been established; in such cases, it may rule on the case without remanding it." Based on the foregoing, and whereas the appealed decision concluded the inadmissibility of consideration due to prior adjudication, and as this falls under the cases outlined in the aforementioned Article and given that the circumstances of the case are ripe for judgment, the Circuit hereby decides to proceed with the consideration of the case. Consequently, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the (Statute of Limitations item for the years from 2009 AD to 2013 AD).

Regarding the Authority's appeal concerning the item of (Non-deduction of hospitality expenses amounting to 541,265 Riyals for the year 2013 AD), whereas Paragraph (1/a) of Article (Five) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH, pertaining to deductible expenses, stipulates: "All ordinary and necessary expenses required for the activity, whether paid or accrued, shall be deducted to arrive at the net result of the activity, provided the following controls are met: a- It must be an actual expense supported by documentary evidence or other presumptions enabling the Authority to verify its validity, even if related to previous years." Based on Paragraph (1) of Article (Nine) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, which states: "Expenses that may be deducted to determine the taxable income are: 1 - All ordinary and necessary expenses to generate taxable income, whether paid or accrued, provided the following controls are met: a- It must be an actual expense supported by documentary evidence or other presumptions enabling the Authority to verify its validity. b- It must be connected to generating the taxable income. c- It must be related to the tax year. d- It must not be of a capital nature." Based on the foregoing, the dispute between the parties is confined to the Taxpayer's objection to the Authority's rejection of deducting the hospitality expenses amounting to (541,265) Riyals, classifying them as entertainment expenses. The



Taxpayer argued that the disputed expenses are hospitality and petty cash expenses, whereas the Authority argued that the Taxpayer failed to provide documentary evidence for the disputed expenses. Upon reviewing the case file, the Circuit found that the Taxpayer did not provide the supporting documentation as claimed in the case file. Consequently, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Non-deduction of hospitality expenses amounting to 541,265 Riyals for the year 2013 AD).

Regarding the Authority's appeal concerning the item of (Non-deduction of foreign currency exchange losses amounting to 121,568 Riyals for the year 2013 AD), whereas Paragraph (1/a) of Article (Five) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates: "All ordinary and necessary expenses required for the activity, whether paid or accrued, shall be deducted to arrive at the net result of the activity, provided the following controls are met: a- It must be an actual expense supported by documentary evidence or other presumptions enabling the Authority to verify its validity, even if related to previous years." Based on Paragraph (1) of Article (Nine) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, which states: "Expenses that may be deducted to determine the taxable income are: 1 - All ordinary and necessary expenses to generate taxable income, whether paid or accrued, provided the following controls are met: a- It must be an actual expense supported by documentary evidence or other presumptions enabling the Authority to verify its validity. b- It must be connected to generating the taxable income. c- It must be related to the tax year. d- It must not be of a capital nature." Based on the foregoing, the dispute between the parties is confined to the Taxpayer's objection to the non-deduction of foreign currency exchange losses amounting to (121,568) Riyals for the year 2013. Accordingly, as it is evident from the statutory provisions above that the expenses permissible for deduction from the base are the actual incurred expenses that are documentarily proven, and upon the Circuit's review of the case file, it was found that the Taxpayer failed to submit the supporting documentation. Consequently, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Non-deduction of foreign currency exchange losses amounting to 121,568 Riyals for the year 2013 AD).

Regarding the Authority's appeal concerning the item of (Other allowances amounting to 2,349,196 Riyals for the year 2013 AD), whereas Paragraph (1/a) of Article (Five) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates: "All ordinary and necessary expenses required for the activity, whether paid or accrued, shall be deducted to arrive at the net result of the activity, provided the following controls are met: a- It must be an actual expense supported by documentary evidence or other presumptions enabling the Authority to verify its validity, even if related to previous years." Based on Paragraph (1) of Article (Nine) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535)



dated 11/06/1425 AH, which states: "Expenses that may be deducted to determine the taxable income are: 1 - All ordinary and necessary expenses to generate taxable income, whether paid or accrued, provided the following controls are met: a- It must be an actual expense supported by documentary evidence or other presumptions enabling the Authority to verify its validity. b- It must be connected to generating the taxable income. c- It must be related to the tax year. d- It must not be of a capital nature." Based on the foregoing, the dispute between the parties is confined to the Taxpayer's objection to the non-deduction of salary expenses amounting to (2,349,196) Riyals for the year 2013, where the Authority asserts they were paid for work outside the country, while the Taxpayer demands the acceptance of the employees' allowances deduction as they were for work performed in the Kingdom of Saudi Arabia per the employment agreement and are considered a basic salary upon which social insurance dues were paid. Upon reviewing the case file, the Circuit found that the Taxpayer failed to provide the supporting documentation. Consequently, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Other allowances amounting to 2,349,196 Riyals for the year 2013 AD).

Regarding the Authority's appeal concerning the item of (Foreign purchases differences – Imports amounting to 1,889,398 Riyals for the year 2013 AD), whereas Paragraph (3) of Article (Twenty) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates: "The burden of proving the validity of the items and any other data stated in the Zakat declaration falls on the Taxpayer. In the event of its inability to prove the validity of what is stated in its declaration, the Authority may disallow the item that is not proven by the Taxpayer or conduct a presumptive assessment based on the Authority's perspective in light of the circumstances, facts related to the case, and the information available to it." Based on Paragraph (3) of Article (Fifty-Seven) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, which states: "The burden of proving the validity of the revenues, expenses, and any other data stated in the Taxpayer's Declaration falls on the Taxpayer. In the event of its inability to prove the validity of what is stated in its declaration, the Authority may, in addition to applying any other statutory penalties, disallow the expense that is not proven by the Taxpayer or conduct a presumptive assessment based on the Authority's perspective in light of the circumstances, facts related to the case, and the information available to the Authority." Based on the foregoing, the dispute lies in the Taxpayer's objection to the Authority's adjustment of the adjusted profit by adding the difference between the imports appearing in the customs statement and the imports declared in the submitted declaration, amounting to (1,889,398) Riyals. The Taxpayer argued that the import differences arose due to an equipment lease contract and the import of consumable materials, while the Authority argued that the Taxpayer did not provide supporting documentation for its view. Upon reviewing the case file, the Circuit found that the Taxpayer did not provide the necessary reconciliation to explain the causes and justifications for the import



differences, nor the supporting documentation for its view mentioned in the appeal brief. Consequently, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Foreign purchases differences – Imports amounting to 1,889,398 Riyals for the year 2013 AD).

Regarding the Authority's appeal concerning the item of (Commercial accounts payable and dues to related parties for the year 2013 AD with an addition of 2,954,844 Riyals), whereas Paragraph (5) of Clause (First) of Article (Four) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates: "The Zakat base consists of all the Taxpayer's funds subject to Zakat, including: 5- Governmental and commercial loans and similar sources of financing such as creditors, notes payable, and bank overdrafts owed by the Taxpayer, according to the following: a- What remains of them in cash and completion of one Zakat year (Al-Hawl). b- What was used from them to finance what is intended for acquisition (fixed assets). c- What was used from them in trade goods and completion of one Zakat year (Al-Hawl)." Paragraph (3) of Article (Twenty) thereof also stipulates: "The burden of proving the validity of the items and any other data stated in the Zakat declaration falls on the Taxpayer. In the event of its inability to prove the validity of what is stated in its declaration, the Authority may disallow the item that is not proven by the Taxpayer or conduct a presumptive assessment based on the Authority's perspective in light of the circumstances, facts related to the case, and the information available to it." Based on the foregoing, the dispute lies in the Taxpayer's objection to the Authority's decision of adding the lower of the opening and closing balances of the current credit accounts to the Zakat base. The Taxpayer argued that one Zakat year (Al Hawl) has not elapsed over the added balances, whereas the Authority stated that all added amounts have completed the Zakat year (Al Hawl). Upon reviewing the case file, the Circuit found that the Taxpayer failed to submit supporting documentation to prove that the Zakat year (Al Hawl) had not elapsed over the objected amounts. Accordingly, since commercial payables and dues are considered a component of the Zakat base provided one Zakat year (Al Hawl) has elapsed over them or they are used to finance assets deducted from the base, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Commercial accounts payable and dues to related parties for the year 2013 AD with an addition of 2,954,844 Riyals).

Regarding the Authority's appeal concerning the item of (Deductions from the Zakat base for the year 2013 AD at the value appearing in the financial statements amounting to 342,330 Riyals), whereas Paragraph (3) of Article (Twenty) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH stipulates: "The burden of proving the validity of the items and any other data stated in the Zakat declaration falls on the Taxpayer. In the event of its inability to prove the validity of what is stated in its declaration, the Authority may disallow the item that is not proven by the Taxpayer or conduct a presumptive assessment based



on the Authority's perspective in light of the circumstances, facts related to the case, and the information available to it." Based on the foregoing, the dispute lies in deducting fixed assets from the Zakat base at the value appearing in the financial statements amounting to (342,330) Riyals. Upon reviewing the case file, the Circuit found that the Taxpayer did not provide supporting documentation. Accordingly, and given that the Authority confirmed that it took into consideration all standards ensuring the correct calculation of deductions, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Deductions from the Zakat base for the year 2013 AD at the value appearing in the financial statements amounting to 342,330 Riyals).

Regarding the Taxpayer's appeal concerning the item of (Withholding Tax for the years from 2009 AD to 2013 AD), whereas Paragraph (a) of Article (Sixty-Eight) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH stipulates: "Every resident, whether a taxpayer or not under this Law, and a permanent establishment in the Kingdom for a non-resident, who pays an amount to a non-resident from a source in the Kingdom, must withhold tax from the paid amount in accordance with the following rates...", and Paragraph (3) of Article (Fifty-Seven) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH stipulates: "The burden of proving the validity of the revenues, expenses, and any other data stated in the Taxpayer's Declaration falls on the Taxpayer. In the event of its inability to prove the validity of what is stated in its declaration, the Authority may, in addition to applying any other statutory penalties, disallow the expense that is not proven by the Taxpayer or conduct a presumptive assessment based on the Authority's perspective in light of the circumstances, facts related to the case, and the information available to the Authority." Based on the foregoing, the dispute revolves around the imposition of withholding tax for the years from 2009 to 2016. First: Regarding the year 2009, the Circuit found the following: 1- An amount of (302,487) Riyals: By reviewing the summary of transactions with (...) UAE, the Circuit found that (207,549) Riyals was listed under technical fees but was not paid, as the payments made to (...) during the period represented lease fees. This demonstrates the validity of the Taxpayer's view that the (207,549) Riyals is not subject to withholding tax due to the non-occurrence of a payment transaction. As for the amount of (94,938) Riyals, the Taxpayer did not provide proof that these were local expenses. 2- An amount of (958,500) Riyals: By reviewing the summary of transactions with (...) UAE, the Circuit found that the amount was listed under lease fees as stated by the Taxpayer. The Taxpayer also submitted the withholding tax declaration for 2010, revealing that it paid the due tax of (47,925) Riyals in three installments exceeding the due amount, as the amount paid for the aforementioned sum was (48,370) Riyals. The Taxpayer provided payment receipts from Banks ... and ... in the amounts of (16,242) Riyals, (19,979) Riyals, and (12,129) Riyals, thereby proving the validity of the Taxpayer's view. 3- An amount of (1,053,438) Riyals representing airline tickets: The Taxpayer argued a material error in calculation, stating the amount was counted twice—once within



the (94,938) Riyals and once within the aforementioned (958,500) Riyals. Upon reviewing the case file, the Circuit found that the Taxpayer did not provide evidence of duplication as claimed. As for the amount of (207,549) Riyals related to services paid to related companies, the Circuit found that the Authority repeatedly calculated it as services paid to (...) UAE and applied a (15%) tax rate, despite the fact that (...) UAE is an unrelated company, as it was established that the foreign partner's share is less than (50%) per the Appellant Company's Articles of Association. This proves the invalidity of the Authority's decision of repeatedly adding the amount and applying a higher rate than due. Furthermore, it was proven that the amount was not paid to (...) UAE, thereby validating the Taxpayer's view. Second: Regarding the year 2010, the Circuit found the following: An amount of (2,124,291) Riyals consisting of rent for (1,365,375) Riyals and technical and consulting services for (758,916) Riyals. Upon reviewing the summary of transactions with (...) UAE and the Company's ledger, it was found that no payments were made to (...) UAE in the mentioned amounts, which validates the Taxpayer's view of not imposing a withholding tax due to the non-occurrence of payment. Third: Regarding the year 2011, the Circuit found the following: 1- An amount of (4,122,939) Riyals representing lease fees to (...). Upon reviewing the summary of transactions and the ledger of (...) UAE, the Circuit found that the amount was not paid to the company, which validates the Taxpayer's view of not imposing a withholding tax. 2- An amount of (2,136,173) Riyals representing technical and consulting services. Whereas it was shown that (...) UAE is an unrelated company and the services provided are subject to a (5%) tax, it was evident that the amounts were not paid to (...) UAE; therefore, no tax is due. Fourth: Regarding the year 2012, the Circuit found the following: 1- An amount of (1,530,669) Riyals representing lease fees to (...). Upon reviewing the summary of transactions and the ledger of (...) UAE, the Circuit found that the amount was not paid to the company, which validates the Taxpayer's view of not imposing a withholding penalty. 2- An amount of (3,317,699) Riyals representing technical and consulting services. Whereas it was shown that (...) UAE is an unrelated company and the services provided are subject to a (5%) tax, it was evident that the amounts were not paid to (...) UAE; therefore, no tax is due. 3- An amount of (27,650,308) Riyals representing payments to local companies and establishments and other local costs. Upon reviewing the case file, the Circuit found that the Taxpayer submitted an analytical statement detailing the entire amount, representing costs incurred in the ... project, and provided a breakdown for each sum as follows: employees' salaries, wages, allowances, and other benefits (12,856,047) Riyals; consumables and materials (6,431,903) Riyals; vehicle operation costs and equipment leasing and operation (2,430,895) Riyals; camp and housing costs (1,373,295) Riyals; hiring labor from local suppliers (1,407,315) Riyals; and other benefits and costs (3,150,853) Riyals. The Taxpayer also provided a sample of payment invoices proving these are local costs not paid to a foreign party. Moreover, when imposing the tax on the amount under the pretext that it was paid to a foreign entity, the Authority imposed a withholding tax of (15%) treating it as a related party,



although the Articles of Association showed that (...) is an unrelated entity. Fifth: Regarding the year 2013, the Circuit found the following: An amount of (3,218,280) Riyals. Upon reviewing the summary of transactions and the ledger of (...) UAE, the Circuit found that the amount was not paid to the company, validating the Taxpayer's view of not imposing a withholding tax. Sixth: Regarding the year 2014, the Circuit found the following: 1- An amount of (17,758,521) Riyals consisting of equipment leasing. A portion of this, amounting to (15,418,521) Riyals, represents unpaid dues to (...), and is therefore not subject to withholding tax as evident from the Circuit's review of the (...) ledger. As for the remaining amount, upon reviewing the declarations for 2014 and 2015, the Circuit found that the Taxpayer paid a withholding tax for (390,000) Riyals in 2014 and (1,325,812) Riyals in 2015. The remaining balance for (...) amounting to (624,188) Riyals was not paid, as the Taxpayer stated that (...) did not fulfill the contract. 2- An amount of (1,577,319) Riyals representing technical services. The Taxpayer stated that (648,081) Riyals of it was paid to (...) and the tax for it was paid in 2014. Upon reviewing the withholding tax declaration for 2014, the Taxpayer's claim was validated, as a tax payment of (32,404) Riyals for the aforementioned amount to the company in the UAE was established. Regarding the remaining amount of (929,238) Riyals, the Taxpayer stated it represents unpaid dues to (...). Upon reviewing the summary of transactions with (...) and the ledger, it did not include the (929,238) Riyals claimed by the Taxpayer as due to (...) UAE, rendering the Taxpayer's argument invalid; thus, the Circuit decides to reject this request. 3- An amount of (813,742) Riyals representing loan declarations. Upon reviewing the declarations for 2014 and 2015, the Circuit found that the withholding tax on loan declarations paid to the Bahraini Bank (...) was paid, validating the Taxpayer's claim. 4- An amount of (14,927,180) Riyals representing other payments. The Taxpayer argued that a portion amounting to (4,151,250) Riyals represents paid dues to (...), a local company registered with the Authority. The Circuit noted that the Taxpayer provided a registration certificate for (...) with the Authority under Tax Identification Number (...); however, the submitted certificate was issued in 2020, while the transfer took place in 2014, and the Taxpayer did not provide transfer receipts proving it was an internal transfer. As for the remaining (10,775,930) Riyals, the Taxpayer stated it represents dues to (...) UAE. Upon reviewing the ledger and transaction summary, the Taxpayer's claim was found valid, indicating it owed dues to (...) UAE for subcontracts that were not paid. Therefore, no tax is due as no payment occurred. Seventh: Regarding the year 2015, the Circuit found the following: 1- An amount of (119,663) Riyals representing technical services due to (...) UAE that were not paid. Upon reviewing the ledger and transaction summary, the claim was found invalid as there was no evidence of an outstanding amount owed to (...) UAE for the mentioned sum under technical services; thus, the Circuit decides to reject this request. 2- An amount of (292,030) Riyals representing technical services. By reviewing the withholding tax declaration for 2015, the Circuit found that the technical services for which a withholding tax was paid to (...) exceeded the disputed amount, with the paid tax amounting to (71,979) Riyals,



validating the Taxpayer's view. 3- An amount of (5,034,080) Riyals representing loan declarations. The Taxpayer stated that the portion amounting to (1,861,808) Riyals was paid to Bank ..., a local bank. Upon reviewing the case file, the Circuit found that the Taxpayer provided a 2012 agreement with Bank ... for banking facilities without a payment receipt for the aforementioned amount to verify the claim; thus, the Circuit rejects the Taxpayer's objection. Regarding the remainder, the Taxpayer stated that (1,708,924) Riyals were paid to a Bahraini bank and the tax was paid. Upon reviewing the 2015 declaration, the claim was validated as the payment of withholding tax on the mentioned amount was proven. As for the (1,117,985) Riyals, which the Taxpayer indicated as interest paid to (...) in 2018, upon reviewing the 2018 declaration, the Circuit found withholding tax payments on loan declarations to (...) exceeding the disputed amount, validating the Taxpayer's view. Regarding the remaining amount of (345,363) Riyals, which the Taxpayer stated represents local payments, a review of the case file showed no supporting evidence provided by the Taxpayer. Eighth: Regarding the year 2016 AD, the Circuit found the following: 1- An amount of (71,240) Riyals representing technical services due to (...) not paid in 2016 AD, but paid in 2017 AD with the due tax. Upon reviewing the 2017 declaration, the Taxpayer's claim was validated as the tax payment on the mentioned amount was established. 2- An amount of (103,076,277) Riyals. Upon reviewing the case file, the Circuit found that the Taxpayer provided a schedule of leasing and equipment for the years 2009 to 2016. The schedule also included Table No. (5) from the declaration submitted to the Authority concerning machinery and equipment leasing for 2009 to 2016. It was revealed that the equipment leasing cost from (...) UAE for the years 2009 AD to 2016 AD amounted to (30,442,733) Riyals, with the year 2016 AD amounting to (591,060) Riyals. Therefore, the Authority's decision of calculating the equipment lease cost for 2016 AD at (103,076,277) Riyals was proven invalid. Consequently, the Circuit concludes to partially accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the (Withholding Tax item for the years from 2009 AD to 2013 AD).

Regarding the (Late Payment Penalty) item, whereas Paragraph (a) of Article (Seventy-Seven) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH stipulates: "In addition to the penalties set forth in Article Seventy-Six of this Law and in Paragraph (b) of this Article, the Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes the delay in paying the required withholding tax and advance payments, calculated from the tax due date until the date of payment." Based on Paragraph (1) of Article (Sixty-Eight) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, which states: "An amount of 1% of the unpaid tax for every thirty days of delay shall be added to the penalties set forth in the previous Article in the following cases: b- Delay in paying the tax due under an Authority assessment." Based on Paragraph (3) of Article (Sixty-Seven) thereof, which states: "The unpaid tax means the difference between what the Taxpayer paid on the statutory due date and the tax due for



payment under the provisions of the Law. It includes adjustments made by the Authority that have become final as stated in Paragraph (2) of Article Seventy-One of these Regulations, including disputed cases, where the penalty is calculated from the statutory due date for submitting the declaration and payment." Based on the foregoing, and since the late payment penalty is calculated from the end of the specified period for submitting the declaration until the date of payment of the due tax arising under the application of the Law's provisions and the Authority's adjustments, and in accordance with the jurisprudential maxim "The accessory follows the principal", the Circuit decides to amend the Resolution Circuit's decision regarding the appeals of the two parties on the (Late Payment Penalty) item by imposing the late payment penalty from the due date on the items where the Taxpayer's appeal was rejected, and dropping the late payment penalty on the items where the Authority's decision was annulled due to the nullification of the principal tax imposition.

As for the appeals of the Taxpayer and the Authority regarding the remaining items in dispute. Since there is no fault in the Circuit adopting the reasoning of the appealed decision without adding to it when it determines that such reasoning precludes the need for any additions, because endorsing it with its embedded reasons affirms that the Circuit found nothing in the challenges raised against the decision that merits a response beyond what those reasons contained. Consequently, as the appealed decision concerning the dispute over the contested items aligns with the sound reasons upon which it was based and which are sufficient to uphold its ruling—since the issuing Circuit scrutinized the core of the dispute and arrived at the conclusion stated in its operative part—and since this Circuit found nothing warranting correction or commentary in light of the defenses presented before it, this Circuit concludes to reject the appeals of the Taxpayer and the Authority and uphold the appealed Resolution Circuit's decision regarding its conclusions on the remaining disputed items, based on its stated reasoning.

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally submitted by the Taxpayer / (...) Saudi Company, Commercial Registration (...), TIN (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City No. (IZD-2024-9692) issued in Case No. (ZIW-2019-9692) pertaining to the Zakat and Tax Assessment for the years from 2009 AD to 2016 AD.



Second: On the merits:

- 1- To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the (Statute of Limitations item for the years from 2009 AD to 2013 AD).
- 2- To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Non-deduction of hospitality expenses amounting to 541,265 Riyals for the year 2013 AD).
- 3- To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Non-deduction of foreign currency exchange losses amounting to 121,568 Riyals for the year 2013 AD).
- 4- To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Other allowances amounting to 2,349,196 Riyals for the year 2013 AD).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-238626
Case No. IW-2024-238626

Principle No. 3

- Shipping expenses and customs duties are accepted once their connection to internal works accompanying the supply of goods within the Kingdom is established.

Facts



This is to consider the appeal submitted on 26/01/2022 by Company (...), Commercial Registration (CR) No. (...), and the appeal submitted on 11/06/2024 by the Zakat, Tax and Customs Authority (ZATCA), were reviewed against the decision of the Third Resolution Circuit for Income Tax Violations and Disputes in Riyadh City No. (ITR-2024-23706) issued in Case No. (IW-2020-23706) pertaining to the tax assessment for the years from 2009 to 2014, in the lawsuit submitted by the Appellant against ZATCA, wherein the Resolution Circuit's decision ruled the following:

First: Acceptance of the objection procedurally submitted by the Plaintiff / Company (...), CR No. (...), against the decision of the Defendant / ZATCA.

Second: On the Merits: To accept the Plaintiff's objection and annul the Defendant's decision regarding the item of shipping expenses and customs duties.

Since the Resolution Circuit issued its aforementioned decision and reconsidered the case as a result of this Circuit's Decision No. (IR-2022-92344), and after reviewing the case, the Circuit decided to remand the case back to the Resolution Circuit to reformulate the decision to encompass all items subject to the lawsuit and declaration it to the Appeal Circuit including all the Plaintiff's requests for adjudication, as the Resolution Circuit had not exhausted its jurisdiction to rule on all the Plaintiff's requests.

As a result of that request, the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate issued the corrective decision No. (IZJ-2025-23706) in Case No. (IW-2020-23706), which ruled as follows:

First: Acceptance of the objection procedurally, submitted by the Plaintiff / Company (...) (CR No. ...), against the decision of the Defendant / ZATCA.



Second: On the Merits:

1. To reject the Plaintiff's objection regarding the item of (Penalty expenses).
2. To dismiss the item of (Shipping expenses and customs duties).
3. To dismiss the item of (Depreciation differences).
4. To reject the Plaintiff's objection regarding the item of (Amounts paid under the account of due tax for the years from 2010 to 2014).
5. To reject the Plaintiff's objection regarding the item of (Late Payment Penalty).
6. To reject the Plaintiff's objection regarding the item of (Statutory period for tax assessment for the year 2009).
7. To accept the Plaintiff's objection and annul the Defendant's decision regarding the item of shipping expenses and customs duties.

Accordingly, the Circuit decided to resume the consideration of the case. Since this decision was not accepted by either party, each submitted an appeal statement summarizing as follows:

Regarding the Taxpayer's appeal against the Resolution Circuit's decision pertaining to the item of (**Penalty expenses**), the Taxpayer argued that the branch submitted all supporting documentation for the contractual penalty expenses, citing that ZATCA conducted a field audit on the branch's accounts for the years from 2009 to 2014 and reviewed the branch's expenses, including penalties, in detail. As outlined in paragraph (10) on page (8) of the audit minutes, these penalties consist of the following:

"Those present provided general ledger account No. 2434, showing a total debit balance of SAR 312,509,729, which represents the total penalties charged by the client, (...) Water and Electricity Company, supported by invoices specifying the number of days the penalties were calculated on and the respective amounts. The credit side of the general ledger account represents an amount of SAR 74,377,315, which is the amount charged to the contractor (... Italy). Those present provided the company's contract with (...) dated December 2005, which includes Clause 10/2 stating that if the contractor fails to achieve field approval for any work group or the plant as a whole within the agreed period, a late payment penalty shall be calculated for each day of delay as agreed. The general ledger account was provided." Without prejudice to the foregoing, the fines under dispute are not subject to tax in the first place based on Article (Thirteen) of the Tax Law regarding non-deductible expenses, which affirms that financial fines or penalties paid or payable are non-deductible. Furthermore, Article (Ten/6) of the Implementing Regulations of the Tax Law regarding non-deductible expenses permits the deduction of financial fines resulting from breaching contractual terms, such as penalties for delayed execution or poor performance. Based on the above, it is evident



that the branch provided ZATCA with the documents and explanations confirming that the fines resulted from a breach of contractual terms and obligations under the contract signed with (...) Water and Electricity Company.

Regarding the item of (Amounts paid under the account of due tax for the years from 2010 to 2014), the Taxpayer's appeal states that (...) is a resident company with a registered branch with ZATCA. The company signed a service supply contract agreement with Company (...), and all contract revenues were included in the branch's accounts in the Kingdom of Saudi Arabia and declared within the tax declarations. Company (...) paid the company's dues despite it being a resident entity in the Kingdom of Saudi Arabia subject to income tax, not withholding tax. In accordance with Article (68) of the Tax Law, which governs the treatment applicable to similar cases, the company deducted the amounts when preparing the tax declarations for the years 2013 and 2014, which Company (...) had previously withheld from the dues of Company (...). The supporting payment documentation, which the branch deducted from the tax declarations of 2013 and 2014, were provided to ZATCA and the decision-issuing Circuit.

Regarding the item of (Imposing withholding tax on local travel expenses, site expenses, and technical and consulting services), the Taxpayer argued that ZATCA and the Resolution Circuit did not address the assessment adjustment notices related to this item.

Regarding the item of (late payment penalty), the Taxpayer argued that as part of ZATCA's tax amnesty initiative to waive penalties, the taxpayer settled and stabilized the principal tax to qualify for the waiver while reserving the right to complete the objection to the decision. Therefore, there should be no discussion regarding the late payment penalty for the disputed years. Additionally, Paragraph (68/A) of the Implementing Regulations of the Law does not apply to the taxpayer's case as it settled its due tax, nor does Paragraph (B) of the same article apply because the taxpayer is objecting to ZATCA's claim, which represents the basis for imposing the late payment penalty. Since the taxpayer objected to the principal tax, the penalty is implicitly rejected. Numerous decisions issued under the new tax system have supported taxpayers, ruling that no late payment penalties are due when a genuine difference of opinion exists with ZATCA and there is no indication of bad faith on the taxpayer's part. The taxpayer also pointed out several decisions that ruled late payment penalties should be calculated from the date of the final decision rather than the assessment date. Furthermore, if the Circuit approves ZATCA's tax claim, the late payment penalty must be calculated from ZATCA's claim date or the Circuit's decision date, not from the declaration submission date under Article (68) Paragraph (2) of the Implementing Regulations.

Regarding the item of (Statutory period for assessment for the two years ending 30/09/2009 and 30/09/2010), the Taxpayer argued that Article (65) Paragraph (A) of the Tax Law and Article (59) Paragraph (8/10) of its Implementing Regulations apply to its case. Conversely, Article (65) Paragraph (B) of the Income Tax Law, relied upon by ZATCA



and the decision-issuing Circuit, applies only if the taxpayer fails to file its tax declaration or if the declaration is found to be incomplete or incorrect with the intent of tax evasion. This does not apply to the taxpayer, given that all information included in its tax declaration is correct and supported by audited financial statements certified by an approved CPA firm in the Kingdom of Saudi Arabia; thus, it cannot be claimed that the declaration contains or was built on incorrect information. Moreover, the taxpayer filed its tax declarations and settled the due tax within the statutory due date according to the tax system. Regarding ZATCA's claim that the taxpayer failed to submit the tax declarations for the aforementioned years correctly by deducting certain non-deductible expenses—thereby granting ZATCA the right to adjust the assessment within 10 years—this claim is incorrect and groundless based on Article (13) of the Tax Law and Article (10) of its Implementing Regulations, which outline in detail the expenses that may not be deducted to arrive at the taxable income. These regulations contain no provision disallowing the deduction of the aforementioned expenses as tax expenses. Article (Twelve) of the Tax Law and Article (Nine) of the Implementing Regulations define deductible expenses to determine taxable income as all ordinary and necessary expenses incurred to achieve taxable income, whether paid or accrued. If ZATCA considers these expenses non-deductible despite the absence of clear clauses in the tax system indicating their non-acceptance, this is deemed an interpretation on its part and constitutes a matter of dispute; it does not grant ZATCA the right to reopen the assessment after the lapse of five years under the pretext of evasion. Accordingly, the taxpayer requests the reversal of the Resolution Circuit's decision regarding the items under appeal for the reasons stated above.

Regarding ZATCA's appeal against the Resolution Circuit's decision pertaining to the item of (Shipping expenses and customs duties), ZATCA argued that the taxpayer did not provide the contracts, agreements, materials analysis, or an analysis of the accompanying works. Furthermore, a review of the documents provided by the taxpayer in its case file revealed that it attached only a few sample invoices for shipping expenses for the year 2014 rather than all periods. Since the taxpayer did not provide the contracts and agreements to verify the accompanying works and the origin of the revenue, ZATCA emphasizes Paragraph (Seventh) of Article (Fifth) of the Implementing Regulations of the Income Tax Law. Based on this provision, the activity of supplying goods used in (...) contracts is considered an activity that did not take place within the Kingdom; consequently, the source of income did not arise from the Kingdom, rendering it a non-taxable activity. Therefore, materials are declared as cost and revenue at the same value in the tax declaration. Accordingly, expenses associated with materials purchased from abroad, such as shipping and customs, are included within the value of materials compared against the contract revenues designated for materials. If the value of the materials, including shipping and customs, exceeds the contract revenues for those materials, the excess constitutes a loss from an exempt activity. For this reason, the deduction of shipping and



customs expenses separately from the materials was not accepted. Consequently, ZATCA requests the reversal of the Resolution Circuit's decision regarding the item under appeal for the reasons stated above.

On Tuesday, 03/03/1447 AH, corresponding to 26/08/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 10:23 AM in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote litigation procedures, based on Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax and Customs Committees issued by Royal Order No. (25711) dated 08/04/1445 AH. Upon calling the litigants, / (...) attended, holding National ID No. (...), in his capacity as the representative of the Taxpayer pursuant to the attached Commercial Registration in the case file and Foreign Power of Attorney No. (...) certified by the Saudi Ministry of Justice under No. (...) dated 22/03/1446 AH. ZATCA's representative, / (...) (National ID No. ...), also attended pursuant to an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs under No. (...) dated 19/03/1445 AH. Upon asking the Taxpayer's representative if he wished to add anything, he stated that he adhered to what was previously submitted in this case. Upon presenting this to ZATCA's representative, she requested a grace period to submit her response in a subsequent hearing. Consequently, the Circuit decided to grant ZATCA a grace period of 10 days to submit its response to the Secretariat, ending on 05/09/2025 AD, and granted the Taxpayer a period of 10 days ending on 15/09/2025 AD. After this date, the pleadings would be closed, and the case would be submitted for deliberation and issuance of the decision. The Circuit noted that no new documents or memoranda would be accepted if not submitted prior to the aforementioned date, and that the next hearing scheduled for 07/10/2025 AD would be for pronouncing the decision.

On Tuesday, 15/04/1447 AH, corresponding to 07/10/2025 G, at 09:50 AM, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote litigation procedures, based on Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax and Customs Committees issued by Royal Order No. (26040) dated 21/04/1441 AH. Upon calling the litigants, / (...) attended, holding National ID No. (...), in his capacity as the representative of the Taxpayer. ZATCA's representatives, / (...) (National ID No. ...) and / (...) (National ID No. ...), also attended pursuant to the authorization issued by the Deputy Governor of Zakat, Tax and Customs Authority for Legal Affairs under No. (...) dated 19/03/1445 AH. Since the pleadings and deliberation were closed, and this hearing was dedicated to pronouncing the decision, the Circuit adjourned the hearing prior to issuing the decision.



Grounds of the Decision



Upon reviewing the case documents and the appeal statements submitted by both the Taxpayer and the Zakat, Tax and Customs Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, both appeals are acceptable procedurally, as they were submitted by parties with proper capacity and within the statutory prescribed period.

On the merits, regarding ZATCA's appeal concerning the item of **(Shipping expenses and customs duties)**, Article (9) Paragraph (1) of the Implementing Regulations of the Income Tax Law, issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, stipulates:

"Expenses that may be deducted to determine the taxable income are: 1 - All ordinary and necessary expenses to generate taxable income, whether paid or accrued, provided the following controls are met: a- It must be an actual expense supported by documentary evidence or other presumptions enabling the Authority to verify its validity. b- It must be connected to generating the taxable income. c- It must be related to the tax year. d- It must not be of a capital nature." Furthermore, Article (12) of the same Regulations provides that all ordinary and necessary expenses incurred during the tax year to generate taxable income are deductible when calculating the tax base, except for capital expenses and other non-deductible expenses under Article (Thirteen) of the Law. Additionally, Article (Fifth) Paragraph (7) thereof states: "... 7- Contracts for the supply of goods to the Kingdom, including shipping and insurance contracts, are not considered to arise from an activity performed inside the Kingdom unless the contracts include accompanying works carried out inside the Kingdom, such as internal transportation, installation, maintenance, training, and the like. In such cases, only the accompanying works are considered to arise from an activity inside the Kingdom."

Based on the foregoing, the Circuit notes that the dispute centers on the tax treatment of these expenses rather than an evidentiary/documentary issue. Reviewing ZATCA's appeal statement reveals that its rejection of the shipping expenses and customs duties is based on the premise that these expenses relate to a tax-exempt item (imported materials declared at an identical cost and revenue value). Conversely, the taxpayer contends that the disputed expenses relate to storage, rents, transportation, and packaging costs incurred to move contracted equipment from Saudi ports to the work sites inside the Kingdom, thereby constituting an internal activity connected to the branch's local operations.

Upon reviewing the case file, the Circuit found that the taxpayer submitted a statement of shipping expenses, sample invoices for the year 2014, the contract executed with Company (...), a brief summary detailing the disclosure of



foreign supply revenues alongside the related internal services tied to taxable revenues at the branch for the contract signed with the Saudi Electricity Company, and the tax declarations for the years 2010 and 2014. It appears from Revenue Schedule No. (1) (Contract Tracking Statement) within these two declarations that the contracts executed with local clients were not limited solely to material supply contracts as ZATCA claims, but also included internal services. Furthermore, the taxpayer's primary business activity consists of executing installation, operation, and maintenance contracts. The provided invoices issued by the service providers demonstrate that they pertain to the loading and transportation of equipment from Saudi ports to project sites, alongside equipment storage expenses and customs duties, which are expenses connected to generating taxable income derived from contractual works involving the supply and installation of equipment for local entities. This was further substantiated in the field audit minutes attached to ZATCA's supplemental appeal statement, which noted that a copy of the general ledger and a detailed breakdown of these expenses were reviewed. Paragraph (4-A) regarding shipping expenses explicitly indicated that they were related to transporting machinery and equipment from the port to the client's site to complete the installation contract. Accordingly, the Circuit concludes to reject ZATCA's appeal and uphold the Resolution Circuit's decision regarding this item.

Regarding the Taxpayer's appeal concerning the item of **(Penalty expenses)**, Article (12) of the Income Tax Law, issued by Royal Decree No. (M/1) dated 15/01/1425 AH, and Article (9) Paragraph (1) of its Implementing Regulations provide that all ordinary and necessary expenses incurred during the tax year to generate taxable income are deductible. However, Article (10) Paragraph (6) of the Regulations states: "The following expenses may not be deducted: ... 6- Fines or financial penalties paid or payable to any entity in the Kingdom, such as traffic violations and penalties for damaging public utilities. However, financial fines resulting from breaching contractual terms, such as penalties for delayed execution or poor performance, may be deducted provided they are documented by the contracting entity and declared within the taxpayer's revenues in the year of recovery."

Furthermore, Article (57) Paragraph (3) of the Regulations places the burden of proving the accuracy of revenues, expenses, and other data stated in the declaration upon the taxpayer; failing which, ZATCA may disallow the unproven expense or perform a presumptive assessment. Upon reviewing the case file and the submitted defenses and documents, the Circuit found that ZATCA's rejection was based on the fact that the materials item is tax-exempt and was not declared as revenue and expense at the same value; consequently, any penalties connected to an exempt item cannot be accepted, and the taxpayer failed to provide evidence to prove otherwise. Moreover, the Circuit concluded under the item of the statutory assessment period for the years ending 30/09/2009 and 30/09/2010 to reject the taxpayer's appeal, establishing ZATCA's right to perform the assessment after the statutory



period for 2009. Therefore, the Circuit concludes to reject the taxpayer's appeal and uphold the Resolution Circuit's decision regarding this item.

Regarding the Taxpayer's appeal concerning the item of **(Amounts paid under the account of due tax for the years from 2010 to 2014)**, Article (57) Paragraph (3) of the Implementing Regulations of the Income Tax Law places the burden of proof on the taxpayer. The dispute centers on the non-deduction of withholding taxes paid under account. Upon reviewing the case file, the Circuit found that the taxpayer did not provide evidence proving the existence of amounts paid under the account of due tax for the disputed years that ZATCA failed to deduct, nor did it provide proof of payment for those amounts. Furthermore, the invoices submitted by the taxpayer do not clearly show the referenced amounts due to poor legibility. Consequently, the Circuit concludes to reject the taxpayer's appeal and uphold the Resolution Circuit's decision regarding this item.

Regarding the Taxpayer's appeal concerning the item of (Imposing withholding tax on local travel expenses, site expenses, and technical and consulting services), Article (5) Paragraph (2) of the Rules of Operation for Zakat, Tax and Customs Committees, issued by Royal Order No. (26040) dated 21/04/1441 AH, mandates the application of the Law of Sharia Procedures where no specific provision exists. Article (186) of the Law of Sharia Procedures, issued by Royal Decree No. (M/1) dated 22/01/1435 AH, explicitly states: "New claims shall not be accepted on appeal, and the appellate court shall, on its own motion, rule them inadmissible."

Upon reviewing the case file, the Circuit found that the item regarding the imposition of withholding tax on local travel expenses, site expenses, and technical and consulting services constitutes a new claim raised for the first time on appeal. Consequently, the Circuit concludes to dismiss the taxpayer's appeal regarding this item.

Regarding the Taxpayer's appeal concerning the item of **(Late Payment Penalty)**, Article (77) Paragraph (A) of the Income Tax Law and Article (68) Paragraph (1) (b) of its Implementing Regulations stipulate that a late payment penalty of one percent (1%) of the unpaid tax shall be imposed for every thirty days of delay, including delay in paying tax due under a ZATCA assessment. Article (67) Paragraph (3) of the Regulations defines unpaid tax as the difference between what was paid by the statutory due date and the tax due under the Law, including adjustments made by ZATCA that have become final. The late payment penalty is calculated from the expiration of the statutory declaration filing deadline until the payment date of the due tax arising from the application of the Law and ZATCA's adjustments. The dispute between the parties did not stem from a valid difference in the interpretation of statutory texts, and the taxpayer did not object to the original imposition of the tax as claimed. Consequently, the Circuit concludes to reject the taxpayer's appeal and uphold the Resolution Circuit's decision regarding this item.



Regarding the Taxpayer's appeal concerning the item of (Statutory period for assessment for the two years ending 30/09/2009 AD and 30/09/2010 AD), Article (65) Paragraphs (A) and (B) of the Income Tax Law stipulate that ZATCA has the right to make or adjust a tax assessment within five years from the end of the deadline for submitting the declaration. However, ZATCA's right extends to ten years if the taxpayer fails to file its declaration, or if the declaration is found to be incomplete or incorrect with the intent of tax evasion. Article (57) Paragraph (3) of the Regulations places the burden of proof on the taxpayer. The statutory provisions outline that ZATCA's authority to conduct tax assessments normally expires after five years from the declaration deadline. Although ZATCA issued the assessments for the disputed years after the expiration of the standard statutory period, it argued that the taxpayer failed to submit its tax declarations correctly due to the inclusion of certain non-deductible expenses. Since the taxpayer did not provide the necessary supporting documentation to prove otherwise, ZATCA retained the right to perform the tax assessment within the ten-year extended window. Consequently, the Circuit concludes to reject the taxpayer's appeal and uphold the Resolution Circuit's decision regarding this item.

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally, submitted by the Taxpayer / (...), CR No. (...), TIN (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the Third Resolution Circuit for Income Tax Violations and Disputes in Riyadh City No. (ITR-2024-23706) issued in Case No. (IW-2020-23706) pertaining to the tax assessment for the years from 2009 AD to 2014 AD.

Second: On the Merits:

1. To reject ZATCA's appeal and uphold the Resolution Circuit's decision regarding the item of (Shipping expenses and customs duties).
2. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (Penalty expenses).
3. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (Amounts paid under the account of due tax for the years from 2010 AD to 2014 AD).
4. To dismiss the Taxpayer's appeal regarding the item of (Imposing withholding tax on local travel expenses, site expenses, and technical and consulting services).



5. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (Late payment penalty).
6. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (Statutory period for assessment for the two years ending 30/09/2009 and 30/09/2010).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-240185
Case No. ZI-2024-240185

Principle No. 4

- Amounts paid on behalf of third parties are treated according to their accounting reality once recorded as receivables or balances due from third parties, and they may not be charged to the income statement as an expense to the taxpayer.

Facts

This is to consider the appeal submitted on 31/07/2024 AD by the Zakat, Tax and Customs Authority (ZATCA) against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City No. (IZD-2024-63497) issued in Case No. (ZI-2021-63497) relating to the tax assessment for the year 2019 AD, in the lawsuit submitted by the Taxpayer against ZATCA, The Resolution Circuit's decision therein ruled the following:

Annulment of the Defendant's decision in all items subject of the lawsuit.

Whereas the Resolution Circuit issued its aforementioned decision and considered the lawsuit anew as a result of this Circuit's decision No. (IR-2023-167460) issued on 07/02/2024 AD, which included remanding the lawsuit to the Resolution Circuit for consideration on the merits. Accordingly, the Circuit decided to complete the consideration of the lawsuit. Whereas this decision was not accepted by the Appellant (the Zakat, Tax and Customs Authority), it submitted an appeal brief containing a summary of the following:

As the Authority objects to the appealed Resolution Circuit's decision, it claims that the esteemed Appeal Circuit exhausted its jurisdiction in deciding on the issue of reasoning and ruled to remand the lawsuit to the Resolution Circuit to decide on the merits regarding the two items: (expenses not related to the activity for the year 2019 AD - delay penalty). It explicitly ruled this as it confirmed in the grounds of its decision remanding it to be adjudicated on the merits. The Appeal Circuit also confirmed within the grounds of its decision outlined above that the Resolution Circuit decided on the items as a consequence of accepting the Taxpayer's objection regarding the item of non-compliance with the assessment procedures; consequently, the Resolution Circuit's jurisdiction is limited to considering the merits of the two aforementioned items. However, we find that the Resolution Circuit's decision



contradicted what the appeal decision concluded, and issued the decision with the exact same grounds that were previously decided upon in its prior decision, without taking into consideration the Authority's appeal on the reasoning item, the proof of the issuance of the assessment, and the attachment of the adjustment reasons with the assessment according to the grounds and reasons stated in the Authority's attached appeal brief, as well as the issuance of a final decision from the appeal to remand the two items for adjudication on the merits. With this, the Authority affirms that the Resolution Circuit's decision is considered defective and must be annulled. Regarding the item (expenses not related to the activity and the delay penalty item), the Authority, upon assessment, compared the revenues according to the financial statements with the revenues declared in the value-added tax returns and rejected the difference due to the Taxpayer's failure to submit supporting documents. The Authority reviewed the lawsuit papers represented in the following documents: (the invoice for revenues outside the scope of value-added tax amounting to (560,245) Riyals, a reconciliation clarifying the reasons for the difference in revenues between what is declared in the financial statements and the value-added tax returns, an analytical statement of expenses paid on behalf of affiliated companies amounting to (3,435,059) Riyals, an analytical statement of the amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to (1,180,740) Riyals). Based on that, the Authority reviewed the reconciliation attached by the Taxpayer which clarifies the reasons for the differences in revenues between the financial statements and the value-added tax returns. Accordingly, the Authority clarifies its viewpoint regarding each expense as follows: A. Regarding revenues outside the scope of tax amounting to (560,425) Riyals: The Authority accepts what the Taxpayer claims in the aforementioned amount; accordingly, the dispute is deemed concluded in its regard. B. Regarding expenses paid on behalf of affiliated companies amounting to (3,435,059) Riyals: In the event the Taxpayer submits to the esteemed Circuit what proves the non-inclusion of these expenses within the activity's costs and expenses, especially since the invoices for these expenses are in the Taxpayer's name—which it did not submit to the Authority—the Authority requests the esteemed Circuit to verify this, and in the event of their submission, the Authority agrees to what the Taxpayer claims in the aforementioned amount. Regarding the amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to (1,180,740) Riyals: The Authority accepts what the Taxpayer claims in the aforementioned amount; accordingly, the dispute is deemed concluded in its regard. C. Regarding sales commission in the value of (113,198) Riyals: The Authority accepts what the Taxpayer claims in the aforementioned amount; accordingly, the dispute is deemed concluded in its regard. Regarding the item of expenses not related to the activity amounting to (228,468) Riyals: The Authority maintains what was stated in its responsive memorandum No. (1) Registered in the case file. Regarding delay penalties: The Authority accepts that item partially within the limits of the penalties related to the accepted items, and the Authority maintains the validity and soundness of its



procedure regarding the items that the Authority did not accept. The Circuit that issued the appealed decision annulled the Authority's decision regarding the two aforementioned items due to its annulment of the (First) item above. Since the Authority appealed it, it therefore requests remanding the appealed items to the Circuit that issued the decision for consideration on the merits.

On Monday, 28/04/2025 AD, at 01:00 PM, the First Appeal Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote litigation procedures; pursuant to the provisions of Paragraph (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. Upon calling the litigants, the Appellant's representative / (...) (National ID No. ...) attended pursuant to an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs under No. (...) dated 19/03/1445 AH. And / (...), National ID No. (...), attended in his capacity as the agent for the Appellee pursuant to the power of attorney No. (...) issued on 14/03/1444 AH, and law practice license No. (...). Upon asking the Appellee's agent what he wishes to add, he stated that he maintains what was previously submitted in this lawsuit. Upon presenting this to the Appellant's representative, she answered maintaining what was previously submitted in this lawsuit. Upon asking the parties what they wish to add, they decided to suffice with what was previously submitted. Accordingly, the Circuit decided to close the pleadings and deliberate.

Grounds of the Decision



Whereas by reviewing the case documents and the appeal brief submitted by the Authority, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally, as it was submitted by a person with standing and within the statutory period prescribed for its submission.

On the merits, and regarding the Authority's appeal concerning the item (the Authority's non-compliance with the assessment procedures for the year 2019 AD), and based on Article (20) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulated: "The Authority shall issue the assessment including its approval of the return or its amendment thereto, stating the reasons for the amendment, and the taxpayer may object to the assessment in accordance with the provisions of Chapter (Seven) of the Regulations." Based on the foregoing, the Authority appeals the Resolution Circuit's decision and states that it contradicted what the appeal decision No. (IR-2023-167460) concluded, and issued the decision with the exact same grounds that were previously decided upon in its prior decision, without taking into consideration the Authority's appeal on the reasoning item, the proof of the issuance of the assessment, and the attachment of the



adjustment reasons with the assessment according to the grounds and reasons stated in the Authority's attached appeal brief, as well as the issuance of a final decision from the appeal to remand the two items for adjudication on the merits. By the Circuit's review of the case file and the defenses and documents contained therein, the Taxpayer's knowledge of all the reasons for the adjustments became evident. It also became evident that there was correspondence between the Taxpayer and the Authority represented in documents sent by the Taxpayer to the Authority under "objection attachments". Since the Taxpayer's knowledge of all the assessment reasons and adjustments issued by the Authority was proven, this leads the Circuit to conclude the acceptance of the Authority's appeal and the annulment of the Resolution Circuit's decision regarding the item (the Authority's non-compliance with the assessment procedures for the year 2019 AD).

Regarding the Authority's appeal concerning the item (expenses not related to the activity), and based on Article (Eighteen) of the Implementing Regulations for Zakat Collection issued by Ministerial Resolution No. (2216) dated 07/07/1440 AH, which stipulated that: "Without prejudice to the provisions of Article (Ten) of the Regulations, every taxpayer shall retain—inside the Kingdom and in Arabic—the commercial books necessary to determine the Zakat base accurately, while retaining the documents that prove their validity and the data and clarifications that support them. The burden of proof regarding the validity of the items and any other data stated in the return falls upon the taxpayer. In the event of his inability to prove the validity of what is stated in his return, the Authority may disallow the item whose validity the taxpayer fails to prove or make an estimated assessment according to the Authority's viewpoint in light of the circumstances and facts related to the case and the information available to it." Furthermore, Paragraph (3) of Article (Fifty-Seven) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH stipulated: "The burden of proof regarding the validity of revenues, expenses, and any other data stated in the taxpayer's return falls upon the taxpayer. In the event of his inability to prove the validity of what is stated in his return, the Department may, in addition to applying any other statutory penalties, disallow the expense whose validity is not proven by the taxpayer or make an estimated assessment according to the Department's viewpoint in light of the circumstances and facts related to the case and the information available to the Department." And whereas Article (70) of the Law of Shari'a Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulated that: "The litigants may request the court, at whatever stage the lawsuit is in, to record what they have agreed upon in terms of acknowledgment, settlement, or otherwise in the minutes of the lawsuit, and the court must issue a deed to that effect." Based on the foregoing, regarding the item (revenues outside the scope of tax amounting to 560,425 Riyals), the item (amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to 1,180,740 Riyals), and the item (sales commission amounting to 113,198 Riyals), and since it was established to this Circuit the Authority's request in the



appeal brief to end the dispute between the two parties, containing: "The Authority accepts what the Taxpayer claims in the aforementioned amount; accordingly, the dispute is deemed concluded in its regard", which necessitates the Circuit to confirm the end of the dispute regarding the item (revenues outside the scope of tax amounting to 560,425 Riyals), the item (amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to 1,180,740 Riyals), and the item (sales commission amounting to 113,198 Riyals). As for the item (expenses paid on behalf of affiliated companies amounting to 3,435,059 Riyals), and based on the foregoing, and whereas the Authority stated that if the Taxpayer submits to the esteemed Circuit what proves the non-inclusion of these expenses within the activity's costs and expenses—especially since the invoices for these expenses are in the Taxpayer's name, which it did not submit to the Authority—the Authority requests the Circuit to verify this, and in the event of their submission, the Authority agrees to what the Taxpayer claims in the aforementioned amount. Meanwhile, the Taxpayer stated that the expenses paid on behalf of affiliated companies are recorded in the statement of financial position as balances due from affiliated companies in note No. (12), and the company obtains a profit margin which was recorded in the income statement and was subject to Zakat and tax. Since the Taxpayer submitted a statement of the expenses paid on behalf of affiliated companies and a reimbursement account with the invoices reflecting the amounts in addition to a sample of invoice copies, and since the Authority did not prove that the Taxpayer charged these expenses to the income statement, this leads the Circuit to conclude the rejection of the appeal regarding the item (expenses paid on behalf of affiliated companies amounting to 3,435,059 Riyals). As for the item (expenses not related to the activity amounting to 228,468 Riyals), and by reviewing the case file, it became evident that the Taxpayer indicated that the difference is related to other revenues and capital losses amounting to (212,550) Riyals and differences between the draft financial statements and the audited financial statements amounting to (15,919) Riyals, while the Taxpayer did not submit the documents supporting the expense represented in analytical statements and invoices and what supports its relation to the activity. This necessitates the Circuit to accept the appeal regarding the item (expenses not related to the activity amounting to 228,468 Riyals).

Regarding the Authority's appeal concerning the item (delay penalties), and based on Paragraph (A) of Article (Seventy-Seven) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which stipulated the following: "In addition to the penalties set forth in Article Seventy-Six of this Law and in Paragraph (B) of this Article, the taxpayer shall pay a delay penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes delay in paying the tax required to be withheld and advance payments, calculated from the tax due date until the date of payment." Also, Paragraph (1) of Article (Sixty-Eight) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH stipulated: "Added to the penalties set forth in the previous Article is 1% of the unpaid tax for every thirty days of delay in the following cases:



b- Delay in paying the due tax under the Authority's assessment." And Paragraph (3) of Article (Sixty-Seven) of the same Regulations, which includes: "Unpaid tax means the difference between what the taxpayer paid on the statutory deadline and the tax due for payment pursuant to the provisions of the Law. It includes the adjustments made by the Department which have become final as stated in Paragraph (2) of Article Seventy-One of these Regulations, including disputed cases, where the penalty is calculated from the date of the statutory deadline for submitting the return and payment." And whereas Article (70) of the Law of Shari'a Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH stipulated that: "The litigants may request the court, at whatever stage the lawsuit is in, to record what they have agreed upon in terms of acknowledgment, settlement, or otherwise in the minutes of the lawsuit, and the court must issue a deed to that effect." Based on the foregoing, regarding the item (delay penalties) on the items (revenues outside the scope of tax amounting to 560,425 Riyals - amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to 1,180,740 Riyals - sales commission amounting to 113,198 Riyals), and since it was established to this Circuit the Authority's request in the appeal brief to partially end the dispute between the two parties, containing: "The Authority accepts that item partially within the limits of the penalties related to the accepted items, and the Authority maintains the validity and soundness of its procedure regarding the items that the Authority did not accept," which necessitates the Circuit to confirm the end of the dispute regarding the item (delay penalties) on the items (revenues outside the scope of tax amounting to 560,425 Riyals - amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to 1,180,740 Riyals - sales commission amounting to 113,198 Riyals). Regarding the item (delay penalties) on the item (expenses not related to the activity amounting to 228,468 Riyals), and on the item (expenses paid on behalf of affiliated companies amounting to 3,435,059 Riyals). By reviewing the case file, it becomes evident that the dispute between the two parties lies in the non-acceptance of the delay penalty from the statutory payment date. By referring to the case file and the defenses and documents it contained, and whereas the delay penalty is calculated from the date of the end of the specified deadline for submitting the return until the date of payment of the due tax arising under the application of the provisions of the Law and the adjustments made by the Authority. And whereas the dispute between the two parties is a documentary dispute, and did not arise from a significant difference in interpreting the statutory texts, which necessitates applying the penalties on the items for which the appeal was accepted, and canceling the penalties on the items for which the appeal was rejected due to the lapse of the principal tax imposition. This necessitates the Circuit to accept the Authority's appeal regarding the item (delay penalties) on the item (expenses not related to the activity amounting to 228,468 Riyals), and reject the Authority's appeal regarding the item (delay penalties) on the item (expenses paid on behalf of affiliated companies amounting to 3,435,059 Riyals).



Based on the foregoing and invoking the mentioned grounds, the Circuit unanimously decided the following::

Decision

First: Acceptance of the appeal procedurally from its submitter / the Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City No. (IZD-2024-63497) issued in Case No. (ZI-2021-63497) relating to the tax assessment for the year 2019 AD.

Second: On the Merits:

1. Acceptance of the Authority's appeal and annulment of the Resolution Circuit's decision regarding the item (the Authority's non-compliance with the assessment procedures for the year 2019 AD).
2. Regarding the Authority's appeal concerning the item (expenses not related to the activity):
 - a) Confirming the end of the dispute regarding the item (revenues outside the scope of tax amounting to 560,425 Riyals).
 - b) Confirming the end of the dispute regarding the item (amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to 1,180,740 Riyals).
 - c) Confirming the end of the dispute regarding the item (sales commission amounting to 113,198 Riyals).
 - d) Rejection of the appeal regarding the item (expenses paid on behalf of affiliated companies amounting to 3,435,059 Riyals).
 - e) Acceptance of the appeal regarding the item (expenses not related to the activity amounting to 228,468 Riyals).
3. Regarding the Authority's appeal concerning the item of (late payment penalties):
 - a) Confirming the end of the dispute regarding the item (delay penalties) on the items (revenues outside the scope of tax amounting to 560,425 Riyals - amounts declared in excess in the value-added tax returns for the first quarter of the year 2019 AD amounting to 1,180,740 Riyals - sales commission amounting to 113,198 Riyals).
 - b) Acceptance of the Authority's appeal regarding the item (delay penalties) on the item (expenses not related to the activity amounting to 228,468 Riyals).
 - c) Rejection of the Authority's appeal regarding the item (delay penalties) on the item (expenses paid on behalf of affiliated companies amounting to 3,435,059 Riyals).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-243630
Case No. ZI-2024-243630

Principle No. 5

- The fact that an expense does not appear under the taxpayer's name does not preclude its acceptance, provided its actual incurrence is proven by contracts and the scope of work, and it is linked to generating taxable income.

Facts

The Circuit reviewed Decision No. (IR-2024-240784) issued by the First Appeal Circuit for Income Tax Violations and Disputes regarding the Petition for Reconsideration registered under No. (ZI-2024-240784), which ruled: First: Acceptance of the petition for reconsideration procedurally, submitted by the Taxpayer, (...) Company, Commercial Registration No. (...), TIN (...), against the First Appeal Circuit for Income Tax Violations and Disputes Decision No. (IR-2022-235) issued in Case No. (ZI-2020-26185) concerning the Zakat and Tax assessment for the years 2006 to 2012. Second: On the Merits, to accept the petition for reconsideration, annul the Appeal Circuit's decision, and remand the case back to it for review, in accordance with the grounds and merits stated in this decision. Accordingly, this Circuit decided to consider the merits of the case pursuant to its decision issued on the aforementioned petition. The appeal was originally filed on 13/10/2020 by (...) acting as legal counsel for the appellant, (...) Company, under Power of Attorney No. (...) dated 07/11/1441 AH, and by the Zakat, Tax and Customs Authority (ZATCA) on 13/10/2020, against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City No. (00-2020-121) issued in Case No. (ZI-2018-10) concerning the Zakat and Tax assessment for the years 2006 to 2012, submitted by the Taxpayer against ZATCA. The Resolution Circuit's decision had ruled as follows:

Procedurally: To accept the lawsuit procedurally.

On merits:

- To accept the plaintiff's objection regarding the item "Depreciation differences and other fixed asset adjustments for the years 2006 AD to 2012 AD."
- To accept the plaintiff's objection regarding the item "Deemed profits on imports for the years 2006 AD to 2012 AD."



- To reject the plaintiff's objection regarding the item "Customs duties for the years 2006 AD to 2011 AD."
- To accept the plaintiff's objection regarding the item "Donations for the years 2006 AD, 2009 AD, 2010 AD, and 2012 AD."
- To accept the plaintiff's objection regarding the item "Repair and maintenance expenses for the year 2006 AD."
- To accept the plaintiff's objection regarding the item "Ownership interest percentages for the year 2009 AD."
- To accept the plaintiff's objection regarding the item "Utilized provisions for the years 2006 AD to 2012 AD."
- To reject the plaintiff's objection regarding the item "Credit balances, accounts, retainages, amounts payable, and advance payments for the years 2006 AD to 2008 AD."
- To accept the plaintiff's objection regarding the item "Fixed assets for the years 2006 AD to 2008 AD."
- To record the settlement/conclusion of the dispute regarding the item "Retained earnings for the years 2007 AD and 2008 AD."
- To accept the plaintiff's objection regarding the item "Withholding tax on technical services."
- To reject the plaintiff's objection regarding the item "Deduction of withholding tax paid on technical services."
- To reject the plaintiff's objection regarding the item "Withholding tax on other payments for the years 2009 AD and 2010 AD."
- To reject the plaintiff's objection regarding the item "Withholding tax on the capitalization of retained earnings into capital."
- To accept the plaintiff's objection regarding the item "Withholding tax on capital gains for the year 2009 AD."
- To accept the plaintiff's objection regarding the item "Late payment penalties for the years 2006 AD to 2012 AD."

Whereas this decision was not accepted by both parties, each submitted an appeal brief comprising the following summary:

Regarding the Taxpayer's appeal against the Resolution Circuit's decision, and concerning the item (Statute of Limitations for the years from 2006 AD to 2010 AD), the Taxpayer requests the annulment of the Zakat Assessment issued by the Authority for the years from 2006 AD to 2010 AD, as more than five years have passed since the Plaintiff filed its declarations for those years without the Authority exercising its right of assessment. Furthermore, the Taxpayer was notified of the assessment on 09/06/2016 AD, while the statutory period expired on 30/04/2016 AD. Concerning the item (Estimated Profits on Imports for the years 2011 AD and 2012 AD), the Taxpayer argued that the Authority agreed with the Taxpayer's request to amend the value of the import differences based on the confirmation certificates submitted by the Taxpayer. However, an error occurred which led to adopting



them to reduce the differences by an amount of (167,503,831) Riyals instead of (2,619,265,764) Riyals; nevertheless, it became evident that the Resolution Circuit did not scrutinize the Plaintiff's requests nor did it address the submitted documents. Concerning the item (Customs Duties for the year 2011), the Taxpayer wishes to inform the Circuit that in order to deliver materials and equipment to the construction sites on scheduled dates, the Company, acting as the construction contractor, was obligated to its clients to facilitate customs clearance for clients' materials and equipment purchased directly by them from external suppliers. The customs clearance was processed by the Customs Authority using the respective clients' Commercial Registration numbers. Consequently, the value of the imported materials and the paid customs duties do not appear under the Plaintiff's Commercial Registration number. However, pursuant to the provisions of the contracts and the Defendant's scope of work, the Plaintiff was required to bear the costs of the customs duties upon clearing the clients' materials and equipment. Concerning the item (Withholding Tax on Technical Services), the Taxpayer indicated that (...) Japan and (...) are not related parties to the Plaintiff according to the definition of related parties provided in Article (64) of the Income Tax Law. The Taxpayer attached a copy in the appeal brief containing the Authority's response to taxpayers' inquiries on the same topic, as listed in the Frequently Asked Questions (FAQs). Accordingly, it is noted from the provisions of the tax law that entities can only be considered related if they directly or indirectly own a share of (50%) or more in the company. Concerning the item (Deduction of Paid Withholding Tax on Technical Services), the Taxpayer requests the deduction of an amount of (928,125) Riyals from the Plaintiff's dues, as it has already been paid to the Authority according to the submitted documents. Concerning the item (Withholding Tax on Other Payments), the Circuit concluded that the provided services are technical and consulting services but were provided by a related company (...), hence they must be subject to a (15%) rate. The Taxpayer clarified its perspective that the Company erroneously declared the engineering design services fees (technical and consulting services) as other services and subjected them to Withholding Tax at a rate of (10%) in accordance with the Double Taxation Avoidance Agreement between the Kingdom and the Republic of Korea.

Moreover, the decision was not accepted by the Zakat, Tax and Customs Authority, which filed its appeal against the objected decision by means of an appeal brief comprising the following summary:

Regarding the Authority's appeal against the Resolution Circuit's decision, its appeal lies in the item (Depreciation Differences and Other Fixed Assets Adjustments for the years 2011 AD and 2012 AD). The Authority clarifies that it recalculated the depreciation rates and adjusted the depreciation schedule in accordance with the provisions of Article (17) of the Income Tax Law and Paragraph (4) of Article (9) of the Implementing Regulations of the Income Tax Law. The Authority explained that it recalculated Schedule No. (4) Pertaining to fixed assets and their depreciation, comparing it with the Taxpayer's calculation of the same schedule in the declaration, and adding the difference to the net profit. It referred to the merits of the decision which stated: "that office equipment falls under machinery, engines, devices, software (computer programs), and equipment, including passenger and cargo vehicles." The esteemed Circuit has erred in interpreting the text of the article and expanded its understanding of the statutory text, as it became clear and explicit in determining the asset depreciation rate at (25%) for assets



considered machinery, engines, devices, and software, without indicating that office equipment is among those assets. Additionally, Paragraph (5) of Article (17) referred to above made it unambiguously clear that all tangible and intangible assets of a depreciable nature not included in the previous categories shall be subject to a depreciation rate of (10%). Since office equipment was not mentioned within any of the categories in Article (17), the applicable depreciation rate is (10%) according to the explicit text of Paragraph (5) of Article (17) of the Income Tax Law. Concerning the item (Estimated Profits on Imports), the Authority states its partial acceptance of the item by adding estimated import differences profits at a rate of 10.5% for the year 2011 amounting to (5,822,185.85) Riyals, and for the year 2012 amounting to (6,438,801.71) Riyals. Concerning the item (Used Provisions for the years 2011 and 2012), the esteemed Circuit annul the Authority's decision after the movement of provisions stated in Schedule (8) of the declarations revealed that these amounts were used in their year of entitlement. The Circuit did not clarify the basis of its ruling nor did it address whether the Plaintiff submitted corroborating documents for the disbursement of such amounts or not, but rather relied in its ruling solely on the declarations. Therefore, the Authority's treatment of the provisions was sound and consistent with the declarations submitted by the Taxpayer, where the impact of the Zakat treatment of the provisions was removed for the tax partner in the event the used amount was higher than the opening balance, subsequently adjusting the foreign partner's share by adding the created provision and deducting the used provision, as the Zakat treatment of provisions does not apply to the tax-subject taxpayer, which confirms the validity and soundness of the Authority's decision. Concerning the item (Withholding Tax on Capital Gains for the year 2009), the Authority initially clarifies that it did not impose withholding tax on the capital gains realized during 2009, nor did it impose this tax on the Saudi partner. Instead, an income tax amounting to (8,086,464) Riyals was imposed on the capital gains realized by the foreign partner amounting to (40,432,320) Riyals, as a result of purchasing the Saudi partner's share at less than its fair value. This implies the realization of gains by the foreign partner resulting from purchasing a share at less than its book value according to the equation $= (41,432,319 - 1,000,000)$, where the Saudi partner's share, whose book value according to the financial statements for the year 2008 amounted to (41,432,319) Riyals, was purchased for an amount of (1,000,000) Riyals. Article (8) of the Income Tax Law defined taxable income as: "Total income including all revenues, profits, and gains of any kind and in whatever form of payment resulting from carrying out the activity, including capital gains and any other incidental revenues, excluding exempt income." Since the gains realized by the foreign partner from purchasing the share at less than its book value represent negative goodwill, which arises when the fair market value of the purchased assets is higher than the price actually paid to acquire them, and in accordance with International Accounting Standards, negative goodwill is treated as revenues and thus must be subject to income tax on the foreign partner. What supports the Authority's decision is that both buyers withdrew (150,000,000) Riyals from the retained earnings, of which the Saudi partner's share was (37,500,000) Riyals during the year in which the exit event occurred. This means they obtained distributed profits that were not subjected to income tax and were acquired without a fair cost, confirming the validity of the Authority's findings. Furthermore, its subjection to withholding tax does not preclude it from being subject to income tax. The Authority emphasizes that its procedure was an application of the tax principle that the basis for imposing tax is not the characterization of contracts but the reality



of the situation; this reality is indicated by evidence and facts of the foreign partner realizing profits in exchange for acquiring this share, hence it must be subject to income tax. Concerning the item (Late Payment Penalty for the years 2011 and 2012), the Authority partially withdraws its appeal in accordance with the items it has accepted and rejects the rest, as the late payment penalty was imposed on the unpaid tax differences by the statutory due date based on Paragraph (A) of Article (77) of the Income Tax Law. Concerning the item (Donations for the year 2012), the Authority clarifies that the Company did not provide all required documents during the audit and objection stages. It also did not grant access to the documents upon which the Resolution Circuit based its decision. Moreover, the Circuit did not clarify the nature of the documents, and a review of all attachments did not reveal what the Circuit relied upon in accordance with the statutory requirements for To accept the item, as no corroborating document from a third party was submitted to prove the transfer of these amounts, such as a receipt voucher from the donated entity or a bank transfer. Therefore, the Authority asserts the validity of its procedure based on Article (11) of the Income Tax Law. Concerning the item (Withholding Tax on Royalties for the year 2009), the Authority wishes to inform the esteemed Circuit of the withdrawal of its appeal specifically regarding the above item and the procedures resulting from the Authority's appeal, in accordance with the merits concluded in the Resolution Circuit's decision.

On Tuesday, dated: 25/02/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 12:30 PM in presence of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. Upon calling the litigants, Mrs./ (...), National ID No. (...), attended in her capacity as the representative of the Appellant under Power of Attorney No. (...) issued on 28/04/1446 AH, Law Practice License No. (...). Also attended were Mr./ (...) (National ID No. ...) and Mr./ (...) (National ID No. ...), representatives of the Appellee pursuant to an authorization issued by the ZATCA Deputy Governor for Legal Affairs No. (...) dated 19/03/1445 AH. Upon asking the Appellant's representative if she wished to add anything, she stated that the Authority submitted two supplementary memorandums, exceeding the statutory period designated for submission. It also requested an extension twice, thereby violating Article (35) of the Rules of Operation for Zakat, Tax, and Customs Circuits, and we raise a defense to that effect. Upon presenting this to the Appellee's representatives, they replied that since the lawsuit was remanded to the Appeal Circuit following the acceptance of the petition, the rules mentioned by the Taxpayer's representative do not apply. They also requested not to allow the Taxpayer to submit any additional memorandum, as the Company previously failed to submit its appeal brief within the statutory period before the Circuit. Furthermore, the Authority formed a team to respond to the Taxpayer's additional brief, and therefore we request an extension. Upon presenting this to the Appellant's representative, she requested an extension to respond to it. The Authority's representatives added a request to prove that the Taxpayer submitted its appeal within the statutory period. Accordingly, the Circuit unanimously decided to grant the Taxpayer a period of (10) ten days to submit its responses, ending on: 08/03/2025 AD, and to grant the Authority a period of (10) ten days to respond to them, ending on: 19/03/2025 AD. After this date, the pleading stage will be closed, and the lawsuit will be brought for deliberation and issuance of the decision. The Circuit will not accept any new documents



or memorandums that were not submitted before the aforementioned date. The next hearing is scheduled for 21/04/2025 AD, for the pronouncement of the decision.

On Monday, dated: 21/04/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 08:03 PM with the attendance of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. Upon calling the litigants, Mr./ (...), National ID No. (...), attended in his capacity as the representative of the Taxpayer under Power of Attorney No. (...) issued on 28/04/1446 AH, Law Practice License No. (...). Also attended the Authority's representative Mr./ (...) (National ID No. ...), pursuant to an authorization issued by the ZATCA Deputy Governor for Legal Affairs and Compliance No. (...) dated 19/03/1445 AH. Whereas the pleading and deliberation stages were closed, and whereas this hearing is dedicated to pronouncing the decision.

Grounds of the Decision



Upon reviewing the case documents and the appeal briefs submitted by the Taxpayer and by the Zakat, Tax and Customs Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and resolutions. Accordingly, both appeals are accepted procedurally, as they were submitted by persons with capacity, and within the prescribed statutory period.

On merits, regarding the Taxpayer's appeal concerning the item (Statute of Limitations for the years from 2006 AD to 2010 AD), whereas the Taxpayer requests the annulment of the Zakat assessment issued by the Authority for the years 2006 AD to 2010 AD, as more than five years have passed since the Taxpayer filed its declarations for those years without the Authority exercising its right of assessment; furthermore, the Taxpayer was notified of the assessment on 09/06/2016 AD, while the statutory period expired on 30/04/2016 AD. Based on Article (70) of the Law of Sharia Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH, which stipulated: "Litigants may request the court, at any stage of the lawsuit, to record their agreement, whether an admission, settlement, or otherwise, in the hearing minutes, and the court shall issue a deed to that effect"; and Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice's Decision No. (39933) dated 19/05/1435 AH, which stated: "If an agreement is reached before the lawsuit is recorded, the substance of the claim and the response must be recorded before documenting the agreement, provided that the original lawsuit falls within the Circuit's jurisdiction, even if the subject of the agreement falls within the jurisdiction of another court or circuit, provided that the subject matter of the lawsuit or part of it is among the agreed-upon matters." Based on the foregoing, and concerning the statute of limitations exclusively on Zakat and Income Tax for the years from 2006 to 2010, since it became evident that the dispute between the parties has ended by the Authority's acceptance of the Taxpayer's objection according to its response memorandum stating: "The Authority



informs your esteemed Circuit that, should the formal defense clarified above be bypassed, it accepts the Plaintiff's objection regarding the statute of limitations concerning Zakat and Income Tax for the years 2006 to 2010 and the items adjusted by the Authority; hence, the Authority requests the esteemed Circuit to rule on the termination of the dispute regarding them." Therefore, it is incumbent upon the Circuit to establish the termination of the dispute regarding the Taxpayer's appeal on the item (Statute of Limitations exclusively on Zakat and Income Tax for the years from 2006 AD to 2010 AD).

Regarding the appeal of the two parties concerning the item (Estimated Profits on Imports for the years 2011 AD and 2012 AD), based on Article (70) of the Law of Sharia Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH, which stipulated: "Litigants may request the court, at any stage of the lawsuit, to record their agreement, whether an admission, settlement, or otherwise, in the hearing minutes, and the court shall issue a deed to that effect"; and Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice's Decision No. (39933) dated 19/05/1435 AH, which stated: "If an agreement is reached before the lawsuit is recorded, the substance of the claim and the response must be recorded before documenting the agreement, provided that the original lawsuit falls within the Circuit's jurisdiction, even if the subject of the agreement falls within the jurisdiction of another court or Circuit, provided that the subject matter of the lawsuit or part of it is among the agreed-upon matters." Based on the foregoing, concerning the statute of limitations on Zakat and Income Tax exclusively for the years from 2006 to 2010, and since it became evident that the dispute between the parties has ended according to the Authority's supplementary memorandum stating: "The Authority informs that, should the Circuit bypass the formal defense clarified above, it partially accepts the item by adding estimated import differences profits at a rate of 10.5% for the year 2011 AD amounting to (5,822,185.85) Riyals, and for the year 2012 AD amounting to (6,438,801.71) Riyals," and according to the Taxpayer's supplementary memorandum stating: "...and since the Authority fully acknowledged the confirmation letter submitted by the Company, this leads to an assumed profit of (5,822,185.85) Saudi Riyals for 2011 AD and (6,438,801.71) Saudi Riyals for 2012. Therefore, the remaining tax liability on estimated profits from imports amounts to (2,452,197.51) Saudi Riyals. The Authority has provided all the aforementioned figures, and the Company agrees to them." Thus, it is incumbent upon the Circuit to establish the termination of the dispute regarding the appeal of the two parties on the item (Estimated Profits on Imports for the years 2011 AD and 2012 AD).

Regarding the appeal of the two parties concerning the item (Late Payment Penalty), based on the text of Paragraph (A) of Article (77) of the Income Tax Law, which states: "In addition to the penalties provided for in Article Seventy-Six of this Law and in Paragraph (B) of this Article, the taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes delay in payment of the required withholding tax and advance payments, calculated from the tax due date to the payment date." And Paragraph (C) of Article (68) of the Income Tax Law stating: "The person responsible under this Article for withholding tax is personally liable to pay the unpaid tax and any late payment penalties resulting therefrom in accordance with Paragraph (A) of Article Seventy-Seven of this Law, if any of the following cases apply to him: 1- If he fails to withhold the tax as required. 2- If he



withheld the tax but failed to pay it to the Authority as required. 3- If he fails to submit the withholding statements to the Authority as required by subparagraph three of Paragraph (B) of this Article." And based on Paragraph (3) of Article (67) of the Implementing Regulations of the Income Tax Law, which states: "Unpaid tax means the difference between what the taxpayer paid by the statutory due date and the tax due for payment under the provisions of the Law, including adjustments made by the Authority that have become final as stated in Paragraph (2) of Article Seventy-One of these Regulations, including disputed cases, where the penalty is calculated from the statutory due date for filing the declaration and payment." Based on the foregoing, and upon referencing the case file and its contents of defenses and documents, and based on the judicial principle "if the principal falls, the accessory falls", and since imposing the late payment penalty is a consequent result of the appealed items, it becomes evident that imposing the late payment penalty from the due date is valid for the items where the Taxpayer's appeal was rejected and the items where the Authority's appeal was accepted, while the late payment penalty is waived for the items where the Taxpayer's appeal was accepted, the items where the Authority's appeal was rejected, the items where the termination of the dispute was established, and the item where the abandonment of litigation was accepted. Consequently, the Circuit concludes to amend the Resolution Circuit's decision regarding the appeal of the two parties on the item (Late Payment Penalty).

Regarding the Taxpayer's appeal concerning the item (Customs Duties for the year 2011), based on Paragraph (1) of Article (9) of the Implementing Regulations of the Income Tax Law, issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH, which stated the following: "Expenses deductible for the purpose of determining taxable income are: 1- All ordinary and necessary expenses to realize the taxable income, whether paid or accrued, provided the following controls are met: a- It must be an actual expense supported by corroborating documents or other evidence of proof enabling the Department to verify its authenticity. b- It must be related to the realization of taxable income. c- It must be related to the tax year. d- It must not be of a capital nature." Based on the foregoing, and as it became evident that the cause of the dispute was due to the Company incurring the value of imported materials and customs duties as the contractor, while these costs do not appear under the Commercial Registration number of (...) Company in the Customs records. The Taxpayer justified that pursuant to the provisions of the contracts and the agreed scope of work of (...), it was obligated to bear these costs. Upon the Circuit's review of the case file and attached documents, it was found that the Taxpayer submitted an analytical statement of paid customs and a sample of clients for the disputed years, as well as a sample of client contracts confirming that (...) Company is contractually responsible for paying customs duties on materials and equipment. Furthermore, upon reviewing the contract concluded between (...) Ltd. and (...) Ltd. – construction contract – for the foundations of the Propane and Polypropylene Dehydrogenation plant project – Clause 2-10: "The Contractor shall receive the imported materials on behalf of the Owner and shall be responsible for their loss or damage from the point of delivery. The Contractor bears the responsibility for delivering all (...) Company materials from the dispatch point to the plant site. The Contractor handles unloading all materials and transporting them to the plant site, and the Contractor bears the responsibility for customs clearance of all materials at the point of entry. Meanwhile, the Owner provides all import permits and licenses required of it for this purpose. The Contractor provides the Owner with all necessary



documents it requests within the scheduled time to obtain the permits without delay. The Contractor bears the responsibility for paying all customs duties at the point of entry in accordance with Article 11-2." Accordingly, whereas the Authority's defense—that the customs duties included in the declaration are higher than those stated in the customs statement—is without merit, in light of the circumstances and facts surrounding the method of calculating and classifying those differences by the Taxpayer when submitting its declaration, given that it incurred these duties according to what it provided within the provisions related to its contracts with its clients. Therefore, the Circuit concludes to accept the taxpayer's appeal and annul the Resolution Circuit's decision regarding the item (Customs Duties for the year 2011 AD).

Regarding the Taxpayer's appeal concerning the item (Withholding Tax on Technical Services), based on Paragraph (C) of Article (64) of the Income Tax Law pertaining to related persons and persons under common control, which stated: "Companies or entities are considered under common control if they are controlled by fifty percent (50%) or more by the same person or related persons according to this Article as follows: 2- With respect to capital companies, control means ownership of its voting rights or ownership of its value directly or indirectly through a subsidiary company or companies of whatever type." And Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law, stating the following: "A non-resident is subject to tax on any amount obtained from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates: - Royalty or rent, payments for services paid to the head office or a related company.....at a rate of 15%". And Paragraph (3) of Article (57) of the same Regulations, stating that: "The burden of proving the authenticity of revenues, expenses, and any other data contained in the Taxpayer's Declaration falls on the taxpayer. In the event of inability to prove the authenticity of what is contained in its declaration, the Department may, in addition to applying any other statutory penalties, disallow the expense that the taxpayer failed to prove its authenticity, or make a presumptive assessment according to the Department's perspective in light of the circumstances and facts related to the case and the information available to the Department." Based on the foregoing, amounts paid to non-resident related companies in exchange for technical and consulting services to related parties are subject to withholding tax at a rate of (15%) once it is proven that they were related entities. Since the dispute is documentary, and the Resolution decision concluded to reject the Plaintiff's objection due to the Taxpayer's failure to provide the organizational structure and ownership percentage; upon the Circuit's review of the case file and attached documents, it became evident that the Taxpayer had submitted the ownership disclosure statement of the parent company (...), through which the validity of the Taxpayer's defense was proven that (...) Company is not a partner to the Company nor a subsidiary of its parent entity. Accordingly, since the Authority did not provide anything to the contrary of the Taxpayer's defense and contrary to the supporting documentation, the Circuit concludes to accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item (Withholding Tax on Technical Services).

Regarding the Taxpayer's appeal concerning the item (Deduction of Withholding Tax on Technical Services), based on Article (70) of the Law of Sharia Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH, which stipulated: "Litigants may request the court, at any stage of the lawsuit, to record their agreement, whether an



admission, settlement, or otherwise, in the hearing minutes, and the court shall issue a deed to that effect"; and Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice's Decision No. (39933) dated 19/05/1435 AH, which stated: "If an agreement is reached before the lawsuit is recorded, the substance of the claim and the response must be recorded before documenting the agreement, provided that the original lawsuit falls within the Circuit's jurisdiction, even if the subject of the agreement falls within the jurisdiction of another court or Circuit, provided that the subject matter of the lawsuit or part of it is among the agreed-upon matters." Based on the foregoing, as it became evident that the dispute between the parties has ended by the Authority's acceptance of the Taxpayer's objection according to its response memorandum stating: "The Authority informs your esteemed Circuit that it accepts the Taxpayer's objection regarding the item of Deduction of Paid Withholding Tax on Technical Services amounting to (928,125) Riyals specifically for (...) South Korea, and accordingly requests establishing the termination of the dispute." Thus, it is incumbent upon the Circuit to establish the termination of the dispute regarding the Taxpayer's appeal concerning the item (Deduction of Withholding Tax on Technical Services).

Regarding the Taxpayer's appeal concerning the item (Used Provisions for the years 2011 AD and 2012 AD), whereas the Taxpayer argued that the Circuit annul the Authority's decision after the provisions' movement stated in Schedule (8) of the declarations revealed the usage of these amounts in their year of entitlement. The Circuit did not clarify the basis of its ruling nor did it address whether the Plaintiff submitted corroborating documents for the disbursement of such amounts or not, but rather relied on its ruling solely on the declarations. Therefore, the Authority's treatment of the provisions was sound and matching the declarations submitted by the Taxpayer, where the impact of the Zakat treatment of the provisions was removed for the tax partner in the event the used amount was higher than the opening balance, subsequently adjusting the foreign partner's share by adding the created provision and deducting the used provision, as the Zakat treatment of provisions does not apply to the tax-subject taxpayer, which confirms the validity and soundness of the Authority's decision. Based on the foregoing, and upon the Circuit's review of the submitted documents, it became evident that the Taxpayer acknowledged the absence of an assessment from the Authority for the years 2011 AD and 2012 AD, which demonstrates the validity of the Authority's request. Therefore, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item (Used Provisions for the years 2011 AD and 2012 AD).

Regarding the Authority's appeal on the item (Withholding Tax on Royalties for the year 2009 AD), based on Article (70) of the Law of Sharia Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH, which stipulated: "Litigants may request the court, at any stage of the lawsuit, to record their agreement, whether an admission, settlement, or otherwise, in the hearing minutes, and the court shall issue a deed to that effect"; and Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice's Decision No. (39933) dated 19/05/1435 AH, which stated: "If an agreement is reached before the lawsuit is recorded, the substance of the claim and the response must be recorded before documenting the agreement, provided that the original lawsuit falls within the Circuit's jurisdiction, even if the subject of the agreement falls



within the jurisdiction of another court or circuit, provided that the subject matter of the lawsuit or part of it is among the agreed-upon matters." Based on the foregoing, as the Authority's request to abandon its appeal regarding this item became evident according to its supplementary memorandum stating: "The Authority wishes to inform the esteemed circuit of the withdrawal of its appeal specifically regarding the above item and the procedures resulting from the Authority's appeal, in accordance with the merits concluded in the Resolution Circuit's decision." Therefore, the Circuit concludes to accept the abandonment of litigation regarding the Authority's appeal on the item (Withholding Tax on Royalties for the year 2009 AD).

Regarding the appeal of the Authority and the Taxpayer concerning the remaining disputed items. Whereas there is no objection for the circuit to adopt the reasons of the appealed decision without adding to them, provided it determines that those reasons suffice without citing any new grounds, because by upholding them based on the reasons they carry, it is confirmed that it found nothing in the challenges directed at the decision that warrants a response beyond what was included in those reasons. As this was the case, and as it is established that the appealed decision concerning the dispute regarding the contested items was consistent with the sound reasons it was based on, which are sufficient to uphold its ruling—since the issuing Circuit scrutinized the core of the dispute and arrived at the conclusion stated in its operative part—and whereas this Circuit observed nothing requiring rectification or comment in light of the defenses raised before it. Consequently, this circuit concludes to reject the appeal of the Authority and the Taxpayer and uphold the appealed Resolution Circuit's decision regarding the outcome it reached for the remaining disputed items, carried on its reasons.

Based on the foregoing and adopting by the aforementioned reasons, the Circuit unanimously decided as follows:

Decision

First: To accept the appeal procedurally submitted by the Taxpayer/ (...) Company Limited, Commercial Registration No. (...), TIN (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the First Appeal Circuit for Income Tax Violations and Disputes No. (IR-2022-235) issued in Lawsuit No. (ZI-2020-26185) relating to the Zakat and Tax Assessment for the years from 2006 AD to 2012 AD.

Second: On the Merits:

- 1- Regarding the Taxpayer's appeal on the item (Statute of Limitations for the years from 2006 AD to 2010 AD):
 - a. To establish the termination of the dispute regarding the Taxpayer's appeal on the item (Statute of Limitations exclusively on Zakat and Income Tax for the years from 2006 AD to 2010 AD).
 - b. To reject the Taxpayer's appeal regarding the item (Withholding Tax).
- 2- To establish the termination of the dispute regarding the appeal of the two parties on the item (Estimated Profits on Imports for the years 2011 AD and 2012 AD).



- 3- To amend the Resolution Circuit's decision regarding the appeal of the two parties on the item (late payment Penalty).
- 4- To accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item (Customs Duties for the year 2011 AD).
- 5- To accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item (Withholding Tax on Technical Services).
- 6- To establish the termination of the dispute regarding the Taxpayer's appeal on the item (Deduction of Withholding Tax on Technical Services).
- 7- To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item (Withholding Tax on Other Payments for the years 2009 AD and 2010 AD).
- 8- To reject the Authority's appeal and uphold the Resolution Circuit's decision regarding the item (Depreciation Differences and Other Fixed Assets Adjustments for the years 2011 AD and 2012 AD).
- 9- To reject the Authority's appeal and uphold the Resolution Circuit's decision regarding the item (Donations for 2012 AD).
- 10- To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item (Used Provisions for the years 2011 AD and 2012 AD).
- 11- To accept the abandonment of litigation regarding the Authority's appeal on the item (Withholding Tax on Royalties for the year 2009 AD).
- 12- To reject the Authority's appeal and uphold the Resolution Circuit's decision regarding the item (Withholding Tax on Capital Gains for the year 2009 AD).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-238787
Case No. I-2024-238787

Principle No. 6

- Government fees paid on behalf of employees are accepted as deductible expenses provided their connection to the activity and the realization of income is established; however, this does not extend to fees related to family members who are not connected to the activity.

Facts



This is to consider the appeal submitted on 20/06/2024 AD by the Zakat, Tax and Customs Authority against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2024-204697) issued in Lawsuit No. (I-2023-204697) relating to the Tax Assessment for the year 2021 AD, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the decision of the Resolution Circuit ruled as follows:

- 1- To reject the Plaintiff's objection regarding the item of "Salaries, Wages, and Equivalents Paid to Owners, Partners, Shareholders, and their Relatives (Salaries of the Partner's Sons)" for the year 2021 AD, amounting to 141,953 Riyals.
- 2- To amend the Defendant's decision regarding the item of "Salaries, Wages, and Equivalents Paid to Owners, Partners, Shareholders, and their Relatives (Residency Renewal Fees for Employees' Families)" for the year 2021 AD, by accepting the deduction of an amount of 1,400 Riyals, according to what was stated in the reasons.
- 3- To establish the termination of the dispute regarding the item of "Salaries, Wages, and Equivalents Paid to Owners, Partners, Shareholders, and their Relatives (Residency Renewal Expenses for the Partner's Sons)" for the year 2021 AD, amounting to 4,400 Riyals, according to what was stated in the reasons.

Whereas this decision was not accepted by the Appellant (the Zakat, Tax and Customs Authority), it filed an appeal brief comprising the following summary:

As the Authority objects to the appealed Resolution Circuit's decision, it claims that regarding the item of "Salaries, Wages, and Equivalents Paid to Owners, Partners, Shareholders, and their Relatives (Residency Renewal Fees for Employees' Families)" for the year 2021 AD, the Authority clarifies that it subjected the non-statutory salaries, wages, and equivalents paid to owners, partners, shareholders, and their relatives amounting to (141,953) Riyals, and also



subjected the expenses paid to them with a total value of (28,000) Riyals. Furthermore, the amounts paid to the owner and his sons are considered amounts within the government fees for renewing the residencies and work permits for the owner and his sons. The Authority also states that the Resolution Circuit issuing the appealed decision concluded to amend the above item. The Authority asserts that what the Resolution Circuit stated in the merits of its decision—that the expenses are related to the activity based on professional custom—is incorrect. The reason for this is that these government fees are for the residency renewal of the partner's (...) family amounting to (4,720) Riyals and the partner's son's (...) family amounting to (18,880) Riyals. Consequently, they are non-deductible expenses as they relate to their families, rendering these expenses unconnected to the activity. The Authority further clarifies that it had previously accepted the deduction of the government fees paid on behalf of the owner (...) and his son (...) during the objection stage with a value of (4,400) Riyals. It notes that the copies of the bank payment receipts relied upon in the Resolution decision actually belong to the owner (...) and his son (...). Therefore, the Authority considers the Resolution Circuit's acceptance of the above item to be invalid. Moreover, it is unclear how the Resolution Circuit arrived at the amount of (1,400) Riyals, as the copies of the bank payment receipts total a value of (2,800) Riyals. Accordingly, the Authority requests the annulment of the Resolution Circuit's decision regarding the appealed items based on the aforementioned reasons.

On Wednesday, dated: 15/01/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 02:01 PM with the attendance of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. Upon reviewing the appeal, the submitted memorandums, and the papers and documents contained in the case file, and after deliberation, and whereas the lawsuit is ready for adjudication in its current state, the Circuit decides to close the pleading stage and reserve the case for adjudication.

Grounds of the Decision

Upon reviewing the case documents and the appeal brief submitted by the Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and resolutions. Accordingly, the appeal is accepted procedurally, as it was submitted by a person with standing, and within the prescribed statutory period.

On merits, and regarding the Authority's appeal concerning the item of "Salaries, Wages, and Equivalents Paid to Owners, Partners, Shareholders, and their Relatives (Residency Renewal Fees for Employees' Families)" for the year 2021 AD; whereas Paragraph (B) of Article (13) of the Income Tax Law pertaining to non-deductible expenses states: "Any amounts paid or benefits provided to the shareholder, partner, or any of their relatives, which constitute salaries, wages, rewards, and equivalents, or which do not satisfy the conditions of arm's length transactions in exchange for properties or services"; and Paragraph (1) of Article (10) of the Implementing Regulations of the Income Tax Law pertaining to non-deductible expenses states: "Salaries, wages, and equivalents, whether in cash or



in kind, paid to the owner, partner, or shareholder (excluding shareholders in joint-stock companies), or to any of his family members including parents, spouse, children, and siblings." Furthermore, Paragraph (3) of Article (57) of the Implementing Regulations of the Income Tax Law states: "The burden of proving the authenticity of revenues, expenses, and any other data contained in the taxpayer's declaration falls on the taxpayer. In the event of inability to prove the authenticity of what is contained in its declaration, the Authority may, in addition to applying any other statutory penalties, disallow the expense that the taxpayer failed to prove its authenticity, or make a presumptive assessment according to the Authority's perspective in light of the circumstances and facts related to the case and the information available to the Authority." Based on the foregoing, and as it becomes evident from the merits of the appealed decision that it was incorrect to amend the Authority's decision by accepting the deduction of a portion of the expense which the Authority had already accepted, leading to a double deduction. Since (...) and (...) are employees of the Company, the residency renewal expenses are considered mandatory and compulsory for the activity, as they are related to the realization of income (as is the case with the rest of the employees). Moreover, they are paid to a government entity and not to the owners and their relatives personally, which is what the Authority clarified in its memorandum submitted before the Resolution Circuit, accepting their renewal fees and deducting them as they are necessary expenses for the activity and paid to government entities amounting to 4,400 Riyals. However, regarding the fees related to dependents (family members), since they are not connected to the activity, the Authority decided to reject them and disallow their deduction amounting to 23,600 Riyals due to their lack of connection to the activity. Accordingly, the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of "Salaries, Wages, and Equivalents Paid to Owners, Partners, Shareholders, and their Relatives (Residency Renewal Fees for Employees' Families)" for the year 2021 AD.

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: Acceptance of the appeal procedurally, from the Submitter/ Zakat, Tax and Customs Authority, against the decision of the Second Circuit for Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2024-204697) issued in Lawsuit No. (I-2023-204697) relating to the Tax Assessment for the year 2021 AD.

Second: On the Merits:

To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of "Salaries, Wages, and Equivalents Paid to Owners, Partners, Shareholders, and their Relatives (Residency Renewal Fees for Employees' Families)" for the year 2021 AD.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-234645
Case No. IW-2024-234645

Principle No. 7

- Undeclared revenues shall be added to the tax base of the permanent establishment once it is proven that the services were executed within the Kingdom by the local branch. The fact that the original contract was concluded with an external entity does not affect this, provided that the accounting is limited to the works executed locally.

Facts

This is to consider the appeal submitted on 04/04/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-168951) issued in Lawsuit No. (IW-2023-168951) relating to the Tax Assessment for the years from 2015 AD to 2019 AD, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the decision of the Resolution Circuit ruled as follows:

- 1- To reject the Plaintiff's objection regarding the item of failing to state the reasons for the adjustment in the assessment notice for the years from 2015 to 2019.
- 2- To accept the Plaintiff's objection regarding the item of adding unrecognized revenues to the tax base for the years from 2015 to 2019.
- 3- To accept the Plaintiff's objection regarding the item of withholding tax on deemed dividends for the years from 2015 to 2019.
- 4- To accept the Plaintiff's objection regarding the item of disallowance of the overpaid tax for the years 2015 and 2016.
- 5- To accept the Plaintiff's objection regarding the item of late payment penalties for the years from 2015 to 2019.

Whereas this decision was not accepted by the Appellant (the Zakat, Tax and Customs Authority), it filed an appeal brief comprising the following summary:

As the Authority objects to the appealed Resolution Circuit's decision, it claims that regarding the item of (Adding Unrecognized Revenues to the Tax Base), the Authority requests the annulment of the Circuit's decision concerning this item. The Authority clarifies that upon reviewing the contract revenues listed in the Taxpayer's Declarations for



the years under dispute and comparing them with the contracts of the Ministry of [...], material differences were found. The Authority addressed the Ministry of [...] to provide information regarding those contracts—the accrued and paid revenues—based on the powers granted to it under the provisions of Paragraph (A) of Article (61) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH. The Ministry of [...] responded via letter No. (...) dated 29/03/1442 AH, clarifying the value of the contracts executed during the years from 2015 AD to 2020 AD. Accordingly, the Authority added the value of the undeclared contracts for the years under dispute, and prepared a draft reassessment detailing the nature of the adjustments made, which was sent to the Taxpayer, in accordance with the provisions of Paragraph (7) of Article (59) of the Implementing Regulations of the Income Tax Law, whereby the Authority notified the Taxpayer that the adjustments were made due to the existence of undeclared contract revenues with the Ministry of [...]. As for the Taxpayer's claim not to subject the works performed by the Head Office to tax in the Kingdom on the premise that they were executed abroad, the Authority responds that the branch (the Taxpayer) practices the same activity as the Head Office; consequently, these amounts are subject to income tax as they were realized through a permanent establishment of a non-resident based on the provisions of Paragraph (10/A) of Article (5) of the Income Tax Law. It is clearly evident that the branch represents a permanent establishment of a non-resident in the Kingdom, as stipulated by the provisions of the aforementioned Article, and based on the provisions of Paragraph (B/4) of Article (4) of the Income Tax Law. Given the details provided above, the Taxpayer's objection was rejected. As for what the Taxpayer indicated in its statement of claim, it contradicts the statutory reasons clarified above, which proves the validity of the Authority's decision in rejecting the Taxpayer's objection. The Authority affirms the validity and statutory compliance of its procedure in accordance with statutory requirements.

Regarding the Circuit's ruling that the Defendant (the Authority) did not provide proof that the Taxpayer is a branch of (...) Company, the Authority responds that regardless of the external entity or company the Ministry of [...] contracted with, and whether the Taxpayer is considered a direct branch of the contracted company or a branch within the group owned by the contracted company, the Taxpayer was solely accounted for the works and services that took place inside the Kingdom and were actually executed by the Taxpayer. This is according to the letters from the Ministry of [...], which stated verbatim in specifying the value of the contracts and the execution mechanism that: "The related services are provided inside the Kingdom through (...) Company... – (...) Branch in the Kingdom – (TIN ...)." This confirms that the Taxpayer is the one who executed the works inside the Kingdom, and there was no accounting for the works performed by the external entity. The Authority also presents an excerpt from the letter received from the Ministry of [...] No. 6/20/0725 dated 29/03/1442 AH, which explicitly stated that these services were provided by (...) Company..., as shown in Attachment No. (1), and attached a list of the contract details as shown in Attachment No. (2). Accordingly, the Authority did not subject the supply contracts within the assessment, based on Paragraph (7) of Article (5) of the Implementing Regulations of the Income Tax Law, which states: "7- Contracts for supplying goods to the Kingdom, including their shipping and insurance contracts, shall not be considered to have arisen from an activity performed in the Kingdom unless the contracts include associated works such as domestic transportation, installation, maintenance, or training, etc., practiced within the Kingdom; in this



case, only the associated works are considered to have arisen from an activity in the Kingdom." The Authority explains that during the assessment and after visiting the Ministry of [...], inquiries were made about all contracts with (...) Company..., and the services and works performed by the branch inside the Kingdom were identified by the Ministry of [...] as well as the Taxpayer, excluding the revenues recognized in the Taxpayer's declaration to prevent double counting. Therefore, the Authority accounted only for the differences. Regarding the item of (Withholding Tax on Deemed Dividends), the Authority requests the annulment of the Circuit's decision on this item, as it became evident that the profits belong to the parent company, which is a non-resident company practicing activity in the Kingdom of Saudi Arabia through a permanent establishment, as clarified in item No. (1). Therefore, those profits will be transferred to the permanent establishment, based on the provisions of Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law, which states: "A non-resident who does not have a permanent establishment is subject to tax on any amount obtained from any source in the Kingdom, and the tax is withheld from the gross amount...". Based on the clarification above, the Authority appeals the Circuit's decision as undeclared contracts surfaced; thus, a withholding tax was imposed on the estimated dividends resulting from the undeclared contracts at a rate of (5%). Regarding the item of (Late Payment Penalty), the Authority requests the annulment of the Circuit's decision on this item, as the Authority imposed the late payment penalty on the tax differences unpaid by the statutory due date, based on Paragraph (A) of Article (77) of the Income Tax Law, as well as Paragraph (1/B) of Article (68) of the Implementing Regulations of the Income Tax Law. Accordingly, the Authority requests to accept its appeal and annul the Resolution Circuit's decision based on the aforementioned reasons.

On Tuesday, dated: 03/12/2024 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing with the attendance of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. Upon calling the litigants, Mrs./ (...) (National ID No. ...) attended in her capacity as the representative of the Appellant / Zakat, Tax and Customs Authority, pursuant to an authorization issued by the ZATCA Deputy Governor for Legal Affairs No. (...) dated 19/03/1445 AH. Also attended Mr./ (...), National ID No. (...), in his capacity as the representative of the Appellee under Power of Attorney No. (...), issued on 01/05/1445 AH, Law Practice License (...). During this hearing, the Appellee's representative submitted a letter issued by the Ministry of [...] evidencing the contracts concluded with his client. Upon asking the Authority's representative for her response to this letter, she stated she required a time extension to study the case and respond to it, and also noted she had sent a supplementary memorandum to the Circuit the previous evening. The Circuit requested the Appellee's representative to provide a copy of the contract he referred to. Accordingly, the Circuit decided to grant the Authority a period of (10) days to submit its arguments, ending on: 13/12/2024 AD, and to grant the Taxpayer a period of (10) days to submit its response, ending on: 23/12/2024 AD. After this date, the pleading stage will be closed, and the lawsuit will be brought for deliberation and issuance of the decision. The Circuit will not accept any



new documents or memorandums that were not submitted before the aforementioned date. The next hearing is scheduled for 07/01/2025 AD, for the pronouncement of the decision.

On Tuesday, dated: 07/01/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 12:28 PM with the attendance of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. Upon calling the litigants, the Appellant's representative/ (...) (National ID No. ...) attended, pursuant to an authorization issued by the ZATCA Deputy Governor for Legal Affairs No. (...) dated 19/03/1445 AH. Also attended Mr./ (...), National ID No. (...), in his capacity as the representative of the Appellee under Power of Attorney No. (...), issued on 01/05/1445 AH, Law Practice License No. (...). Whereas this hearing is dedicated to pronouncing the decision, the Circuit decided to reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the appeal brief submitted by the Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and resolutions. Accordingly, the appeal is accepted procedurally, as it was submitted by a person with standing, and within the prescribed statutory period.

On merits, and regarding the Authority's appeal concerning the item of (Adding Unrecognized Revenues to the Tax Base); whereas Paragraph (A/10) of Article (5) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH stipulates: "A- Income is considered generated from a source in the Kingdom in any of the following cases: 10- If the income is attributable to a permanent establishment of a non-resident located in the Kingdom, including income from sales in the Kingdom of goods of the same or similar kind to those sold by the non-resident through the permanent establishment, and income arising from providing services or performing another activity in the Kingdom of the same nature as the activity performed by the non-resident through the permanent establishment or a similar activity." Furthermore, Paragraph (B/4) of Article (4) of the same Law states: "B- The following cases are considered a permanent establishment: 1- Construction sites, assembly facilities, and the exercise of supervisory activities related thereto. 2- Installations and sites used for surveying natural resources, drilling equipment, ships used for surveying natural resources, and the exercise of supervisory activities related thereto. 3- A fixed base from which a non-resident natural person carries out his activity. 4- A branch of a non-resident company authorized to conduct business in the Kingdom." Based on the foregoing, whereas the dispute lies in the Authority adding the value of the undeclared contracts for the years 2015 to 2019 based on the letter of the Ministry of [...] No. (...) dated 07/10/1442 AH and its attachments, which explicitly stated that the services mentioned in the letter were provided by (...) Company... (the Taxpayer). Upon reviewing the case file, it was evident from the aforementioned letter and its attachments containing the details of supplies and services in the contracts concluded between the Ministry of [...] and (... United States) Company—as stated in the Taxpayer's letters directed to the Ministry of [...]—that they



stipulated the following: "The related services are provided inside the Kingdom through (...) Company... – (...) Branch in the Kingdom". This proves the validity of the Authority's defense regarding the existence of revenues corresponding to services provided by the Taxpayer that were not declared in its declarations for the years under dispute. This is not negated by the Resolution decision's conclusion to accept the Taxpayer's objection on the grounds that the Authority did not provide proof that the Taxpayer is a branch of (... United States) Company—the primary contractor with the Ministry of [...]—since the core of the dispute is accounting the Taxpayer for the services it provided based on what was stated in the aforementioned letter of the Ministry of [...], regardless of the external entity with which the Ministry of [...] contracted. As for what the Taxpayer mentioned in its supplementary memorandum dated 03/12/2024 AD regarding that (...) Company... (the Taxpayer) only concluded a single contract with the Ministry of [...] on 01/09/2019 AD, this does not negate what the Taxpayer acknowledged regarding its provision of services related to the contracts concluded between (... United States) and the Ministry of [...]. Furthermore, the Taxpayer did not provide proof that what it declared in its tax declarations for the years under dispute included all services provided by Company (...) Middle East for Devices. Regarding the Taxpayer's indication that the Authority subjected the entire revenues under each contract, including the supply of goods; upon reviewing the Ministry of [...]’s letter No. (...) issued on 29/03/1442 AH, which clarifies the nature and value of the services provided by Company (... Middle East for Devices), it became evident from the table attached to the letter that the Taxpayer was not accounted for the entire value of the contracts as the Taxpayer claims. Therefore, the Circuit concludes to accept the Authority's appeal regarding the item of adding unrecognized revenues to the tax base.

Regarding the Authority's appeal concerning the item of (Withholding Tax on Deemed Dividends); whereas Article (63) Paragraph (1) of the Implementing Regulations of the Income Tax Law states: "A non-resident is subject to tax on any amount obtained from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates: Distributed dividends at a rate of 5%." Based on the foregoing, it is clear that the Authority's decision of imposing withholding tax on the estimated distributed dividends is a result of computing the Taxpayer on an estimated basis for undeclared revenues. Since this Circuit has concluded in the item (First), which relates to adding unrecognized revenues to the tax base, to accept the Authority's appeal on that item; and accordingly, since the existence of undeclared revenues by the Taxpayer has been proven as clarified above, this demonstrates the validity of the Authority's decision in imposing the withholding tax on the deemed dividends. Consequently, the Circuit concludes to accept the Authority's appeal regarding the item of withholding tax on deemed dividends amounting to (108,966,388.87) Riyals and annul the Resolution Circuit's decision.

Regarding the Authority's appeal concerning the item of (Late Payment Penalty); whereas Paragraph (A) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states: "In addition to the penalties provided for in Article Seventy-Six of this Law and in Paragraph (B) of this Article, the taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes delay in payment of the required withholding tax and advance payments, calculated from the tax due date to the payment date." And based on Paragraph (1) of Article (68) of the Implementing Regulations of the Income Tax Law issued by



Ministerial Resolution No. (1535) dated 11/06/1425 AH, which states: "An amount of 1% of the unpaid tax for every thirty days of delay shall be added to the penalties mentioned in the preceding Article in the following cases: B- Delay in paying the tax due under the Authority's assessment." Based on the foregoing, it is evident that the late payment penalty is calculated from the due date of the tax on the taxpayer. However, in the case where the tax becomes due pursuant to a presumptive assessment, the calculation of the late payment penalty in payment shall be from the date the taxpayer is notified of the tax assessment, as the taxpayer is unable to pay the tax difference due under the presumptive assessment until after the Authority issues the assessment under objection. Therefore, the Circuit concludes to amend the Resolution Circuit's decision by calculating the late payment penalty from the date the Authority notified the presumptive assessment.

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: Acceptance of the appeal procedurally, from the applicant/ Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-168951) issued in Lawsuit No. (IW-2023-168951) relating to the Tax Assessment for the years from 2015 AD to 2019 AD.

Second: On the Merits:

- 1- To accept the Authority's appeal regarding the item of adding unrecognized revenues to the tax base.
- 2- To accept the Authority's appeal regarding the item of withholding tax on deemed dividends and annul the Resolution Circuit's decision.
- 3- To amend the Resolution decision by calculating the late payment penalty from the date of the Authority's notification of the presumptive assessment.



Withholding Tax



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-245796
Case No. W-2024-245796

Principle No. 8

- Withholding tax is due based on the actual payment event when proven by documents, and it shall not be re-imposed on the same payments merely for being recorded as an expense or due to a non-material error in the declaration data.

Facts

This is to consider the appeal submitted on 05/11/2024 AD by (...)—Resident ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to the Articles of Association—against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City No. (IZD-2024-231744) issued in Lawsuit No. (W-2024-231744) relating to the Withholding Tax Assessment for the month of December 2018, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the decision of the Resolution Circuit ruled as follows:

- 1- To reject the Plaintiff's objection regarding the item of imposing withholding tax on amounts paid to entities residing in France, given that the transactions/payments were made to the non-resident supplier (the (...) Company - United Arab Emirates) for the month of December 2018 AD.
- 2- To reject the Plaintiff's objection regarding the item of the late payment penalty.

Whereas this decision was not accepted by the Taxpayer, it filed an appeal brief which the Circuit reviewed, comprising the following summary:

Regarding the Taxpayer's appeal concerning the item of (Withholding Tax on Amounts Paid to Residing Entities), the Taxpayer requests the annulment of the Circuit's decision regarding this item. It states that it submitted the Income Tax declaration for the financial year ending 2018 AD, where an expense of (1,020,000) Riyals was recorded from the (...) Company - United Arab Emirates, and the expense was recognized in the financial statements on an accrual basis. The actual payment was made in November 2019 AD and December 2019 AD in accordance with Article (63) of the Regulations. The Company disclosed and settled the withholding tax for these payments in the



withholding tax declarations for November and December 2019 AD in the amounts of (836,450.57) Riyals and (506,434.67) Riyals, respectively, and calculated withholding tax at a rate of (15%) in the amounts of (75,965.20) Riyals and (125,467.59) Riyals, respectively. The Taxpayer states that within the withholding tax declaration, the name of "(...) Company - Dubai" was mentioned due to an unintentional error, and that the correct name is "(...) Company - United Arab Emirates." The Taxpayer points out that the Authority issued the withholding tax assessment for December 2018 AD and imposed withholding tax on the expenses reported from (...) United Arab Emirates on the pretext of failing to settle the withholding tax on payments to (...) during the 2018 AD financial year. It asserts that the withholding tax was settled based on the actual payment date, and bank statements showing the payments were submitted. In its appeal brief, it also states that it attached a copy of the invoices issued by the (...) Company - United Arab Emirates. Accordingly, it affirms its application of the (15%) withholding tax rate on the paid amounts, given that (...) Company is a related party to the Company, and that imposing withholding tax again on the same payments would constitute double taxation on the same payment. Therefore, it requests the annulment of the Authority's decision for December 2018. Regarding the Taxpayer's appeal on the item of (Late Payment Penalty), the Taxpayer requests the annulment of the Circuit's decision on this item on the basis of its request to annul the penalty imposed on the withholding tax, which was calculated incorrectly.

On Monday, dated: 12/05/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 12:40 PM with the attendance of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. Upon calling the litigants, Mr./ (...), National ID No. (...), attended in his capacity as the representative of the Appellant under Power of Attorney No. (...) issued on 18/06/1445 AH, Law Practice License No. (...). Also attended the Appellee's representative/ (...) (National ID No. ...), pursuant to an authorization issued by the ZATCA Deputy Governor for Legal Affairs No. (...) dated 19/03/1445 AH. Upon asking the Appellant's representative what he wished to add, he stated that he stands by what was previously submitted in this lawsuit. Upon presenting this to the Appellee's representative, she answered by standing by what was previously submitted in this lawsuit. Upon asking both parties what they wished to add, they decided to suffice with what was previously submitted after closing the pleading stage and deliberation.

Grounds of the Decision

Upon reviewing the case documents and the appeal brief submitted by the Taxpayer, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions



stipulated in the relevant laws, regulations, and resolutions. Accordingly, the appeal is accepted procedurally, as it was submitted by a person with standing, and within the prescribed statutory period.

On merits, and regarding the Taxpayer's appeal concerning the item of (Withholding Tax on Amounts Paid to Residing Entities), and based on Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law, which states: "A non-resident is subject to tax on any amount obtained from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates: ... Royalty or rent, payments for technical or consulting services or international telecommunications services paid to the head office or a related company at a rate of 15%." Based on the foregoing, whereas the dispute lies in the Taxpayer's request not to subject the amounts in dispute to withholding tax for December 2018 on the basis that it settled the withholding tax correctly on the payments of (...) Company (United Arab Emirates), and considering that the Authority, in its procedure, imposed withholding tax at a rate of (15%) on the expenses for December 2018 without taking the actual payment date into account. The Taxpayer also states that the actual payment was made to (...) Company (United Arab Emirates) in the amount of (1,013,637) Riyals during November and December 2019 based on the invoices received, and paid the withholding tax thereon, while the Authority argues that it imposed the withholding tax on the amounts recorded as an expense in the tax declaration of (...) Gulf in the amount of (1,020,000) Riyals for the year 2018, whereas the expense recorded in the declaration—on which the Authority withheld tax—differs from the statement submitted. Upon the Circuit's review of the case file and the invoices issued by (...) Company (United Arab Emirates) with the payment proof receipts, in addition to the contract with (...) Company, it became evident that the Taxpayer recorded an expense for shared services and only settled the withholding tax based on the actual payment to it. From the reality of the documents submitted, it is clear that the actual payment was made in November and December 2019, and the tax was settled with the submission of proof of payment via the attached bank statements. Furthermore, the recording of the company name (...) occurred due to an error, as it is clear from the contract that these amounts belong to (...) Company (United Arab Emirates). Accordingly, since the Taxpayer submitted documents that clarify the validity of its claims, the Circuit concludes to accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item of (Withholding Tax on Amounts Paid to Residing Entities).

Regarding the Taxpayer's appeal on the item of (Late Payment Penalty), based on the foregoing, and as the Circuit's opinion regarding the item of (Withholding Tax on Amounts Paid to Residing Entities) concluded to accept the Taxpayer's appeal and annul the Resolution Circuit's decision, and applying the legal principle "The accessory follows the principal," the Circuit concludes to accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item of (Late Payment Penalty).



Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally from the applicant, the Taxpayer/ (...) Saudi Contracting Company, Commercial Registration No. (...), TIN (...), against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Dammam City No. (IZD-2024-231744) issued in Lawsuit No. (W-2024-231744) relating to the Withholding Tax Assessment for the month of December 2018.

Second: On the Merits:

- 1- To accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item of (Withholding Tax on Amounts Paid to Residing Entities).
- 2- To accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item of (late payment Penalty).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-169249
Case No. IW-2023-169249

Principle No. 9

- The imposition of withholding tax is linked to the occurrence of actual payment or the equivalent thereof, such as account settlement or set-off. To prove that the liability has not been realized, it is insufficient to submit statements containing end-of-period balances without detailing the financial transactions that prove the payment during the period under audit.

Principle No. 10

- The penalty associated with the assessment or the tax is deemed an accessory to its principal in existence and non-existence. Thus, it lapses with the lapsing of the principal obligation, is established by its establishment, and is not separated from it in the ruling unless there is an independent reason.

Facts



This is to consider the appeal submitted on 12/01/2023 AD by / (...) National ID No. (...) Law Practice License No. (...), in his capacity as the representative of the Appellant Company under Power of Attorney No. (...), and the appeal submitted by the Zakat, Tax and Customs Authority on 15/01/2023 AD, were reviewed against the decision of the Third Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ITR-2022-6119) issued in Lawsuit No. (IW-2020-31644) relating to the Tax Assessment and Withholding Tax for the years from 2015 AD to 2018 AD, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the decision of the Resolution Circuit ruled as follows:

First: To accept the objection of the Plaintiff/ Branch of (...) Company (Commercial Registration No. ...) against the decision of the Defendant/ the Zakat, Tax and Customs Authority procedurally.

Second: On the Merits:

- 1- To annul the Defendant's decision regarding the item of (Salaries and Wages Expenses Differences).
- 2- To amend the Defendant's decision regarding the item of (Paid Tax).
- 3- To amend the Defendant's decision regarding the item of (Penalty for Failure to Submit the Declaration).



- 4- To amend the Defendant's decision regarding the item of (Late Payment Penalty for Payment of Income Tax and Withholding Tax Differences).
- 5- To amend the Defendant's decision regarding the item of (Withholding Tax on Technical and Consulting Services).
- 6- To annul the Defendant's decision regarding the item of (Withholding Tax on Royalties).
- 7- To amend the Defendant's decision regarding the item of (Withholding Tax on Amounts Paid to Related Parties).
- 8- To annul the Defendant's decision regarding the item of (Withholding Tax on Management Fees).
- 9- To reject all other objections.

Whereas this decision was not accepted by the Taxpayer, it filed an appeal brief which the Circuit reviewed, comprising the summary that the Taxpayer requests accepting its appeal and revoking the Resolution Circuit's decision in the items subject of its appeal. Similarly, this decision was not accepted by the Authority, so it filed an appeal brief which the Circuit reviewed, comprising the summary that the Authority requests accepting its appeal and revoking the Resolution Circuit's decision in the items subject of its appeal.

On Monday, dated 15/07/2024 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing in presence of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. After reviewing the request to suspend the lawsuit proceedings deposited in the case file by the parties, the Circuit decided to suspend the lawsuit proceedings in accordance with Article (43) of the Rules of Operation for Zakat, Tax, and Customs Circuits, which stipulates suspending the lawsuit proceedings for a period not exceeding (one hundred and eighty) days.

On Monday, dated 27/01/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 01:00 PM with the attendance of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. After reviewing the two appeals, the submitted memorandums, and the papers and documents contained in the case file, and after deliberation, and whereas the lawsuit is ready for adjudication in its current state, the Circuit decided to close the pleading stage and reserve the case for adjudication.

Grounds of the Decision



Upon the Circuit's contemplation of the Taxpayer's appeal, and after examining the case file, and whereas verifying the capacity of the lawsuit parties is one of the preliminary matters that must be adjudicated before delving into the subject matter of the lawsuit; and whereas the Circuit reviewed the submitted appeal brief and it became evident that it was submitted on the letterhead of a professional consulting company. It was revealed that the presenter of



the lawsuit is a licensed lawyer who submitted and signed the appeal on letterhead other than his own, which constitutes a violation of the provisions of the Law of Practicing Law and its Implementing Regulations. He was obligated to submit requests and briefs on his own letterhead based on Article (13/01) of the Implementing Regulations of the Law of Practicing Law, which states that: "A lawyer must have his own specific papers to submit his writings on them to the authorities, and they must include his name, the name of the head office and branch, the license number and date, telephone numbers, PO Box, and postal code. He shall not submit to the authorities any writing on papers that do not include such information or papers that do not belong to him." And based on Article (10) of the Rules of Operation for Zakat, Tax, and Customs Circuits, which states: "The representation of the lawsuit parties shall be in accordance with the provisions stated in the Law of Practicing Law and its Implementing Regulations." Since the submitter of the appeal, under these circumstances, did not comply with the mandatory conditions for valid representation, the Circuit concludes to not accept the Taxpayer's appeal procedurally.

Regarding the Authority's appeal, whereas upon reviewing the case documents and the appeal brief submitted by the Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and resolutions. Accordingly, the appeal is accepted procedurally, as it was submitted by a person with standing, and within the prescribed statutory period.

On merits, and regarding the Authority's appeal concerning the item of (Withholding Tax on Management Fees for the years 2015 AD to 2018 AD); whereas Paragraph (A) of Article (68) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states that: "A- Every resident, whether a taxpayer or not under this Law, and a permanent establishment in the Kingdom of a non-resident, who pay an amount to a non-resident from a source in the Kingdom, must withhold a tax from the paid amount according to the following rates: 6- Any other services specified by the Regulations, provided it does not exceed 15%." And whereas Paragraph (1) of Article (63) of the Implementing Regulations of the Income Tax Law states that: "1- A non-resident is subject to tax on any amount obtained from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates: - Technical or consulting services 5%." Based on the foregoing, it is evident from the statutory provisions above that imposing the withholding tax is linked to the existence of an actual payment process or the equivalent thereof, such as account settlement and set-off. Since the Authority stated that the statements submitted by the Taxpayer do not show the actual payment process and do not show the movement during the year, upon referring to the case file and reviewing the attached documents, the validity of the Authority's defense became evident. It was shown from Attachment (13), included in the Taxpayer's objection brief submitted before the Resolution Circuit, that the statement of balances attached by the Taxpayer only includes the end-of-period balance for the years from 2015 to 2018. Accordingly, as the validity of the Authority's defense is proven—that the statement submitted by the Taxpayer does not include the movements during the year that clarify the paid amounts—the Circuit concludes to accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Withholding Tax on Management Fees for the years 2015 AD to 2018 AD).



Regarding the Authority's appeal concerning the items of (Salaries and Wages Expenses for the year 2015 AD), (Paid Tax for the year 2015 AD), (Penalty for Failure to Submit the Declaration for the year 2015 AD), (Withholding Tax on Technical and Consulting Services for the years 2015 AD to 2018 AD), (Withholding Tax on Royalties for the year 2018 AD), and (Withholding Tax on Amounts Paid to Related Parties for the years 2015 AD to 2018 AD); whereas Article (70) of the Law of Sharia Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH states that: "Litigants may request the court, at whatever stage the lawsuit is in, to record what they have agreed upon in terms of acknowledgment, conciliation, or otherwise in the hearing minutes, and the court shall issue a deed to that effect." Additionally, Paragraph (1) of Article (70) of the Implementing Regulations of the Law of Civil Procedure issued by the Minister of Justice's Resolution No. (39933) dated 19/05/1435 AH states that: "If the agreement occurs prior to the recording of the lawsuit, the substance of the lawsuit and the response must be recorded before noting the agreement, provided that the principal matter of the lawsuit falls within the jurisdiction of the circuit, even if the content of the agreement falls within the jurisdiction of another court or circuit, on the condition that the subject matter of the lawsuit, or part of it, is among what was agreed upon." Based on the foregoing, and as it has been proven to this circuit that the Authority requested to abandon the appeal according to what was stated in its letter in the supplementary memorandum deposited on 02/01/2024 AD, which included: "The Authority wishes to inform the esteemed Circuit of the withdrawal of its appeal specifically regarding the above item and the procedures resulting from the Authority's appeal for this item, in accordance with the reasoning concluded by the Resolution Circuit's decision..." This requires the Circuit to accept the abandonment of litigation regarding the Authority's appeal towards these items.

Regarding the Authority's appeal concerning the item of (Late Payment Penalty); whereas Paragraph (A) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states that: "In addition to the penalties provided for in Article Seventy-Six of this Law and in Paragraph (B) of this Article, the taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes delay in payment of the required withholding tax and advance payments, calculated from the tax due date to the payment date." Furthermore, Paragraph (1) of Article (68) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH states that: "An amount of 1% of the unpaid tax for every thirty days of delay shall be added to the penalties mentioned in the preceding Article in the following cases: B- Delay in paying the tax due under the Authority's assessment." Also, Paragraph (3) of Article (67) of the Implementing Regulations of the Income Tax Law states that: "Unpaid tax means the difference between what the taxpayer paid by the statutory due date and the tax due for payment under the provisions of the Law, including adjustments made by the Department that have become final as stated in Paragraph (2) of Article Seventy-One of these Regulations, including disputed cases, where the penalty is calculated from the statutory due date for submitting the declaration and payment." Based on the foregoing, and whereas the penalty is linked, in existence and non-existence, to the acceptance or rejection of its corresponding item, and since the accessory is not separated from its principal in the ruling; accordingly, the Circuit concludes to amend the Resolution Circuit's decision regarding the Authority's appeal concerning the item of (Late payment penalty) by dropping the penalty for the items in which the Authority



withdrew its appeal due to the lapsing of their principal, and upholding the validity of imposing the penalties on the item for which the Authority's appeal was accepted.

Based on the foregoing and accompanied by the aforementioned reasons, the Circuit unanimously decided the following:

Decision

First: Procedurally:

- 1- Not to accept the appeal procedurally from the applicant, the Taxpayer/ Branch of (...) Company, Commercial Registration (...), TIN (...), against the decision of the Third Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ITR-2022-6119) issued in Lawsuit No. (IW-2020-31644) relating to the Tax Assessment and Withholding Tax for the years from 2015 AD to 2018 AD.
- 2- To accept the appeal procedurally from the applicant, the Zakat, Tax and Customs Authority, against the decision of the Third Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ITR-2022-6119) issued in Lawsuit No. (IW-2020-31644) relating to the Tax Assessment and Withholding Tax for the years from 2015 AD to 2018 AD.

Second: On the Merits:

- 1- To accept the abandonment of litigation regarding the Authority's appeal on the item of (Salaries and Wages Expenses for the year 2015 AD).
- 2- To accept the abandonment of litigation regarding the Authority's appeal on the item of (Paid Tax for the year 2015 AD).
- 3- To accept the abandonment of litigation regarding the Authority's appeal on the item of (Penalty for Failure to Submit the Declaration for the year 2015 AD).
- 4- To accept the abandonment of litigation regarding the Authority's appeal on the item of (Withholding Tax on Technical and Consulting Services for the years 2015 AD to 2018 AD).
- 5- To accept the abandonment of litigation regarding the Authority's appeal on the item of (Withholding Tax on Royalties for the year 2018 AD).
- 6- To accept the abandonment of litigation regarding the Authority's appeal on the item of (Withholding Tax on Amounts Paid to Related Parties for the years 2015 AD to 2018 AD).
- 7- To accept the Authority's appeal and annul the Resolution Circuit's decision regarding the item of (Withholding Tax on Management Fees for the years 2015 AD to 2018 AD).



- 8- To amend the Resolution Circuit's decision regarding the Authority's appeal concerning the item of (Late Payment Penalty).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-242031
Case No. IW-2024-242031

Principle No. 11

- Withholding tax is not imposed on hypothetical or estimated profits unless an incident of payment, settlement, or set-off in favor of the non-resident is proven, and the burden of proof for such lies with the Authority.

Facts



This is to consider the appeal submitted on 10/09/2024 AD by / (...), National ID No. (...), in her capacity as the representative of the Appellant Company under the Power of Attorney approved by the branch of the Ministry of Justice in the Riyadh region on 24/03/1445 AH, and Law Practice License No. (...), and the appeal submitted by the Zakat, Tax and Customs Authority, were reviewed against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2024-234515) issued in Lawsuit No. (IW-2024-234515) relating to the Tax Assessment for the years from 2007 to 2012, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the decision of the Resolution Circuit ruled as follows:

First: To accept the lawsuit submitted by the Plaintiff/ Branch of (...) Company, Commercial Registration No. (...), against the Defendant/ the Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits:

1/A- To establish the lapse of litigation by the Defendant's acceptance of the Plaintiff's requests regarding not conducting the tax assessment for the year 2007 AD due to the expiration of the statutory due dates for conducting the assessment, according to what was stated in the reasons.

1/B- To reject the lawsuit regarding the objection to conducting the tax assessment after the expiration of the statutory due dates for the years from 2008 AD to 2012 AD.

2/A- Recording the settlement of the dispute by the Defendant's acceptance of the Plaintiff's requests regarding the item of calculating additional revenues for the year 2007 AD, according to what was stated in the reasons.

2/B- To reject the lawsuit regarding the calculation of additional revenues for the company at a rate of 25% and conduct an assessment thereon for the years from 2008 AD to 2012 AD.



3-To reject the lawsuit regarding the imposition of withholding tax on the distribution of estimated dividends for the years from 2010 AD to 2012 AD.

4- To establish the lapse of litigation regarding the objection to the item of disallowing the deduction of bad debts expense in the amount of (22,525) Riyals for the year 2007 AD, according to what was stated in the reasons.

5- To establish the lapse of litigation regarding the objection to allowing the deduction of donations expense in the amount of (20,589) Riyals for the year 2007 AD, according to what was stated in the reasons.

6- To reject the lawsuit regarding the disallowance of deducting business trips and hotel expenses for the years 2008 AD and 2009 AD.

7- To reject the lawsuit regarding the difference in the end-of-service reward provision in the amount of (135,584) Riyals for the year 2009 AD.

8- To reject the lawsuit regarding the disallowance of deducting social insurance differences in the amount of (30,079 Riyals), (86,369 Riyals), and (832 Riyals) for the years from 2010 to 2012, respectively.

9- To reject the lawsuit regarding the difference in the excluded penalties and late payment penalties in the amount of (52,910) Riyals for the year 2010 AD.

10- To reject the lawsuit regarding the disallowance of deducting outsourcing services expenses in the amount of (30,499) Riyals for the year 2011 and (63,000) Riyals for the year 2012 AD.

11- To amend the Defendant's decision regarding carrying forward the 2007 AD loss to subsequent years, according to what was stated in the reasons.

12- To amend the Defendant's decision regarding the item of imposing a late payment penalty for the years from 2007 AD to 2012 AD, according to what was stated in the reasons.

Whereas the Resolution Circuit issued its aforementioned decision and reviewed the lawsuit anew as a result of this Circuit's decision no. (IR-2024-178236) issued on 03/04/2024 AD, which entailed remanding the lawsuit to the Resolution Circuit to consider its subject matter. Accordingly, the Circuit decided to resume the consideration of the lawsuit. Whereas this decision was not accepted by both parties, each of them filed an appeal brief that included the following summary:

Regarding the Taxpayer's appeal against the Resolution Circuit's decision, and concerning the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 AD to 2012 AD), the appeal is based on the Authority issuing the assessment for the years from 2008 to 2012 after more than five years had passed from the date of submitting the tax declarations for the years ending on March 31, 2008 AD, to 2012 AD, as the final assessment was issued on 07/11/2017 AD. Regarding the item of (Imposing withholding tax on deemed dividends to the Head Office for the years from 2010 AD to 2012 AD), the Taxpayer indicated that there were no dividend distributions in the mentioned years, and that the profits on which the Authority calculated withholding tax were arbitrarily calculated profits unsupported by audited financial statements or the statutory



accounts and books of the branch for the years under objection. The Resolution Circuit noted in its decision that the dispute over this item lies in principle, not documentation; however, through reviewing the documents submitted in the case file, it concluded that the branch did not provide evidence proving the occurrence of a payment, settlement, or set-off incident. The branch responds to this by stating that no such incident exists; hence, there are no documents, and withholding tax should not be imposed on dividend distributions that did not occur either by payment, settlement, or set-off, and the burden of proof is on the claimant. Furthermore, the calculation of the arbitrary profits upon which the deemed dividends were based is unsupported, and in addition, the Income Tax Law and its Implementing Regulations do not contain any provisions regarding withholding tax on deemed dividends. Therefore, imposing withholding tax on hypothetical figures is considered unjustified and contradicts the text and spirit of the tax law. The branch also wishes to clarify that according to the Income Tax Law, withholding tax provisions apply when a payment is made by a resident Saudi entity to non-resident entities that do not have a permanent establishment in the Kingdom of Saudi Arabia and realize income from a source in the Kingdom. Accordingly, the Authority's decision of imposing withholding tax on deemed dividends has no basis in the Income Tax Law, its Implementing Regulations, or other circulars and clarifications issued by the Authority. The branch provides below a summary of the relevant provisions from the Income Tax Law and its Implementing Regulations, which clarify that imposing withholding tax is coupled with payment: (A) Article No. (68) of the Income Tax Law. (B) Article No. (63) Of the Implementing Regulations of the Income Tax Law. Therefore, the Taxpayer requests the annulment of the withholding tax imposed at a rate of (5%) on the hypothetical distributed profits for the years ending on March 31, 2010 AD, to 2012 AD.

Furthermore, the decision was not accepted by the Zakat, Tax and Customs Authority, which filed an appeal against the objected decision through an appeal brief that included the following summary: Regarding the Authority's appeal against the Resolution Circuit's decision, its appeal concerns the item of (Late payment penalty for the years from 2007 AD to 2012 AD), demanding the annulment of the Circuit's decision regarding this item on the basis that the Circuit did not explain the reasons for amending the Authority's decision relating to this item. As the Circuit's decision was severely deficient, making it defective and necessitating its annulment—since it is not possible to appeal a decision that does not include clear reasoning that can be responded to and refuted—the Authority requests To accept its appeal and revoking the Circuit's decision.

On Monday, dated 07/07/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 11:55 AM in presence of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. Upon calling the litigants, / (...), National ID No. (...), attended in her capacity as the representative of the Taxpayer under external Power of Attorney No. (...), authenticated by the Saudi Ministry of Justice under No. (...), dated 24/03/1445 AH, and Law Practice License No. (...). The Authority's representative / (...) (National ID No. ...) also attended under a delegation issued by the Deputy Governor of the Zakat, Tax and Customs Authority for



Legal Affairs No. (...) dated 19/03/1445 AH. Upon asking the Taxpayer's representative what she wished to add, she stated that she maintains what was previously submitted in this lawsuit. Upon presenting this to the Authority's representative, he stated that he had submitted a supplementary memorandum via electronic ticket No. (...). The Circuit also directed a question to the Taxpayer's representative: during the resolution stage, did the Taxpayer submit the tax declarations for the years 2009 and 2010? The Taxpayer's representative replied that they were submitted, and subsequently amended, and the Authority considered in this case that the declaration was amended. Accordingly, the Circuit decided to grant the Taxpayer a grace period of (10) days ending on 17/07/2025 AD to review and respond to the Authority's memorandum, and to grant the Authority a grace period of (10) days to submit its response ending on 27/07/2025 AD, with the next hearing to be on 05/08/2025 AD.

On Tuesday, dated 05/08/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 10:00 AM in the presence of its members whose names are recorded in the minutes, via visual communication... Upon calling the litigants, / (...) attended... The Authority's representative / (...) also attended... After reviewing the two appeals, the submitted memorandums, and the papers and documents contained in the case file, and after discussion and deliberation, the Circuit decided to close the pleading stage and postpone the adjudication of the lawsuit for further study and contemplation until the hearing on Tuesday corresponding to 02/09/2025 AD.

On Tuesday, dated 02/09/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 09:30 AM with the attendance of its members whose names are recorded in the minutes, via visual communication... Upon calling the litigants, / (...) attended... The Authority's representative / (...) also attended... and after closing the pleading stage and deliberation.

Grounds of the Decision



Upon reviewing the case documents and the appeal briefs submitted by the Taxpayer and the Zakat, Tax and Customs Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and resolutions. Accordingly, both appeals are accepted procedurally, as they were submitted by persons with capacity, and within the prescribed statutory period.

On merits, and regarding the Taxpayer's appeal concerning the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 AD to 2012 AD regarding Income Tax); whereas Paragraph (A) of Article (Sixty-Five) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states the following: "The Authority has the right, with a reasoned notice, to conduct or amend a tax assessment within five years from the end of the specified deadline for submitting the tax declaration for the tax year, and it also has the right to do so at any time if the taxpayer consents in writing." Based on the foregoing, and whereas the dispute lies in the Authority's decision of conducting the tax assessment for the years from 2008 AD to 2012 AD, and upon the Circuit's review of the case file and the submitted documents, Article (Sixty-Five) of the Income Tax Law states that the Authority has the right to conduct the assessment within five years from the end of the deadline



for filing the tax declaration. Upon reviewing the assessments submitted for the years in dispute, it became apparent that the taxpayer was assessed after the expiration of the statutory period. The statutory due date for conducting the assessment for the year 2008 AD was 29/07/2013 AD, for the year 2009 AD it was 29/07/2014 AD, for the year 2010 AD it was 29/07/2015 AD, for the year 2011 AD it was 29/07/2016 AD, and for the year 2012 AD it was 29/07/2017 AD. Meanwhile, the Authority conducted the assessment on the Taxpayer on 17/11/2017 AD, after five years had passed, thereby violating the provisions of Paragraph (A) of Article (Sixty-Five) of the aforementioned Income Tax Law. Consequently, the Circuit concludes to accept the taxpayer's appeal, annul the Resolution Circuit's decision, and annul the Authority's decision regarding the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 to 2012 regarding Income Tax).

Regarding the Taxpayer's appeal concerning the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 AD to 2012 AD regarding Withholding Tax); whereas there is no blame on the Circuit to adopt the reasons of the appealed decision without additions whenever it deems that those reasons suffice without introducing anything new, because by endorsing it with the reasons it carried, it confirms that it did not find in the challenges directed at the decision anything that merits a response beyond what those reasons contained. Since this is the case, and since it is established that the appealed decision concerning the dispute over the challenged items came in accordance with the sound reasons upon which it was built and which are sufficient to carry its judgment—as the issuing Circuit undertook the scrutiny of the core of the dispute therein and arrived at the conclusion stated in its pronouncement—and whereas this Circuit did not notice anything that requires rectification or commentary in light of the defenses raised before it, the Circuit concludes to reject the Taxpayer's appeal and uphold the Resolution Circuit's appealed decision regarding its conclusion concerning the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 to 2012 regarding Withholding Tax), borne upon its reasons.

Regarding the Taxpayer's appeal concerning the item of (Imposing withholding tax on deemed dividends to the Head Office for the years from 2010 AD to 2012 AD); whereas Paragraph (A) of Article (Sixty-Eight) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states: "Every resident, whether a taxpayer or not under this Law, and a permanent establishment in the Kingdom of a non-resident, who pay an amount to a non-resident from a source in the Kingdom, must withhold a tax from the paid amount according to the following rates: ...", and based on Paragraph (1) of Article (Sixty-Three) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH relating to withholding tax, which states: "A non-resident is subject to tax on any amount obtained from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates: - Management fees **20%** - Royalty or proceeds, payments for services paid to the head office or a related company **15%** - Rent, technical or consulting services, air or sea freight tickets, international telephone communication services, distributed dividends, loan yields, insurance or reinsurance premiums **5%** - Any other payments **15%**." Also, Paragraphs (6) and (8) of the aforementioned Article state: "6- Distributed dividends mean: any distribution from a resident company to a non-resident shareholder and any profits



transferred from a permanent establishment to related parties, taking into account the following: A- Dividend distributions in companies operating in natural gas, oil, or hydrocarbon investment are not subject to withholding tax. B- Partial or full liquidation of the company exceeding the paid-up capital is deemed a distribution. C- The fact that the distributing company is subject to income tax does not preclude the imposition of withholding tax on the amounts distributed by it. 8- Withholding tax is imposed according to the rates specified in Paragraph (1) of this Article on the total amount paid to the non-resident regardless of any expense incurred to realize this income, and regardless of the regularity of its acceptance or a part thereof as a deductible expense, even if the paid amounts relate to contracts concluded at a date prior to the enforcement of the Law." Based on the foregoing, it is evident from the statutory provisions mentioned above that imposing withholding tax is linked to the process of payment and the equivalent thereof, such as settlement between accounts and set-off. Whereas the Authority's decision of imposing withholding tax on estimated dividend distributions resulted from the Authority's assessment for those years, and whereas this Circuit's decision regarding the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 AD to 2012 AD regarding Income Tax) concluded to accept the Taxpayer's appeal, annul the Resolution Circuit's decision, and annul the Authority's decision due to the statute of limitations; in addition to the Taxpayer's defense that a payment incident did not exist—since the Authority's decision of subjecting net profits to withholding tax was a result of them being real profits from contracts transferred abroad, while the Taxpayer denies the existence of the transfer or payment process—the burden of proof regarding the payment incident falls on the Authority to prove the existence of an incident of payment or settlement that was made to the head office. Accordingly, the Circuit concludes to accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item of (Imposing withholding tax on deemed dividends to the Head Office for the years from 2010 AD to 2012 AD).

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally from the Taxpayer/ Branch of (...) Company, Commercial Registration (...), TIN (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2024-234515) issued in Lawsuit No. (IW-2024-234515) relating to the Tax Assessment for the years from 2007 AD to 2012 AD.

Second: On the Merits:

- 1- To accept the Taxpayer's appeal, annul the Resolution Circuit's decision, and annul the Authority's decision regarding the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 AD to 2012 AD regarding Income Tax).



- 2- To reject the Taxpayer's appeal and upholding the Resolution Circuit's decision regarding the item of (Conducting the Tax Assessment after the expiration of the statutory due dates for the years from 2008 to 2012 AD regarding Withholding Tax).
- 3- To accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item of (Imposing withholding tax on deemed dividends to the Head Office for the years from 2010 AD to 2012 AD).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-230515
Case No. W-2024-230515

Principle No. 12

- Amounts transferred to a non-resident are not subject to withholding tax when it is proven that they do not represent compensation for a service provided by the non-resident to the resident, and did not result in a source of income realized within the Kingdom.

Facts

This is to consider the appeal submitted on 11/01/2024 AD by / (...), National ID No. (...), in her capacity as the representative of the Appellant Company under Power of Attorney No. (...) dated 20/11/1443 AH, and Private Corporate Entity Pleading License No. (...), and the appeal submitted by the Zakat, Tax and Customs Authority, were reviewed against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (IFR-2023-136327) issued in Lawsuit No. (W-2022-136327) relating to the Tax Assessment for the period of 2016, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the decision of the Resolution Circuit ruled as follows:

To annul the decision of the Defendant/ the Zakat, Tax and Customs Authority, against the Plaintiff/ (...) (TIN ...) related to the assessment subject of the lawsuit.

Whereas this decision was not accepted by both parties, each of them filed an appeal brief that included the following summary:

Regarding the Taxpayer's appeal against the Resolution Circuit's decision, and concerning the item of (Request to refund withholding tax amounts paid on amounts paid to (...) "Ireland" for international telecommunication services), the appeal is based on: First: These amounts paid to (...) are not subject to withholding tax initially, as no withholding tax is due on the personal transactions of natural persons (the end beneficiary) according to the provisions of the tax law. The Company argues that the amounts transferred from (...) Company to (...) Company are not subject to withholding tax initially, as the client (a natural person) is the one who transferred their credit to another natural person. The entity that performed the transfer service is (...) Company through (...) Company, whose role is strictly limited to collecting and transferring the amount to (...) Company (after (...) Company deducts its commission). Therefore, (...) Company is the one providing the service to (...). Consequently, this process is similar to a natural person purchasing a license or software from a non-resident company outside the Kingdom using their



credit card (via the international information network), where the purchase is made through their credit card or via the bank; in both cases, these transactions are not subject to withholding tax. Article (68) of the Tax Law affirmed that no taxes are due on services provided to natural persons relating to their personal matters. Accordingly, a natural person's personal transactions are not subject to withholding tax initially. For further clarification, the Taxpayer provided the accounting entries recorded by (...) Company in its books at each step of the credit transfer process, explaining that when (...) Company transfers the net amount (after deducting its commission) to (...) Company, it divides the transferred amount into two parts: 1) An amount transferred in exchange for the call credit transferred to a network outside the Kingdom, representing the value of the credit transferred to the other person abroad. This is an amount not subject to withholding tax because it is not for any service, but merely represents the value of the transferred credit, and thus is not considered income realized from a source in the Kingdom, as it is simply a transfer of funds from an individual inside the Kingdom to an individual outside the Kingdom. 2) An amount transferred in exchange for the credit transfer service provided by (...) Company, representing (...) Company's fees for the credit transfer process outside the Kingdom. This amount is not subject to withholding tax since the service is provided by the non-resident entity (...) to the external end consumer; therefore, it does not represent a source of income in the Kingdom, as the service is performed entirely outside the Kingdom and is provided to a natural person whose personal transactions with non-resident entities are not subject to withholding tax. As for (...) Company's role, it is the collection and transfer of amounts from the natural person inside the Kingdom to (...) Company. Thus, the service provider here can be considered to be (...) Company, and consequently, the amounts transferred to (...) Company by (...) Company are not subject to withholding tax. The Taxpayer referenced the Authority's updated introductory guide prepared for the purpose of expressing the Authority's viewpoint and clarifications regarding the mechanism of applying the effective statutory provisions for withholding tax, in which the Authority confirmed, through an illustrative example similar to the Company's case in this lawsuit, the non-subjection of services provided to end consumers (natural persons) as well as collection and brokerage services to withholding tax. Consequently, the Authority clearly and explicitly supported the Company's viewpoint regarding the non-subjection of these amounts paid to (...) Company to withholding tax. Second: In the event that the amounts transferred from (...) Company to (...) Company are subject to withholding tax (although the Company does not agree with this in principle as explained in the previous item): the provisions of the effective Double Taxation Avoidance Agreement concluded with Ireland apply to these taxes, and they must be refunded due to the lack of a permanent establishment for (...) Company in the Kingdom. Despite the Company's certainty that these amounts transferred from (...) to (...) are not subject to withholding tax initially, the Taxpayer argued that (...) Company cannot be a permanent establishment in the Kingdom based on the contract concluded with (...). Therefore, the amounts transferred to (...) Company are not statutorily subject to withholding tax, and the amounts withheld and remitted for them to the Authority must be refunded according to the provisions of the tax law. Furthermore, the provisions of the Double Taxation Avoidance Agreement concluded with Ireland apply to them, and they must also be refunded due to the absence of a permanent establishment in the Kingdom. The Taxpayer also requests compelling the Authority to pay compensation for the



delay in refunding the overpaid amounts at a rate of (1%) of the requested refund amount in accordance with Article (66) of the Implementing Regulations of the Income Tax Law.

Furthermore, the decision was not accepted by the Zakat, Tax and Customs Authority, which filed an appeal against the objected decision through an appeal brief that included the following summary:

Regarding the Authority's appeal against the Resolution Circuit's decision, its appeal concerns the Circuit's ruling to annul the decision of the Defendant / the Zakat, Tax and Customs Authority. It explains that it studied the Taxpayer's objection for the years in question and notified it on 15/06/2022 AD within the statutory period of (90) days, which included returning the case for audit and assessment. Regarding the Plaintiff's claim in its brief that it was not officially notified, the Authority responds that the Plaintiff's statement is incorrect, as it is established that the Authority notified the Plaintiff via an email sent on 15/06/2022 AD to accept the objection and returning the case for assessment and audit, contrary to its claim. Since notifications are deemed to produce their statutory effects if made through approved means in accordance with the provisions of Paragraph (A) of Article (62) of the Income Tax Law, and in accordance with Article (11) of the Rules of Operation for Zakat, Tax, and Customs Circuits, the Authority pointed out that the pronouncement of the appealed decision ended with revoking the Authority's decision related to the assessment subject of the lawsuit, while its reasoning stated: "Which makes it clear to us that the administrative decision subject of the dispute was annul by the decision-issuing entity, and accordingly, the subject matter of the litigation has lapsed due to the Defendant's acknowledgment that the assessment was annul for the purpose of re-auditing the Taxpayer... which leads the Circuit to decide to annul the Defendant's decision, and consider its assessment as null and void." Based on this, a contradiction is evident between the reasoning and what the pronouncement concluded, as the Circuit should have dismissed the lawsuit for lacking a subject matter, rather than ruling to annul the Defendant's decision in that lawsuit, especially since the Circuit acknowledged the lapse of the subject matter of the litigation on one hand. On the other hand, the Circuit indicated in its reasoning that the Authority's assessment is considered null and void, and since the lawsuit is exclusively confined to a refund request, there is consequently no assessment in this lawsuit for the Circuit to annul, which proves that the Circuit's decision was flawed. Therefore, the Authority requests amending the pronouncement of the decision to dismiss the lawsuit in accordance with what was clarified above. As for what was mentioned in the decision's reasoning regarding the Taxpayer's right to receive compensation of (1%) of the excess amount for every (30) days of delay starting after the lapse of (30) days from the refund request until the date of response, the Authority states that it disagrees with this reasoning. The Authority explained that the decision was declarationed for audit, while the Taxpayer escalated the objection to the Secretariat; thus, there is no subject matter for the lawsuit on one hand. On the other hand, what the Circuit referred to contradicts the provisions of Paragraph (5) of Article (66) of the Implementing Regulations of the Income Tax Law, which makes it clear that compensation is linked to amounts proven to be overpaid. It appears that the amounts the Appellee demands compensation for are still under dispute with the Authority at the Secretariat. This argument is further supported by the text of Paragraph (4) of the same Regulations, which makes it



clear that no claims for refunding overpaid amounts shall be considered until a final judgment is issued regarding them.

On Monday, dated 12/05/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its hearing at 09:31 AM in the presence of its members whose names are recorded in the minutes, via visual communication in accordance with the procedures of remote visual litigation; based on the provisions of Clause (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated: 08/04/1445 AH. Upon calling the litigants, the Authority's representative / (...) (National ID No. ...) attended under a delegation issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) dated 19/03/1445 AH, while no one attended to represent the Taxpayer despite it being proven that they were statutorily notified of this hearing's schedule. Upon asking the Authority's representative what she wished to add, she replied that she maintains what was previously submitted in this lawsuit.

Grounds of the Decision



Whereas by reviewing the case documents and the appeal briefs submitted by the Taxpayer and the Zakat, Tax and Customs Authority, it became evident to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and resolutions. Accordingly, both appeals are accepted procedurally, as they were submitted by persons with capacity, and within the prescribed statutory period.

On the merits, and whereas both parties' appeal concerning the item of (Request to refund withholding tax amounts paid on amounts paid to (...) Limited "Ireland" for international telecommunication services); and based on Paragraphs (1, 4, 5) of Article (Sixty-Six) of the Implementing Regulations of the Income Tax Law which state: "1- The taxpayer has the right to request a refund of any amounts overpaid beyond what is due under this Law within five years from the tax year for which the overpayment was made, provided that the refund request is submitted by the taxpayer itself or its representative under an official power of attorney... 4- No claims for refunding an overpaid amount in cases of objection or appeal shall be considered except after a final judgment is issued confirming the taxpayer's entitlement to these amounts and a request to that effect is submitted by it. 5- If the Department delays in refunding amounts proven to be overpaid, the taxpayer shall be paid a compensation of (1%) of the excess amount for every (30) days of delay starting after the lapse of (30) days from the refund request until the date of response, and no compensation shall be calculated for the taxpayer for any delay period less than thirty days." Based on the foregoing, whereas the appeal lies in the Taxpayer's request to refund the overpaid amounts related to (...) Company, while the Authority demands the non-acceptance of the lawsuit due to the absence of a subject matter for appealing an administrative decision; and upon considering the nature of the service provided by the Taxpayer, it becomes evident that it is a brokerage service where the client transfers their credit to another natural person, and the entity that performed the service is (...) Company, while the role of (...) Company -the Taxpayer- is limited to collecting the amount and transferring it to (...) Company after deducting the commission. It is evident from the



process that it does not result in income realized inside the Kingdom, as the service by the Taxpayer is the collection of the amount from the resident natural person and then transferring it to (...) Company, which in turn transfers the amount to the external transferee. Therefore, it is evident that withholding tax does not apply to those amounts and they are not subject to withholding tax as they were not in exchange for a service provided by a non-resident to a resident; on the contrary, the service provider is the resident Taxpayer Company. This is affirmed by what the Taxpayer relied on in the Withholding Tax Guidance Manual, which contained a case similar to the one under dispute and concluded with the opinion that withholding tax should not be imposed. Whereas the Authority's memorandum was devoid of any substantive defenses regarding the subjection of those amounts to withholding tax, and whereas withholding tax is imposed whenever it is considered a source of income realized in the Kingdom, and whereas it became clear to the Circuit through what was mentioned above that there is no evidence proving the realization of income in the Kingdom from the non-resident person to the resident Company, nor did the Authority provide anything to negate what the Taxpayer argues; accordingly, the validity of the Taxpayer's claim to refund the overpaid amounts is established. This is not undermined by the Authority's appeal and its demand to dismiss the lawsuit, as the Taxpayer argues that the Authority did not provide the Company with a clear response regarding acceptance or rejection within ninety days from the date of submitting the Company's objection. Consequently, the Company escalated the matter on 07/07/2022 AD. Since it is established according to the email sent from the Authority to the Taxpayer to continue this lawsuit before the Circuit, it becomes clear that the litigation regarding the subject of the objection had not ended initially, coupled with the fact that the Authority's position was not clear in terms of To accept or rejecting the refund request. Therefore, since the Taxpayer submitted a refund request and it was not definitively responded to by the Authority throughout this period, this constitutes a negative decision which the Taxpayer has the right to file a grievance against. Consequently, the Circuit concludes to accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item of (Request to refund withholding tax amounts paid on amounts paid to (...) Limited "Ireland" for international telecommunication services), and to reject the Authority's appeal.

Regarding the Taxpayer's appeal concerning the item of (Compensation for delay), and based on Article (66) of the Implementing Regulations of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH, which states the following: "1- The taxpayer has the right to request a refund of any amounts overpaid beyond what is due under this Law within five years from the tax year for which the overpayment was made, provided that the refund request is submitted by the taxpayer itself or its representative under an official power of attorney. 2- The Department must study the taxpayer's request, verify the existence of amounts overpaid by it, and conclude the procedures for refunding those amounts within thirty days from the date the Department receives the request. 3- No claims for refunding overpaid amounts shall be considered if there are tax declarations that have not been submitted to the Department. 4- No claims for refunding an overpaid amount in cases of objection or appeal shall be considered except after a final judgment is issued confirming the taxpayer's entitlement to these amounts, and a request to that effect is submitted by it. 5- If the Department delays in refunding amounts proven to be overpaid, the taxpayer shall be paid a compensation of (1%) of the excess amount for every (30) days of delay starting after the



lapse of (30) days from the refund request until the date of response, and no compensation shall be calculated for the taxpayer for any delay period less than thirty days." Based on the foregoing, whereas the Taxpayer requests to receive a compensation of (1%) of the excess amount for every (30) days starting after the lapse of thirty days from the refund request, beginning from the date of the appellate decision, and whereas Article (66) of the Implementing Regulations of the Income Tax Law referred to above affirmed the necessity of issuing a final judgment for the Taxpayer's entitlement to the overpaid amounts; accordingly, the Circuit concludes to reject the Taxpayer's appeal regarding compensation for delay until the appellate decision is issued. Once the Authority's delay in refunding the overpaid amounts is proven, the Taxpayer shall have the right to claim compensation for that period.

Based on the foregoing and adopting the aforementioned reasons, the Circuit unanimously decided as follows:

Decision

First: To accept the appeal procedurally from the Taxpayer/ (...) Company, Commercial Registration (...), TIN (...), and the appeal submitted by the Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (IFR-2023-136327) issued in Lawsuit No. (W-2022-136327) relating to the Tax Assessment for the period of 2016 AD.

Second: On the Merits:

- 1- Regarding both parties' appeal on the item of (Request to refund withholding tax amounts paid on amounts paid to (...) "Ireland" for international telecommunication services):
 - a) To reject the Authority's appeal.
 - b) To accept the Taxpayer's appeal and annul the Resolution Circuit's decision.
- 2- To reject the Taxpayer's appeal regarding compensation for delay.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No.

IA-2025-71

Case No.

W-2024-243576

Principle No. 13

- The determination of whether payments are subject to withholding tax depends on the true beneficiary, the nature of the consideration, and the place where the service is provided. The mere connection of a local entity to a non-resident entity is insufficient to establish subjection to the tax, provided the taxpayer submits documents proving that the payment was made to a local entity for a non-subject service.

Facts



This is to consider the appeal submitted on 08/10/2024 AD by / (...), National ID No. (...), in his capacity as the legal representative of the Appellant Company under the Articles of Association, against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2024-236621) issued in Lawsuit No. (W-2024-236621). The lawsuit relates to the withholding tax assessment for the months of June 2016 and June 2017, and the resulting penalties, submitted by the Taxpayer against the Zakat, Tax and Customs Authority. The Resolution Circuit had ruled as follows:

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

Second: On the Merits:

1. To reject the Plaintiff's objection regarding the withholding tax item (...) for June 2016 AD in the amount of 94,038 SAR, and June 2017 in the amount of 100,801 SAR.
2. To annul the Defendant's decision regarding the withholding tax item (...) for June 2016 AD in the amount of 187,710 SAR, and for June 2017 AD in the amount of 93,883 SAR, as stated in the reasons.
3. To reject the lawsuit regarding the withholding tax item (...) for June 2016 AD in the amount of 303,345 SAR.
4. To reject the lawsuit regarding the withholding tax item (...) for June 2017 AD in the amount of 6,721,547 SAR.
5. To amend the Defendant's decision regarding the late payment penalty item for June 2016 AD and June 2017 AD, as stated in the reasons.



Whereas this decision was not accepted by the Taxpayer, it filed an appeal brief summarizing the following:

Regarding the Taxpayer's appeal on the Resolution Circuit's decision for the item (Withholding tax (...)) for June 2016 AD and June 2017 AD): The Taxpayer requests the annulment of the Circuit's decision on the basis that the nature of the transaction is not subject to withholding tax, as it relates to the payment of expenses incurred on behalf of the Company outside the Kingdom (i.e., the service was performed entirely outside the Kingdom). The Authority did not state in its memorandum why these expenses were subjected to withholding tax, merely citing Paragraph (A) of Article (68) of the Income Tax Law, which does not apply to this case.

Regarding the item (Withholding tax (...)) for June 2016 AD): The Company asserts that the Authority extracted the relevant amount from Schedule No. (8) of the tax declaration, which represents only accrued expenses and not the actual amount paid. The Company confirms the service was received from a local law firm (...), an affiliate of (...) Company. This fact was clarified to the Authority via email on June 16, 2021 AD. The Taxpayer submitted proof of payment to the local entity (meaning the payment incident occurred locally), and since no amounts were paid to an external entity, no withholding tax is due. Furthermore, the mere association of a local company with a non-resident member company does not mean the payment was made to a non-resident member for services in the Kingdom.

Regarding the item (Withholding tax (...)) for June 2017 AD in the amount of 6,721,547 SAR): The Taxpayer demands the annulment of the Circuit's decision, asserting it provided full details of the amount via email on June 16, 2021, and in the objection letter to the Authority. The Taxpayer argued that the Authority ignored the supporting documentation; otherwise, it would not have concluded that the payment of 5,866,219 SAR represented only loan payments, and 855,328 SAR represented amounts paid on behalf of the Company.

Regarding the item (Late payment penalty for June 2016 and June 2017): The Taxpayer objects to the penalties, arguing that the additional tax demand arose fundamentally from a difference in technical viewpoints. The Company maintains that late payment penalties should not be imposed on the additional withholding tax until the disputed matters are conclusively resolved.

On Tuesday, 15/04/2025 AD, at 12:45 PM, the First Appeal Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote litigation procedures; pursuant to the provisions of Paragraph (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. Upon calling the litigants, (...), National ID No. (...), attended in his capacity as the representative of the appellant pursuant to the company's amended articles of association. Also present was the representative of the appellee, / (...) (National ID No. ...), pursuant to an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs and Compliance under No. (...) dated 19/03/1445 AH. Upon asking the appellant's representative what he wishes to add, he stated that he maintains what was previously submitted in this lawsuit. Upon presenting this to the appellee's representative, she answered maintaining what was previously



submitted in this lawsuit. Upon asking the parties what they wish to add, they decided to suffice with what was previously submitted. Accordingly, the Circuit decides to close the pleadings and reserve the case for adjudication

Grounds of the Decision



Whereas by reviewing the case documents and the appeal brief submitted by the Taxpayer, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally, as it was submitted by a person with standing and within the statutory period prescribed.

On the merits, and regarding the Taxpayer's appeal concerning the item (withholding tax (...) for the month of June 2016), where the company asserts that the Authority extracted the relevant amount which represents only the accrued expenses and not the actual paid amount, and the company also asserts that the service was received from a local law firm, which is an affiliate of (...) company. Based on Paragraph No. (1) of Article (63) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Resolution No. (1535) dated 11/06/1425 AH, which stipulated the following: "A non-resident is subject to tax on any amount it receives from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates: - Royalty or proceeds, payments for services paid to the head office or a related company at a rate of 15%." Based on the foregoing, it becomes evident that the basis of the dispute lies in imposing a withholding tax on the amounts paid to (...) company for the month of June 2016 in the amount of (303,345) Riyals, as being paid to related parties in exchange for technical and consulting services, while the Taxpayer argues that the service was received from a local law firm (...), which is a subsidiary of (...) company. By the Circuit's review of the case file and the documents it contained, it is evident that the Taxpayer submitted the ledger and the service provision invoice from (...), through which it is evident that the service consisted of registering a new company. Since registering a company in the Kingdom of Saudi Arabia requires the law firm to be local, the mere affiliation of the local law firm with a non-resident company does not mean that the payment was made to a non-resident company to provide services in the Kingdom. Since the Taxpayer submitted the supporting documents which proved that the item is not subject to withholding tax and that the service was provided by a local entity, this leads the Circuit to conclude the acceptance of the Taxpayer's appeal and the annulment of the Resolution Circuit's decision regarding the item (withholding tax (...) for the month of June 2016).

Regarding the Taxpayer's appeal concerning the item (withholding tax (...) for the month of June 2017 in the amount of (6,721,547) Riyals), the Taxpayer requests the annulment of the Circuit's decision regarding this item on the basis that the company asserts it provided full details about the relevant amount via the email dated June 16, 2021 referred to in the item above, in addition to the objection letter submitted to the Authority. Nevertheless, the position taken in all the Authority's memoranda clarifies that it did not take into consideration the clarifications and supporting documents submitted by the company. Based on Paragraph No. (1) of Article (63) of the Implementing Regulations of the Income Tax Law issued by the Minister of Finance's Resolution No. (1535) dated 11/06/1425



AH, which stipulated the following: "A non-resident is subject to tax on any amount it receives from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates: - Royalty or proceeds, payments for services paid to the head office or a related company at a rate of 15%." Based on the foregoing, it becomes evident that the basis of the dispute lies in the Taxpayer's objection to the Authority's procedure of imposing the withholding tax on the amount of (6,721,547) Riyals, as it consists of loan repayment installments amounting to (406,649.42) Riyals, principal loan amount transfers amounting to (2,233,991.60) Riyals, local payment to Saudi authorities amounting to (505,488.10) Riyals, rent payment to a local landlord valued at (749,902.16) Riyals, and the purchase of fixed assets amounting to (1,970,188.25) Riyals, which are not subject to withholding tax. It also argues that the amount of (855,328) Riyals paid on behalf of the company by related parties had already been subjected to withholding tax in 2016. Meanwhile, the Authority imposed the withholding tax on the amounts paid to (...) company based on the data submitted by the Taxpayer as paid to related parties against loans, and an amount of (855,328) Riyals paid against invoices on behalf of the company. Upon reviewing the case file, it became evident that the Taxpayer submitted the documents represented in invoices, bank statement receipts, the lease contract, and the analytical statement of fixed assets clarifying the supplier's name, invoice number, its date, and the value of the fixed assets. Regarding the amount of (855,328) Riyals, it became evident that the Taxpayer submitted the annual withholding form for the year 2016. Since the Taxpayer submitted the supporting documents for the validity of its defenses, and whereas the burden of proof falls upon the Authority to prove that the disputed amount is subject to withholding tax, and whereas the Authority did not submit what proves the validity of its viewpoint, this leads the Circuit to conclude the acceptance of the Taxpayer's appeal and the annulment of the Resolution Circuit's decision regarding the item (withholding tax (...)) for the month of June 2017 in the amount of (6,721,547) Riyals).

Regarding the Taxpayer's appeal concerning the item (delay penalty for the months of June 2016 and June 2017), and based on the text of Paragraph (A) of Article (77) of the Income Tax Law which includes: "In addition to the penalties set forth in Article Seventy-Six of this Law and in Paragraph (B) of this Article, the Taxpayer shall pay a delay penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes delay in paying the tax required to be withheld and advance payments, calculated from the tax due date until the date of payment." Also, Paragraph (C) of Article (68) of the Income Tax Law stipulated: "The person responsible under this Article for withholding the tax is personally liable to pay the value of the unpaid tax, and the delay penalties resulting therefrom in accordance with Paragraph (A) of Article Seventy-Seven of this Law if any of the following cases apply to him: 1- If he did not withhold the tax as required. 2- If he withheld the tax but did not pay it to the Authority as required. 3- If he did not submit the withholding statements to the Authority as required by subparagraph three of Paragraph (B) of this Article." And based on Paragraph (3) of Article (67) of the Implementing Regulations of the Income Tax Law which includes: "Unpaid tax means the difference between what the taxpayer paid on the statutory deadline and the tax due for payment pursuant to the provisions of the Law. It includes the adjustments made by the Authority which have become final as stated in Paragraph (2) of Article Seventy-One of these Regulations, including disputed cases, where the penalty is calculated from the date of the statutory deadline for submitting the return and payment."



Based on the foregoing, it became evident that the dispute lies in the Taxpayer's objection to the Authority's imposition of the delay penalty amounting to (532,426) Riyals on the unpaid tax difference arising from the tax assessment. Since the delay penalty is connected to the disputed items above, and whereas "the accessory follows the principal," and based on the jurisprudential rule "if the principal falls, the accessory falls," this leads the Circuit to conclude amending the Resolution Circuit's decision regarding the Taxpayer's appeal on the item (delay penalty for the months of June 2016 and June 2017), confirming the validity of the Authority's procedure in imposing the delay penalty from the due date on the item for which the Taxpayer's appeal was rejected, and the dropping of the delay penalty on the items for which the Taxpayer's appeal was accepted.

Regarding the Taxpayer's appeal on the remaining items, whereas there is no blame on the Circuit for adopting the grounds of the appealed decision without any addition thereto, whenever it assesses that those grounds suffice without citing anything new, because by upholding it based on what those grounds carried, it is confirmed that it did not find in the challenges directed at the decision anything that warrants a response beyond what those grounds contained. And since this is the case, and it is established that the appealed decision regarding the dispute concerning the challenged items came in accordance with the sound grounds upon which it was based and which are sufficient to uphold its judgment, as the Circuit that issued it undertook the scrutiny of the core of the dispute therein and concluded in its regard to the outcome it reached in its operative part. And whereas this Circuit did not notice anything that requires rectification or comment in light of the defenses raised before it, this leads this Circuit to conclude the rejection of the Taxpayer's appeal and upholding the appealed Resolution Circuit's decision regarding the outcome it reached concerning the items subject of the lawsuit, based on its grounds.

Based on the foregoing and invoking the mentioned grounds, the Circuit unanimously decided the following:

Decision

First: To accept the appeal procedurally from the Taxpayer/ (...) Company, Commercial Registration No. (...), TIN (...), against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2024-236621) issued in Lawsuit No. (W-2024-236621) relating to the withholding tax assessment for June 2016 AD and June 2017 AD and the resulting penalties.

Second: On the Merits:

1. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item (Withholding tax (...) for June 2016 AD and June 2017 AD).
2. To accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item (Withholding tax (...) for June 2016 AD).



3. To accept the Taxpayer's appeal and annul the Resolution Circuit's decision regarding the item (Withholding tax (...) for June 2017 AD in the amount of 6,721,547 SAR).
4. To amend the Resolution Circuit's decision regarding the Taxpayer's appeal on the item (Late payment penalty for June 2016 AD and June 2017 AD).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-239076
Case No. W-2024-239076

Principle No. 14

- The recipient of a royalty shall not benefit from the reduced rate in the Double Taxation Avoidance Agreement unless it is proven that they are the beneficial owner thereof. Merely being a resident of a contracting state or having invoices issued in their name is not sufficient if their role is restricted or if they act as an intermediary in passing on the rights.

Principle No. 15

- The determining factor in identifying the beneficial owner of royalties is the true nature of the contractual relationship and the restrictions imposed on the recipient of the amount, not merely the statutory form of the entity, its place of residence, or the entity that issued the invoice.

Facts



This is to consider the appeal submitted on 30/06/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-227245) issued in Case No. (W-2023-227245) relating to the withholding tax assessments for the months from September 2022 AD to March 2023 AD, in the lawsuit filed by the Taxpayer against the Zakat, Tax and Customs Authority. The Resolution Circuit's decision ruled as follows:

First: Acceptance of the Plaintiff's objection regarding the withholding tax item for the following periods: September 2022 AD – October 2022 AD – November 2022 AD – December 2022 AD – January 2023 AD – February 2023 AD – March 2023 AD.

Second: Acceptance of the Plaintiff's objection regarding the delay penalties item; according to the grounds of the decision.

Whereas this decision was not accepted by the appellant (the Zakat, Tax and Customs Authority), it submitted an appeal brief containing a summary of the following:

As the Authority objects to the appealed Resolution Circuit's decision, it claims that regarding the item (withholding tax for the periods September, October, November, and December for the year 2022 AD and January, February, and



March for the year 2023 AD), it requests the annulment of the Resolution Circuit's decision regarding this item on the basis that the Authority imposed a withholding tax on the Taxpayer at a rate of 15% instead of 10% based on the provisions of Article (68) of the Income Tax Law due to the non-applicability of the conditions of the agreement signed with the UAE to the Taxpayer, and there was no tax at that time and this is what the foundation of the agreement was built upon. As for what the Taxpayer pointed out that it submitted the documents, the Authority answers that the submitted documents are insufficient, as the Authority met with the Taxpayer on September 5, 2023 AD, and a statement was requested regarding the Taxpayer's place of residence and whether it resides in free zones, with the necessity of submitting a residency certificate. However, the Taxpayer did not comply with submitting the residency certificate and sufficed with submitting the professional license and the building lease contract. Therefore, on September 19, 2023 AD, the Authority requested the Taxpayer again to submit a residency certificate for (...) company in the United Arab Emirates and a title deed for (the films) which are leased from the UAE-resident company (...). On September 25, 2023 AD, the Taxpayer submitted contracts concluded with (...) and (...), and a contract concluded with (...) and (...) without submitting the required residency certificate. Accordingly, what is stated in the statement of claim cannot be relied upon. Regarding determining the source of (...) 's obtaining the films provided by the Taxpayer in the Kingdom, it became evident to the Authority after reviewing the contract concluded between (...) company and (...) Dubai that the contract was previously between (...) company, which is a Lebanese company (...), i.e., across borders residing in Beirut, then it transferred to the alternative party in the transaction which is (...) – UAE in February 2022 AD, where a company was established in Dubai under the name (...) which is the alternative transaction party instead of the contracting party (...). Accordingly, the Authority requested the Taxpayer on October 11, 2023 AD, to submit the articles of association for (...) company residing in the United Arab Emirates. After reviewing all documents including the contract concluded between (...) and (...) Dubai, it became evident that (...) Dubai entered the agreement as an alternative party to the contracting party (...) International (... company) and that the agreement took place on January 19, 2022 AD. This confirms the validity of the Authority's procedure in imposing the withholding tax at a rate of 15%, as it is evident that a company was established in the UAE for the purpose of benefiting from the double taxation avoidance agreement between the two countries to prevent double taxation. By reviewing the agreement concluded between ... (the licensor) and (...) Dubai (the distributor) according to Paragraph (7), it became evident that a part of the achieved profits at a rate of 50% belongs to the licensor. Also, Paragraph (E) stipulates that the distributor is responsible for protecting the content from copying and theft and that it is responsible for compensating the licensor for theft, which indicates the lack of absolute freedom for the distributor in using the cinematic films. Furthermore, Article (5) indicates that the licensor (...) must be referred to for approval before taking any action, specifically Paragraph (C) which stipulates: "The distributor may not delegate any of its duties or enter into any distribution or sub-licensing agreement without written approval from the licensor." Also, Article (13) which prohibits the distributor from modifying the language without obtaining written approval from the licensor (...): (Attached). Based on the above, it became evident to the Authority that the distributor (... Dubai) has restrictions on using the films and that it is not the beneficial owner of the royalty. As for what the Taxpayer pointed out in its statement of claim requesting the application of the double



taxation avoidance agreement between the government of the Kingdom of Saudi Arabia and the government of the United Arab Emirates, the Authority answers that through Paragraph (2) of Article (12) of the agreement, it became evident that it stipulates that the 10% rate shall be applied if the beneficial owner of the royalty is a resident of another contracting state. By extrapolating this text, it is clearly evident that when it becomes evident that the beneficial owner of the royalty does not reside in another contracting state, the provisions of this agreement shall not be applied, which applies to the Taxpayer's case, as the beneficiary is ... (resides outside the two states) and not (...) Dubai. Based on the foregoing, the Taxpayer's lack of entitlement to request the application of the 10% rate instead of 15% becomes evident, as it is not the beneficial owner of the royalties because obtaining the films is done according to the controls and restrictions set by ..., in addition to the above, based on the distribution contract and the issued invoices, the amounts paid by the Taxpayer are paid to (...) company in the UAE. However, (...) UAE is not the beneficial owner of the paid royalty as it is considered a distributor to (...) Studio according to the invoices, and consequently cannot benefit from the advantages of the double taxation avoidance agreement between the Kingdom of Saudi Arabia and the United Arab Emirates. Accordingly, the Taxpayer's objection was rejected based on the provisions of 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, and the Authority affirms the validity and regularity of its procedure. Regarding the item (delay penalty), the Authority requests the annulment of the Circuit's decision regarding this item on the basis that the Authority imposed the delay penalty on the unpaid tax differences on the statutory deadline based on Article No. (77) Paragraph (A) of the Income Tax Law, and also based on Article (68) Paragraph (1/B) of the Implementing Regulations of the Income Tax Law, which is calculated after the statutory date for submitting the return, and since the Circuit annulled that item as a consequential result of the first item above. As for what came in the Circuit's grounds, the Authority answers that it is incorrect and contrary to the statutory requirement, therefore the Authority requests the annulment of what the Resolution Circuit concluded and maintains the validity and soundness of its procedure.

On Tuesday, 21/01/2025 AD, at 09:50, the First Appeal Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote litigation procedures; pursuant to the provisions of Paragraph (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. Upon calling the litigants, the appellant's representative / (...) (National ID No. ...) attended pursuant to an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs under No. (...) dated 19/03/1445 AH, and / (...), National ID No. (...), attended in his capacity as the agent for the appellee pursuant to the power of attorney No. (...), issued on 19/05/1445 AH, and law practice license No. (...). Upon asking the appellee's agent what he wishes to add, he stated that he maintains what was previously submitted in this lawsuit. Upon presenting this to the appellant's representative, she answered maintaining what was previously submitted in this lawsuit. Upon asking the parties what they wish to add, they decided to suffice with what was previously submitted. After closing the pleadings and deliberation.



Grounds of the Decision



Whereas by reviewing the case documents and the appeal brief submitted by the Authority, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally, as it was submitted by a person with standing and within the statutory period prescribed for its submission.

On the merits, and regarding the Authority's appeal concerning the item (withholding tax for the periods September, October, November, and December for the year 2022 AD and January, February, and March for the year 2023 AD). Whereas Paragraph No. (1) of Article (63) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH stipulated that: "1- A non-resident is subject to tax on any amount it receives from any source in the Kingdom, and the tax is withheld from the gross amount according to the following rates:....." Also, Article (12) of the double taxation agreement concluded between the government of the Kingdom of Saudi Arabia and the government of the United Arab Emirates stipulated that "2- However, such royalties may also be taxed in the Contracting State in which they arise according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed ten percent (10%) of the gross amount of the royalties." Based on the foregoing, and whereas the dispute between the parties to the lawsuit lies in the Authority's procedure of imposing the withholding tax at a rate of 15% while the Taxpayer claims a rate of 10% applying the tax agreement between the Kingdom of Saudi Arabia and the United Arab Emirates. By reviewing the case file, it became evident that the basis of the dispute is about proving the beneficial owner of the amounts paid against royalties, where the Authority argues that the beneficial owner of the royalties is not (...) company (resident in the UAE) but rather ... company (resident outside both states) and relies on the agreement concluded with ... in the document titled (attachments to the statement of claim attachment No. 7). And whereas it became evident that the cornerstone of the Resolution Circuit's decision in annulling the Authority's procedure is the invoices issued by it to the company resident in the Kingdom of Saudi Arabia to benefit from the rights and that (...) company is the beneficial owner, and consequently the permissibility of applying the tax agreement. Meanwhile, by reviewing the guidance issued by the Organization for Economic Co-operation and Development (OECD) for the year 2017 AD, and referring to the commentary on Article (12) relating to royalties, it becomes evident that Paragraph (4.3) of the guide indicated that "... - which will be clarified below - which directly receives the royalty amounts does not represent the beneficial owner if it has limited powers regarding the royalty. The OECD clarified in its report (Double Taxation and the Use of Conduit Companies) some examples of conduit companies referred to above which are not considered a beneficial owner, where a company resident in State (A)



receives a royalty from State (B), and under the tax agreement between (A) and (B) the company has the right to claim full or partial exemption from withholding tax in State (B), and this company is fully owned by a resident in a third state who does not benefit from the agreement between (A) and (B). Therefore, the company was established in State (A), and the related assets, rights, and royalties were transferred to it to benefit from the tax agreements. Also, the OECD launched in 2015 AD the (Base Erosion and Profit Shifting - BEPS) project to limit aggressive international tax planning that leads to the artificial shifting of profits to places where they are not taxed or taxed at reduced rates, where procedures related to tax agreements were developed to address certain arrangements to prevent treaty abuse. Action No. (6) relating to preventing the granting of treaty benefits in inappropriate circumstances included, for example, the case of a person not resident in a state attempting to obtain the benefits of tax agreements concluded with that state, such as establishing a company in that state to obtain the benefits of tax agreements. Based on the above, and by reviewing the Authority's defenses set forth in its appeal brief through which it stated that a part of the achieved profits at a rate of 50% belongs to the licensor according to the agreement concluded between ... and (...) Dubai, as it is also evident from Paragraph (E) which stipulated that the distributor is responsible for protecting the content from copying and theft and that it is responsible for compensating the licensor for theft, which indicates the lack of absolute freedom for the distributor in using the cinematic films. And Article (5) which indicates that the licensor (...) must be referred to for approval before taking any action, specifically Paragraph (C) which stipulates: "The distributor may not delegate any of its duties or enter into any distribution or sub-licensing agreement without written approval from the licensor" and Article (13) which prohibits the distributor from modifying the language without obtaining written approval from the licensor (...). This indicates that the distributor (... Dubai) has restrictions on using the films, and consequently is not considered the beneficial owner and is not entitled to claim the benefits of the tax agreement in order to prevent treaty abuse. Accordingly, the Circuit concludes to accept the Authority's appeal and amend the Resolution Circuit's decision by imposing a withholding tax at a rate of 15% regarding the item (withholding tax for the periods September, October, November, and December for the year 2022 AD and January, February, and March for the year 2023 AD).

Regarding the Authority's appeal concerning the item (delay penalty). Whereas Paragraph (A) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH stipulated that "In addition to the penalties set forth in Article Seventy-Six of this Law and in Paragraph (B) of this Article, the Taxpayer shall pay a delay penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes delay in paying the tax required to be withheld and advance payments, calculated from the tax due date until the date of payment." Also, Paragraph (1) of Article (68) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH stipulated that "Added to the penalties set forth in the previous Article



is 1% of the unpaid tax for every thirty days of delay in the following cases: b- Delay in paying the due tax under the Authority's assessment." Based on the foregoing, and whereas the delay penalty is calculated from the end of the specified deadline for submitting the return until the date of payment of the due tax arising under the application of the provisions of the Law. And whereas the dispute between the two parties is a documentary dispute and did not arise from a significant difference in interpreting the statutory texts, and since this item follows the first item and the Authority's appeal was accepted regarding the first item, accordingly, the Circuit concludes to accept the Authority's appeal and amend the Resolution Circuit's decision regarding the item (delay penalties).

Based on the foregoing and invoking the mentioned grounds, the Circuit unanimously decided the following:

Decision

First: To accept the appeal procedurally submitted by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-227245) issued in Lawsuit No. (W-2023-227245) relating to the withholding tax assessments for the months from September 2022 AD to March 2023 AD.

Second: On the Merits:

1. To accept the Authority's appeal and amend the Resolution Circuit's decision regarding the item (Withholding tax for the periods September, October, November, and December 2022 AD, and January, February, and March 2023 AD).
2. To accept the Authority's appeal and amend the Resolution Circuit's decision regarding the item (Late payment penalties).



Excise Tax



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. IR-2024-171167
Case No. W-2023-171167

Principle No. 16

- The determining factor in subjecting a product to Excise Tax lies in its actual nature and ingredients as proven by technical documents, not merely in its classification or the declaration made upon importation, provided it is established to be free of sugar or sweeteners and the Authority fails to submit evidence refuting this fact.

Facts

This is to consider the appeal submitted on 08/08/2024 AD, by (...) Company, Commercial Registration No. (...), represented by / (...), National ID No. (...) and Law Practice License No. (...), in his capacity as an agent under Power of Attorney No. (...) issued on 13/04/1446 AH, against the decision of the First Circuit for the Resolution of Excise Tax Violations and Disputes in Riyadh City No. (ER-2024-78106) in the lawsuit submitted by the Appellant against the Appellee.

Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. The Resolution Circuit's decision ruled on it as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits:

- 1- To reject the Plaintiff's lawsuit regarding the tax differences for the tax periods (the sixth quarter of 2019) and (the first, second, third, and fourth quarters of 2020).
- 2- To reject the Plaintiff's lawsuit regarding the late payment penalty for (the sixth quarter of 2019) and (the first, second, third, and fourth quarters of 2020).

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision to reject its lawsuit concerning its objection to the tax differences and the late payment penalty for the tax periods (the sixth quarter of 2019 AD) and (the first, second, third, and fourth quarters of 2020 AD), on the grounds that a portion of the disputed products classified as (tea) do not contain added sugar or other sweeteners. The Appellant added that the tax was calculated on products presented to the consumer in an open, unsealed container, meaning they are not subject to Excise Tax, and pointed out that



these cannot be converted into a beverage fit for consumption and sale except by adding several substances, such as milk and other products. In addition, the Appellee failed to clarify the tax calculation mechanism, thereby violating the provisions of Paragraph (6) of Article (17) of the Implementing Regulations. The Appellant also indicated that it imported (...) products during December 2019 AD, emphasizing that these products were declared under the customs tariff headings subject to Excise Tax, yet the Authority did not calculate the Excise Tax on these imports, and consequently, the Appellant did not add the Excise Tax to them. The Appellant stated that the Authority subsequently imposed the tax, in addition to changing the customs tariff heading for many of the disputed items retrospectively. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Tuesday, 17/10/1446 AH, corresponding to 15/04/2025 AD, at 03:10 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit accordingly decided to adjourn the hearing to tomorrow's session. The session concluded at 03:57 PM.

On Tuesday, 15/11/1446 AH, corresponding to 13/05/2025 AD, at 03:10 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit requested the Secretariat to instruct the Appellee to submit a specific response to the Appellant's appeal brief regarding the images of the packaging wrappers attached to its brief, and instructing the Appellant to submit evidence proving the absence of sugar in each individual product upon which the tax was imposed, to identify the products to which no sugar or sweeteners were added, as well as to specify the value of the tax imposed on each product and determine the total tax imposed, and to submit the product ingredient data stated on its wrapper, within two weeks from this date. The session concluded at 03:57 PM.

On Tuesday, 28/12/1446 AH, corresponding to 24/06/2025 AD, at 01:10 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. Upon calling the parties to the lawsuit, / (...), National ID No. (...), attended in his capacity as the agent for the Appellant under Power of Attorney No. (...) issued on (08/11/1444 AH), and Law Practice License No. (...), and / (...), National ID No. (...), attended in his capacity as the



representative of the Appellee under Authorization No. (...) issued by the Deputy Governor for Legal Affairs and Compliance at the Zakat, Tax and Customs Authority. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and upon questioning the Appellant's agent about the appeal, he responded with nothing beyond what was previously stated in the appeal brief and adhered to its contents, affirming that there is no added sugar in the disputed products. Upon presenting the appeal to the Appellee's representative, he responded with nothing beyond what was previously stated in the response memorandum and adhered to its contents. Upon the Circuit questioning the Appellee regarding the basis for the Authority's imposition of the tax, the Authority's representative answered that it was imposed solely on the basis of the declaration submitted by the Appellant to the Zakat, Tax and Customs Authority. He also added that it was not proven that the Appellant failed to collect the tax. Upon the Circuit asking what they would like to add, they opted to rest on what had been previously submitted. Accordingly, the Circuit decided to reserve the case for deliberation in preparation for issuing the decision.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits, upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to reject the Appellant's lawsuit concerning its objection to the tax differences and the late payment penalty for the tax periods (the sixth quarter of 2019) and (the first, second, third, and fourth quarters of 2020). Whereas the Appellant objects to the Resolution Circuit's decision on the grounds that a portion of the disputed products classified as (tea) do not contain added sugar or other sweeteners. The Appellant added that the tax was calculated on products presented to the consumer in an open, unsealed container, meaning they are not subject to Excise Tax, and pointed out that these cannot be converted into a beverage fit for consumption and sale except by adding several substances, such as milk and other products. In addition, the Appellee failed to clarify the tax calculation mechanism, thereby violating the provisions of Paragraph (6) of Article (17) of the Implementing Regulations. The Appellant also indicated that it imported (...) products during December 2019, emphasizing that these products were declared under the customs tariff headings subject to Excise Tax, yet the Authority did not calculate the Excise Tax on these imports, and consequently, the Appellant did not add the Excise Tax to them. The Appellant stated that the Authority subsequently imposed the tax, in addition to changing the customs tariff heading for many of the disputed items retrospectively.



Upon the Appeal Circuit's review of what the Appellant submitted in its supplementary memorandum dated 26/05/2025 AD in response to the Circuit's requests, it became evident that the products it claims are not subject to the Excise Tax amounted to (394,272) Riyals, detailed as follows:

Black tea with spices (Adani tea without sugar) with a tax value of (144,936) Riyals.

Karak tea, instant cardamom mix without sugar, with a tax value of (177,120) Riyals.

Karak tea, instant saffron mix without sugar, with a tax value of (72,216) Riyals.

Whereas the Appellant submitted a document consisting of a schedule detailing the quantities, items, retail price, and the imposed tax, as well as images of the packaging wrappers for the three products (black tea with spices Adani tea without sugar, Karak tea instant cardamom mix without sugar, Karak tea instant saffron mix without sugar), which clearly show that they are sugar-free products. Additionally, it submitted a product registration certificate with the Saudi Food and Drug Authority, which proves that they are free of sugar or sweeteners. In contrast, the Appellee did not present its perspective regarding the submitted documents and did not contest their authenticity. In its reply memorandum, it indicated that it based its decision to subject the products to the tax on the Taxpayer's Declaration that those products and their classification are sweetened drinks in the submitted import declarations, which constitutes an acknowledgment from it that the imported products are subject to the tax. Accordingly, and based on the foregoing, the Appeal Circuit concludes to accept the appeal for the amount of (394,272) three hundred and ninety-four thousand, two hundred and seventy-two Riyals for the Excise Tax reassessment item, and rejecting the remainder.

Regarding the late payment penalty, and whereas the Appellant requests the Annulment of that penalty which resulted from the final assessment notice for the tax periods subject of the lawsuit, and whereas the above item has led to the partial acceptance of the appeal, and since the penalties resulted therefrom, the accessory follows the principal ruling. Therefore, the Appeal Circuit concludes to partially accept the appeal concerning the penalties subject of the appeal.

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / (...) Company, Commercial Registration No. (...), procedurally.

Second: On the Merits:

1- To accept the appeal for the amount of (394,272) three hundred and ninety-four thousand, two hundred and seventy-two Riyals for the Excise Tax reassessment item, and reject the remainder.



2- To accept Partially the appeal relating to the late payment penalty in accordance with what is stated in (Second/1) above, and reject the remainder.

May the peace and blessings of Allah be upon our Prophet Muhammad, his family, and all his companions.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-59

Case No.

E-2024-24318

Principle No. 17

- The due tax notice shall have no effect against the taxpayer unless its issuance is proven to include the tax amount and the bases for its calculation, in a manner that allows for the verification of the notice's date and its statutory effects.

Facts



This is to consider the appeal submitted on 29/09/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Excise Tax Violations and Disputes in Riyadh City No. (ER-2024-235843) in the lawsuit submitted by the Appellee against the Appellant. Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision No. (ER-2023-294) dated 16/03/2023 AD ruled as follows:

To annul the Defendant's decision subject of the lawsuit and the penalties based thereon.

Then the Appeal Circuit's decision No. (VA-2024-192875) dated 06/05/2024 AD ruled as follows:

First: To accept the appeal submitted by / the Zakat, Tax and Customs Authority procedurally, as it was submitted within the prescribed statutory period.

Second: On the Merits: To annul the appealed Circuit's decision and remanding it back to the Circuit to be reviewed in accordance with what is stated in the reasons.

Subsequently, the Resolution Circuit's decision No. (ER-2024-235843) dated 28/08/2024 AD ruled as follows:

The Circuit lacks jurisdictional competence to consider the lawsuit.

Based on the foregoing, and in application of reducing the length of litigation and achieving prompt justice, the Appeal Circuit decided to review the submitted objection initially on substantive grounds.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision ruling its lack of the jurisdictional competence to consider the lawsuit comprising the objection against the Authority's decision on the reassessment for the fourth, fifth, and sixth tax periods of 2017 AD and the penalties resulting therefrom, on the grounds that the principle of



exhaustion of jurisdiction means the cessation of judicial jurisdiction from the judicial member after exhausting effort in the substantive issue on which a final decision was rendered. This implies that if the judicial member did not exhaust effort in the presented issue, the lawsuit does not exit his jurisdiction. Consequently, the Circuit has the right to remand the lawsuit to the same decision-issuing Circuit if it deems there is a need to review the ruling and correct any error it contains. Additionally, its decision became immune by the lapse of time as it was issued on 15/12/2021 AD, whereas the Appellee objected on 14/02/2022 AD, concluding with a request to accept the appeal and annul the Resolution Circuit's decision.

On Sunday, 22/10/1446 AH, corresponding to 20/04/2025 AD, at 12:39 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits, upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled on its lack of the jurisdictional competence to consider the lawsuit comprising the objection against the Authority's decision on the reassessment for the fourth, fifth, and sixth tax periods of 2017 AD and the penalties resulting therefrom. Whereas the Appellant objects to the Resolution Circuit's decision on the grounds that the principle of exhaustion of jurisdiction means the cessation of judicial jurisdiction from the judicial member after exhausting effort in the substantive issue on which a final decision was rendered. This implies that if the judicial member did not exhaust effort in the presented issue, the lawsuit does not exit his jurisdiction. Consequently, the Circuit has the right to remand the lawsuit to the same decision-issuing Circuit if it deems there is a need to review the ruling and correct any error it contains. Additionally, its decision became immune by the lapse of time as it was issued on 15/12/2021 AD, whereas the Appellee objected on 14/02/2022 AD. Whereas the dispute initially lies in the Appellee's (...) objection to the decision of the Appellant, the Zakat, Tax and Customs Authority, regarding the reassessment for the fourth, fifth, and sixth tax periods of 2017



AD and the penalties resulting therefrom, requesting the annulment of the Appellant's decision. Upon the Appeal Circuit's review of the case documents, and whereas the Authority submitted a procedural defense claiming the immunity of the administrative decision; and whereas Paragraph (6) of Article (17) of the Implementing Regulations of the Excise Tax Law states: "The Authority shall notify the person liable to pay the tax, by written notice, of the amount of the due tax, provided that such notice includes the bases used by the Authority to calculate the amount of the due tax"; and upon examining the documents submitted in the lawsuit, the existence of such notice in accordance with the requirements stipulated in the aforementioned paragraph was not proven, nor is there a date for such notice to verify the immunity of the Authority's decision; therefore, the Appeal Circuit concludes to annul the decision of the Zakat, Tax and Customs Authority.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / the Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits: To annul the decision of the Zakat, Tax and Customs Authority.



Value Added Tax



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-238110
Case No. V-2024-238110

Principle No. 18

- The contractual consideration shall not be deemed inclusive of Value Added Tax (VAT) merely because the contract does not mention it, unless there is an explicit provision or a clear document indicating the inclusion of the tax.

Facts

This is to consider the appeal submitted on 03/06/2024 AD by (...), National ID No. (...), Law Practice License No. (...), in his capacity as the agent for the heirs of (...) under Power of Attorney No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-229950) in the lawsuit submitted by the Appellant against the Appellee.

Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: To reject the Plaintiffs' lawsuit regarding the tax claim subject of the lawsuit.

Whereas this decision was not accepted by the Appellant, he submitted to the Appeal Circuit an appeal brief containing his objection to the Resolution Circuit's decision to reject his lawsuit regarding the claim to obligate the Defendant to pay an amount of three hundred thousand Riyals, representing the Value Added Tax resulting from the rental value amounting to two million Riyals, concerning the lease agreement concluded between the parties on 12/09/1444 AH, corresponding to 03/04/2023 AD, on the grounds that the lease agreement subject of the lawsuit is a standard document issued by the Defendant – the administrative authority – on the Ministry's letterheads, being the stronger party upon concluding the agreement, in addition to the fact that the clients were unable to negotiate with the Ministry to amend its clauses to detail the rental amount and its tax, or to add any new clauses to preserve their rights regarding the VAT amount. He concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

Whereas the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the



procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH; and after reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits, upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to reject the Appellant's lawsuit regarding the claim to obligate the Defendant to pay an amount of three hundred thousand Riyals representing the Value Added Tax resulting from the rental value amounting to two million Riyals concerning the lease agreement concluded between the parties on 12/09/1444 AH, corresponding to 03/04/2023 AD. Whereas the Appellant objects to the Resolution Circuit's decision on the grounds that the lease agreement subject of the lawsuit is a standard document issued by the Defendant – the administrative authority – on the Ministry's letterheads, being the stronger party upon concluding the agreement, in addition to the fact that the clients were unable to negotiate with the Ministry to amend its clauses to detail the rental amount and its tax, or to add any new clauses to preserve their rights regarding the VAT amount; after reviewing the appeal brief, the reply memoranda, and the defenses and documents submitted by both parties, and whereas the heirs request obligating the Ministry of Islamic Affairs, Dawah and Guidance to pay an amount of (300,000.00) Riyals representing the Value Added Tax resulting from the rental value; and upon reviewing the agreement concluded between the parties on 12/09/1444 AH, corresponding to 03/04/2023 AD, which did not address the VAT amount nor who shall bear it; and whereas the general principle regarding bearing the burden of paying the tax, as an indirect tax on the goods and services received, falls upon the customer (the recipient of the goods and services), except for what is exempted by a specific provision under certain cases set forth in Article (30) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf, which necessitates establishing the obligation on the Appellee to bear the VAT amount resulting from the lease agreement concluded between the parties. And paragraph (3/1) of (the contract before its renewal, dated 03/04/2023 AD) stipulated that "the value of this contract is (2,000,000) two million Riyals, for a duration of one year." Upon reviewing Paragraph (1) of Article (4) of the new contract concluded on 03/08/1445 AH, corresponding to 12/02/2024 AD, it was stipulated that the total value of the contract is (2,300,000) Riyals, inclusive of all fees and taxes, which clarifies that the amount in the previous contract did not include Value Added Tax.



And whereas Power of Attorney No. (...) dated 06/04/1444 AH issued by the heirs to (...) authorize the signing of rental contracts. In light of the foregoing, we opine to accept the appeal of the heirs of (...) and obligate the Ministry of Islamic Affairs, Dawah and Guidance to pay an amount of (300,000.00) Riyals representing the Value Added Tax resulting from the rental value amounting to (2,000,000) two million Riyals, concerning the lease agreement concluded between the parties on 12/09/1444 AH, corresponding to 03/04/2023 AD.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / the heirs of (...), Deed for the Determination of Heirs No. (...), procedurally.

Second: To accept the appeal submitted by / the heirs of (...), Deed for the Determination of Heirs No. (...), procedurally, revoking the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-229950), and ruling to obligate the Ministry of Islamic Affairs, Dawah and Guidance to pay an amount of (300,000.00) three hundred thousand Riyals to the Appellant, the heirs of (...), Deed for the Determination of Heirs No. (...) dated 20/10/1427 AH, representing the Value Added Tax for the period subject of the lawsuit.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-240738
Case No. V-2024-240738

Principle No. 19

- The criterion for subjecting bank deposits to Value Added Tax is proving their connection to the supply of goods or services for a consideration, and their mere receipt in a bank account is not sufficient when proven to be personal deposits or transfers between accounts unrelated to a taxable supply.

Facts

This is to consider the appeal submitted on 18/08/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-233153) in the lawsuit submitted by (...) against the Zakat, Tax and Customs Authority.

As well as to consider the appeal submitted on 16/08/2024 AD by (...), National ID No. (...), in his capacity as the owner of (...) Establishment for Real Estate Development and Investment under Commercial Registration No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-233153) in the lawsuit submitted by (...) against the Zakat, Tax and Customs Authority.

Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits:

To accept the Plaintiff's lawsuit regarding the amount of (2,679,854.75) Riyals related to imposing Value Added Tax on bank deposits pertaining to supplies made prior to 01/01/2018 AD, and reject the remainder for the tax period of the fourth quarter of 2018 AD.

Whereas this decision was not accepted by both parties, the Appellant (the Zakat, Tax and Customs Authority) submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision to exclude an amount of (2,679,854.75) Riyals from the local sales subject to tax at the standard rate of 5% for the tax period of the fourth quarter of 2018 AD, on the grounds that the Appellee does not hold a Commercial Registration related to financing activity and did not submit a license to practice financing business. This is considered a fundamental presumption of the invalidity of the Appellee's claim that those transactions pertain to Tawarruq (financing) activity,



especially since he did not submit supporting documentation proving the essential details of the Tawarruq activity such as (dates of installment payments - the third party in the Tawarruq transaction) and did not prove the documentary cycle of the Tawarruq activity. Furthermore, the Resolution Circuit's decision relied on an insufficient sample to verify the validity of the Appellee's claims, especially since the selected sample was chosen by the taxpayer and not the Authority, as he submitted limited documents of his choice that cannot be relied upon, and the Circuit's inference of the validity of the Appellee's claim based on a sample selected by him does not comply with international auditing standards. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

Moreover, the Appellant (...) submitted to the Appeal Circuit an appeal brief containing his objection to the Resolution Circuit's decision rejecting his lawsuit regarding his objection to the Appellee's (the Authority's) addition of an amount of (1,587,611.25) Riyals to the local sales subject to tax at the standard rate for the fourth quarter of 2018 AD. This was on the grounds that a supply is defined according to the Agreement as any form of supply of goods and services for a consideration, which does not apply to the advances transferred to his accounts, as they are personal transfers unrelated to any supply, with respect to the personal deposits and inter-account transfers amounting to (652,000) Riyals. As for the deposits of the tax-exempt activity amounting to (935,611.25) Riyals; because the due dates of the installments and their values are specified at the beginning of each contract, and the Tawarruq contracts were previously submitted, which are complete in their pillars and generate their legal effects. Regarding the third party in the Tawarruq transaction, the goods are not physically delivered to the customer, and the customer's purpose is to benefit from the received funds, and the presence of a commodity in the contracts and the temporary transfer of its ownership is for the purpose of legitimizing the Tawarruq. In addition, the activity was practiced during that period under a license issued by the Ministry of Commerce, which was the procedure followed by the Ministry of Commerce at that date. Regarding the proof that the ownership of the vehicle belongs to the merchant, the goods are not physically delivered to the customer, and the customer's purpose is to benefit from the received funds, and the presence of the commodity in the contracts and the temporary transfer of its ownership is solely to legitimize the Tawarruq. Thus, the Tawarruq is executed with the same customs card and without issuing the vehicle registration form due to the absence of actual supply. The exempt revenues were not disclosed in the declaration because he was not registered for tax as his supplies did not reach the mandatory threshold. He concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Thursday, 28/08/1446 AH, corresponding to 27/02/2025 AD, at 01:24 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the conditions for considering the two appeals procedurally have been met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the two appeals are procedurally accepted as they were submitted by parties with legal standing and within the prescribed statutory period.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to exclude an amount of (2,679,854.75) Riyals from the local sales subject to tax at the standard rate of 5% for the tax period of the fourth quarter of 2018 AD. And whereas the Appellant (the Zakat, Tax and Customs Authority) objects to the Resolution Circuit's decision on the grounds that the Appellee does not hold a Commercial Registration related to financing activity and did not submit a license to practice financing business. This is considered a fundamental presumption of the invalidity of the Appellee's claim that those transactions pertain to Tawarruq activity, especially since he did not submit supporting documentation proving the essential details of the Tawarruq activity such as (dates of installment payments - the third party in the Tawarruq transaction) and did not prove the documentary cycle of the Tawarruq activity. Furthermore, the Resolution Circuit's decision relied on an insufficient sample to verify the validity of the Appellee's claims, especially since the selected sample was chosen by the taxpayer and not the Authority, as he submitted limited documents of his choice that cannot be relied upon, and the Circuit's inference of the validity of the Appellee's claim based on a sample selected by him does not comply with international auditing standards. And whereas it is established that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and reached the conclusion stated in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires correction or commentary in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision. Based on the foregoing, the Circuit concluded to reject the appeal and uphold the Resolution Circuit's decision regarding its outcome, based on its reasons.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision to reject his lawsuit concerning his objection to the Appellee's (the Authority's) addition of an amount of (1,587,611.25) Riyals to the local sales subject to tax at the standard rate for the fourth quarter of 2018 AD, and whereas he objects to the Resolution Circuit's decision on the grounds that a supply is defined according to the Agreement as any form of supply of goods and services for a consideration, which does not apply to the advances transferred to his accounts, as they are personal transfers unrelated to any supply, with respect to the personal deposits and inter-account transfers amounting to (652,000) Riyals. Upon the Appeal Circuit's review of the case documents, and whereas the Appellant indicates in his appeal brief that those amounts are personal advances and inter-account transfers, and he submitted a bank account statement and a declaration from the transferors stating the reason for the transfer and proof of kinship,



confirming that these transfers are personal and familial. By referring to the files submitted in the case file, it becomes clear that the Appellant submitted the bank account statement of (...) Bank for the period from 01/01/2018 AD to 01/07/2021 AD, through which he proves that the transfers received in his account consist of a transfer from his daughter amounting to (100,000) Riyals on 25/11/2018 AD, and another transfer amounting to (500,000) Riyals on 19/12/2018 AD, totaling (600,000) Riyals, in addition to a transfer received from the Appellant's father (...) amounting to (52,000) Riyals. The Appellant also submitted a written statement signed by his father stating that these transfers are personal, which leads the Appeal Circuit to accept the appeal for the amount of (652,000) Riyals.

Regarding the Appellant's (...) objection concerning the deposits of the tax-exempt activity amounting to (935,611.25) Riyals, because the due dates of the installments and their values are specified at the beginning of each contract, and the Tawarruq contracts were previously submitted, which are complete in their pillars and generate their legal effects. Regarding the third party in the Tawarruq transaction, the goods are not physically delivered to the customer, and the customer's purpose is to benefit from the received funds, and the presence of a commodity in the contracts and the temporary transfer of its ownership is for the purpose of legitimizing the Tawarruq. In addition, the activity was practiced during that period under a license issued by the Ministry of Commerce, which was the procedure followed by the Ministry of Commerce at that date. Regarding the proof that the ownership of the vehicle belongs to the merchant, the goods are not physically delivered to the customer, and the customer's purpose is to benefit from the received funds, and the presence of the commodity in the contracts and the temporary transfer of its ownership is solely to legitimize the Tawarruq. Thus, the Tawarruq is executed with the same customs card and without issuing the vehicle registration form due to the absence of actual supply. The exempt revenues were not disclosed in the declaration because he was not registered for tax as his supplies did not reach the mandatory threshold. And whereas it is established that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and reached the conclusion stated in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires correction or commentary in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision. Based on the foregoing, the Circuit concluded to reject the appeal and uphold the Resolution Circuit's decision regarding its outcome, based on its reasons.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: Regarding the appeal of the Zakat, Tax and Customs Authority:

- 1- To accept the appeal procedurally.
- 2- To reject the appeal regarding the item of local sales subject to tax at the standard rate for the amount of (2,679,854.75) two million, six hundred seventy-nine thousand, eight hundred fifty-four Riyals and seventy-five Halalas, and uphold the Resolution Circuit's decision.



Second: Regarding the appeal of (...), National ID No. (...):

- 1- To accept the appeal procedurally.
- 2- To accept the appeal regarding the imposition of Value Added Tax on personal deposits and inter-account transfers for the amount of (652,000) six hundred fifty-two thousand Riyals, and to annul the Resolution Circuit's decision and the Authority's decision in this regard.
- 3- To reject the appeal regarding the item of imposing Value Added Tax on a tax-exempt activity for the amount of (935,611.25) nine hundred thirty-five thousand, six hundred eleven Riyals and twenty-five Halalas, and uphold the Resolution Circuit's decision.

May the peace and blessings of Allah be upon our Prophet Muhammad, his family, and all his companions.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-240860
Case No. V-2024-240860

Principle No. 20

- The existence of a balance or movement in one of the accounting accounts is not sufficient to prove the occurrence of a supply subject to Value Added Tax; rather, it is considered an indicator to expand the audit and verify the fulfillment of one of the statutory determinants of tax entitlement.

Facts

This is to consider the appeal submitted on 20/08/2024 AD by (...), National ID No. (...), in his capacity as the legal representative of the Appellant Company under Power of Attorney No. (...) dated 08/02/1446 AH, and Law Practice License No. (...), against the decision of the Third Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2024-232883) in the lawsuit submitted by the Appellant against the Appellee.

Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision No. (VTR-2022-1760) dated 08/12/2022 AD ruled as follows:

First: To accept the lawsuit procedurally.

Second: To reject the lawsuit on the merits.

Then, the Appeal Circuit's decision No. (VA-2024-167943) dated 05/03/2024 AD ruled as follows:

First: To accept the appeal submitted by (...) Company - Commercial Registration No. (...) procedurally, as it was submitted within the prescribed statutory period.

Second: On the Merits: To annul the decision of the Third Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2022-1760) and remanding the lawsuit to it for consideration in accordance with what is clarified in the reasons.

Thereafter, the Resolution Circuit's decision No. (VTR-2024-232883) dated 24/07/2024 AD ruled as follows:

The Circuit's lack of the jurisdictional competence to consider the lawsuit.

Based on the foregoing, in order to limit the duration of litigation and achieve prompt justice, the Appeal Circuit decided to consider the submitted objection initially from a substantive perspective.



Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision rejecting its lawsuit regarding its objection to the Appellee's decision of the final assessment for the tax period pertaining to December 2020 AD, and the penalties resulting from the reassessment. This was on the grounds that it was required to pay tax on customers' balances recorded in the financial statements, even though the goods were not delivered before the end of 2020 AD and no payments were received. According to the Value Added Tax Law, the customers' credit balances since 2017 AD have not subject to tax due to the absence of any deposit movement or sales to customers. Thus, the dispute is limited to the balances after 2018 AD regarding the customers' credit balances prior to the application of Value Added Tax amounting to (1,625,317) Riyals, and regarding credit balances allocated for granting customers rewards amounting to (3,086,308) Riyals. Under Article (14) of the Regulations, tax should not be imposed on customers' balances resulting from credit notes, as they do not reflect a supply of a good or service, and the tax is imposed only when the customer benefits from the goods. The tax was remitted for the due balances in January 2021 AD, except for the old balances prior to 2018 AD, which will be subject to tax when the customers benefit from them in the following year. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Monday, 11/08/1446 AH, corresponding to 10/02/2025 AD, at 04:04 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to reject the Appellant's lawsuit regarding its objection to the Appellee's decision of the final assessment for the tax period pertaining to December 2020 AD, and the penalties resulting from the reassessment. Whereas the dispute concerns subjecting an amount of (4,711,625) Riyals to the "Sales" item as a result of the assessment related to "December 2020 AD" and the penalties resulting therefrom, and whereas the Appellant objects to the Resolution Circuit's decision on the grounds that it was required to pay tax on the customers' balances recorded in the financial statements, even though the goods



were not delivered before the end of 2020 AD and no payments were received. According to the Value Added Tax Law, the customers' credit balances since 2017 AD are not subject to tax due to the absence of any deposit movement or sales to customers. Thus, the dispute is limited to the balances after 2018 AD regarding customers' credit balances prior to the application of Value Added Tax amounting to (1,625,317) Riyals. Upon the Appeal Circuit's review of the merits of the appealed decision, the appeal brief, and the documents submitted by both parties in the case file, it becomes clear that, according to the "Final Assessment Notice", the reason for subjecting the disputed amount is "advance payments pursuant to the provisions of Article 23 of the Agreement" without clarifying the type of supply, the nature of the supply, whether it was continuous, the documents that were audited to reach the conclusion of the "occurrence" of one of the determinants of tax eligibility on the disputed amount, and without identifying that determinant by specifying the paragraph that indicates the type of observed determinant for what the disputed amount represents. Whereas the bases of evidence differ from an accounting perspective compared to the determinants of tax eligibility, which inevitably results in a difference between what is recorded in the financial statements in certain accounts and in the tax declarations according to certain determinants; these are considered an indicator to expand the audit and not conclusive evidence of the existence of a taxable supply that was not declared. Whereas the determinants of tax eligibility are the date of "supply", "issuance of the invoice", or "receipt of consideration, partially or wholly" (whichever is earlier) as stated in the provisions of Paragraph (1) of Article (23) of the Agreement. Eligibility for a continuous supply shall be at the "date of payment specified in the invoice" or upon the "actual date of payment", whichever is earlier, and at least once every 12 consecutive months according to the provisions of Paragraph (3) of Article (23) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf. A continuous supply is considered separate at the "date of issuance of the invoice" or the "date of payment", whichever is earlier, and to the extent of the value based on the provisions of Paragraph (2) of Article (20) of the Implementing Regulations of the Value Added Tax Law, the occurrence of which was not proven concerning the disputed amount. Whereas the reliance was placed on the provisions of Paragraph (3) of Article (20) of the Implementing Regulations of the Value Added Tax Law, where the occurrence of either of its two paragraphs was not proven, namely "(a) - the date the supply commenced" or Paragraph "(b) - the preceding date on which the supply occurred by virtue of issuing an invoice or making a payment". Whereas the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf determined the date of eligibility concerning continuous supply to be at the "date of payment specified in the invoice" or upon the "actual date of payment", whichever is earlier, and at least once every 12 consecutive months according to the provisions of Paragraph (3) of Article (23) of the Agreement, and for a standard supply in the same Article (23) of the Agreement. Whereas the assessment did not specify the paragraph from the provisions of Article (23) of the Agreement based on which the determinant of eligibility was observed, as observing a movement or balance in an account is considered an indicator to expand the audit to reach one of the determinants of eligibility, but it is not sufficient evidence in itself to prove the "date" of tax eligibility, if due, in accordance with the aforementioned statutory provisions if the paragraph upon which the date was calculated is not identified. This is because the assessment pertaining to the period must reflect only the tax due for it, and the revenue for the entire year should not be included in a period it does not pertain to. This is to comply



with the aforementioned statutory provisions that specified an exact date for tax eligibility and declaration thereof to avoid "duplication" of subjecting the revenue in more than one period, where the amount related to the year 2020 AD was wholly subjected in a single tax period (December), which is an indication of non-compliance with the statutory provisions that precisely determine the date of tax eligibility and the tax period during which those revenues should have been declared, based on the provisions of eligibility. This proves the lack of clarity regarding the basis of calculating the assessment, which violates the provisions of Paragraph (2) of Article (64) of the Implementing Regulations of the Value Added Tax Law. It was also proven through the financial statements that there is a carried-forward balance in the "Advance Payments from Customers" item from the year 2017 AD amounting to (3,990,601) Riyals, and the account represents unknown customers (UNKNOWN CUSTOMER) under code 1248. Despite the lack of proof of a request addressed to the Appellant to provide a detailed statement of account, the amount represents the total carried-forward balance from the year 2017 AD, while the Appellant's defense regarding the value of the disputed item is only for the amount of (1,625,317) Riyals. The Appellant also submitted statements of account in PDF format extracted from the system to certify that its closing balance matches what was stated in the Excel statement. Upon the Circuit's review thereof, it becomes clear that it represents the majority of the disputed amount and did not include the account referred to by the Appellee, and that it has a balance exceeding one million Riyals, and that the accounts with their codes are by "customer number" according to the Excel statement. This is what the Resolution Circuit relied on for non-acceptance based on: (based on the failure to provide the detailed movement of advance payments from 2017 AD to 2020 AD), which is the document submitted to the Appeal Circuit. Especially since the accounting proof in the Appellant's books is considered an indicator to expand the audit to observe a determinant of tax eligibility and base the assessment decision thereon, the existence of which was not proven in the appealed decision regarding the objected assessment, which contradicts the findings of the Resolution Circuit's decision. Based on the foregoing, the Appeal Circuit concludes to accept the appeal regarding the customers' credit balances prior to the application of Value Added Tax amounting to (1,625,317) Riyals.

Regarding the credit balances allocated for granting customers rewards amounting to (3,086,308) Riyals, and whereas the Appellant objects to the Resolution Circuit's decision on the grounds that under Article (14) of the Regulations, tax should not be imposed on customers' balances resulting from credit notes, as they do not reflect a supply of a good or service, and the tax is imposed only when the customer benefits from the good. The tax was remitted for the due balances in January 2021 AD, except for the old balances prior to 2018 AD, which will be subject to tax when the customers benefit from them in the following year. And whereas it is established that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and reached the conclusion stated in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires correction or commentary in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision. Based on the foregoing, the Circuit



concluded to reject the appeal and uphold the Resolution Circuit's decision regarding its outcome, based on its reasons.

Regarding the penalties for error in the declaration and late payment, and the Appellant's claim to annul those penalties resulting from the final assessment notice for the disputed tax period, and whereas the item of local sales subject to tax at the standard rate led to the partial acceptance of the appeal, and since the penalties resulted from that, the accessory follows the principal rule applies. Consequently, the Appeal Circuit concludes to partially accept the appeal regarding the disputed penalties.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / (...) Company, Commercial Registration No. (...), procedurally.

Second: To accept partially the appeal regarding subjecting the amount of (1,625,317) one million, six hundred twenty-five thousand, three hundred seventeen Riyals to the "Sales" item; rejecting the appeal regarding subjecting the amount of (3,086,308) three million, eighty-six thousand, three hundred eight Riyals to the "Sales" item; amending the decision of the Third Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2024-232883); and amending the Appellee's decision accordingly.

Third: To partially accept the appeal regarding the "Penalty for Error in the Declaration partially"; amend the decision of the Third Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2024-232883); and amend the Appellee's decision in accordance with what is stated in (Second).

Fourth: To partially accept the appeal regarding the "Late Payment Penalty partially"; amend the decision of the Third Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2024-232883); and amend the Appellee's decision in accordance with what is stated in (Second).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-238865
Case No. V-2024-238865

Principle No. 21

- The criterion for bearing tax obligations upon the transfer of an establishment's ownership is the period during which the obligation arose and the scope of the contractual undertaking; the emergence or settlement of the obligation after the transfer of ownership does not preclude this.

Facts

This is to consider the appeal submitted on 24/06/2024 AD by (...), National ID No. (...), and Law Practice License No. (...) in his capacity as the agent under Power of Attorney No. (...) issued on 05/07/1445 AH, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-230787) in the lawsuit submitted by the Appellant against the Appellee.

Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision therein ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits:

To reject the Plaintiff's lawsuit regarding the tax claim subject of the lawsuit amounting to (508,098) Riyals.

Whereas this decision was not accepted by the Appellant, he submitted to the Appeal Circuit an appeal brief containing his objection to the Resolution Circuit's decision rejecting his lawsuit regarding the tax claim subject of the lawsuit. This was on the grounds that the interpretation of the contract's preamble indicates that the assignment included the company's rights and its disclosed obligations, and due to the Appellees' failure to disclose the status of the company's tax and Zakat declarations and their obligation to settle them before its transfer to the Appellant. The Appellant was unable to complete the transfer of the Commercial Registration to himself until after paying the financial amounts for the tax and Zakat declarations owed on the Register. To guarantee his right under Article Sixteen of the contract, he paid all tax and Zakat declarations and completed the transfer of the Commercial Registration to himself. He concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.



On Wednesday, 27/08/1446 AH, corresponding to 26/02/2025 AD, at 12:30 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to reject the Appellant's lawsuit regarding the tax claim subject of the lawsuit. Whereas the Appellant objects to the Resolution Circuit's decision on the grounds that the interpretation of the contract's preamble indicates that the assignment included the company's rights and its disclosed obligations, and due to the Appellees' failure to disclose the status of the company's tax and Zakat declarations and their obligation to settle them before its transfer to the Appellant, who was unable to complete the transfer of the Commercial Registration to himself until after paying the financial amounts for the tax and Zakat declarations owed on the Register. To guarantee his right under Article Sixteen of the contract, he paid all tax and Zakat declarations and completed the transfer of the Commercial Registration to himself. Upon the Appeal Circuit's review of the case documents, and whereas it is established that the Appellant had submitted his objection before the Resolution Circuit regarding an amount of (12,346) Riyals related to the Zakat declaration for the year 2022 AD, which falls outside the jurisdiction of the Circuit for Resolution of Value Added Tax Violations and Disputes, the Appeal Circuit concludes to annul the appealed Resolution Circuit's decision and rule the Circuit's lack of jurisdiction procedurally to consider the claim regarding the Zakat declaration for the year 2022 AD.

Regarding the claim for the declaration of the fourth quarter of 2021 AD and the first and second quarters of 2022 AD, and upon the Appeal Circuit's review of the contract issued by the Ministry of Commerce under No. (...) dated 19/03/1444 AH, and whereas Article (16) thereof stipulated "Acknowledgment and undertaking: The two parties (...) and (...) acknowledge that they bear full and joint responsibility and shall bear any debts and obligations that may appear on the company in the future," and whereas the disputed amounts relate to tax obligations for periods prior to the date of transfer of ownership but appeared thereafter, the Appeal Circuit concludes to accept the appeal,



annul the appealed Resolution Circuit's decision, and rule to compel (...) and (...) to pay an amount of (372,622.00) Riyals to (...).

Regarding the claim for the declaration of the fourth quarter of 2022 AD, and whereas the transfer of the company's ownership was proven on 15/10/2022 AD, and the fourth quarter period begins on October 1st and ends on December 31st, therefore the liability of the Defendants (the Appellees) is limited to a small portion of the period, which is from 01/10/2022 AD to 15/10/2022 AD. However, the Plaintiff (the Appellant) claims from them the declaration for the entire fourth quarter, in addition to his submission of proof of payment of the tax for the disputed tax periods except for the fourth quarter of 2022 AD, for which he did not submit proof of its remittance to the Zakat, Tax and Customs Authority. Thus, the Appeal Circuit concludes to reject his lawsuit regarding the claim for the Value Added Tax for the fourth quarter of 2022 AD.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / (...), National ID No. (...), procedurally.

Second: To annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-230787), and ruling the Circuit's lack of jurisdiction procedurally to consider the claim regarding the Zakat declaration for the year 2022 AD.

Third: To compel (...), National ID No. (...) and (...), National ID No. (...), jointly, to pay an amount of (372,622.00) three hundred seventy-two thousand, six hundred twenty-two Riyals to (...), National ID No. (...), representing the Value Added Tax for the tax periods of the fourth quarter of 2021 AD and the first and second quarters of 2022 AD.

Fourth: To reject the Plaintiff's lawsuit regarding the claim for the Value Added Tax for the fourth quarter of 2022 AD



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. IR-2024-192725
Case No. I-2023-192725

Principle No. 22

- Amounts imposed as compensation for damage or loss are not considered consideration for the supply of goods or services, provided their compensatory nature is established; thus, they fall outside the scope of Value Added Tax.

Facts

This is to consider the appeal submitted on 14/11/2024 AD by the Zakat, Tax and Customs Authority, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-93956) in the lawsuit submitted by (...) against the Zakat, Tax and Customs Authority.

As well as to consider the appeal submitted on 14/11/2024 AD by (...) (National ID No. ...) in his capacity as the agent for the Appellant/ (...) (TIN ...) under Power of Attorney No. (...) dated 14/01/2025 AD and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-93956) in the lawsuit submitted by (...) against the Zakat, Tax and Customs Authority.

Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision therein ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits:

- 1- To amend the Defendant's decision by subjecting the commission value instead of the entire contract value regarding the manpower (employees) supply services to (...), rejecting the Plaintiff's lawsuit regarding the liquidation account, and confirming the conclusion of the dispute regarding the maintenance and spare parts supply services, for the tax period (January 2019 AD).
- 2- To reject the Plaintiff's lawsuit regarding the tickets sold in 2017 AD and scheduled in 2018 AD and 2019 AD amounting to (64,160) Riyals, for the tax period (January 2019 AD).
- 3- To reject the Plaintiff's lawsuit regarding the ticket cancellation penalties amounting to (11,914,440) Riyals, for the tax period (January 2019 AD).



- 4- To reject the Plaintiff's lawsuit regarding the zero-rated sales item related to the (...) unit amounting to (7,124,620) Riyals, for the tax period (January 2019 AD).

Whereas this decision was not accepted by both parties, the Appellant (the Zakat, Tax and Customs Authority) submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision to amend its decision regarding the manpower (employees) supply services to (...) by subjecting only the collected commission value to tax rather than the entire contract. This was on the grounds that the general principle is that salaries received in light of an employer-employee relationship are not subject to Value Added Tax, and the commission obtained by the company is subject to Value Added Tax at the standard rate. According to the guidelines, the criterion for the existence of an employer-employee relationship concerning the manpower provided by the taxpayer and the beneficiaries of their services is met when all the conditions set out in Section (2) of the Employee Benefits Guideline are fulfilled, with the necessity of separating commissions from salaries in the issued tax invoices. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

Furthermore, the Appellant (...) submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision rejecting its lawsuit regarding the tickets sold in 2017 AD and scheduled in 2018 AD and 2019 AD. This was on the grounds that ticket sales systems are managed according to global systems such as the "..." system and in accordance with standards set by the International Air Transport Association (IATA), requesting a reconsideration of the issued decision and to consider it as a tax collection entity that does not bear the tax cost, and to apply Value Added Tax in accordance with the nature of its business and the fundamental principles of the Law, taking into account the regulatory constraints governing the aviation industry globally which cannot be bypassed. In addition to its objection to the Resolution Circuit's decision rejecting its lawsuit regarding ticket cancellation penalties, on the grounds that they are not a supply but rather compensation for damage. The brief also contained its objection to the Resolution Circuit's decision rejecting its lawsuit regarding the zero-rated sales item related to the (...) fleet unit concerning the operation and maintenance services of international flights. This was on the grounds that they are sales subject to tax at the zero rate as they relate to international flight services for (...) aircraft, and the fees for (...) aircraft remaining in international airports were incorrectly disclosed within the disputed item; as they represent transactions outside the scope of Value Added Tax. The Appellant argues the validity of the documents it submitted, which were extracted from accounting systems and based on contracts with its customers, clarifying that the flights pertaining to (...) are by their nature confidential flights not announced to the public. The brief also contained its objection to the Resolution Circuit's decision rejecting its lawsuit regarding the sales item for the (...) fleet unit related to adjustments for cancelled invoices reported within the sales item. It demands that, should the zero-rated sales related to the (...) fleet unit be reclassified to sales subject to tax at the standard rate, the adjustments listed on the 0% taxable sales be taken into consideration, as they aim to reduce sales and are part of the total value. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.



On Sunday, 16/09/1446 AH, corresponding to 16/03/2025 AD, at 12:30 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded above, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the conditions for considering both appeals procedurally have been met in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the two appeals are procedurally accepted as they were submitted by parties with legal standing and within the prescribed statutory period.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties. Regarding the appeal submitted by the (Zakat, Tax and Customs Authority) against the Resolution Circuit's decision to amend its decision concerning the manpower (employees) supply services to (...) by subjecting only the collected commission value to tax rather than the entire contract; and whereas the Appellant objects to the Resolution Circuit's decision on the grounds that the general principle is that salaries received in light of an employer-employee relationship are not subject to Value Added Tax, and the commission obtained by the company is subject to Value Added Tax at the standard rate. According to the guidelines, the criterion for the existence of an employer-employee relationship concerning the manpower provided by the taxpayer and the beneficiaries of their services is met when all the conditions set out in Section (2) of the Employee Benefits Guideline are fulfilled, with the necessity of separating commissions from salaries in the issued tax invoices. And whereas it is established that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and reached the conclusion stated in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires correction or commentary in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision; based on the foregoing, the Circuit concludes to reject the appeal and uphold the Resolution Circuit's decision regarding its outcome, based on its reasons.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision rejecting its lawsuit concerning the tickets sold in 2017 AD and scheduled in 2018 AD and 2019 AD. And whereas it objects to the Resolution Circuit's decision on the grounds that ticket sales systems are managed according to global systems such as the "..." system and in accordance with standards set by the International Air Transport Association (IATA), requesting a



reconsideration of the issued decision and to consider it as a tax collection entity that does not bear the tax cost, and to apply Value Added Tax in accordance with the nature of its business and the fundamental principles of the Law, taking into account the regulatory constraints governing the aviation industry globally which cannot be bypassed. And whereas it is established that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and reached the conclusion stated in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires correction or commentary in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision; based on the foregoing, the Circuit concludes to reject the appeal and uphold the Resolution Circuit's decision regarding its outcome, based on its reasons.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision rejecting its lawsuit concerning the ticket cancellation penalties. And whereas it objects to the Resolution Circuit's decision on the grounds that they are not a supply but rather compensation for damage. Upon the Circuit's review of the case file and the defenses and documents contained therein; and whereas Article (1) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf defined (Supply) as: "Any form of supply of Goods or Services for consideration in accordance with the cases provided for in Chapter Two of this Agreement."; and based on Article (2) of the Value Added Tax Law which stipulated: "Tax shall be imposed on the import and supply of Goods and Services, in accordance with the provisions stipulated in the Agreement, Law and Regulations."; and based on Article (14) of the Implementing Regulations of the Value Added Tax Law which stipulated: "Without prejudice to Article Two of the Law, and for the purposes of applying the Agreement and the Law in the Kingdom, Tax shall be imposed on all supplies of Goods and Services made by any Taxable Person in the Kingdom, or received by any Taxable Person in the Kingdom in cases where the Reverse Charge Mechanism applies, and on the import of Goods into the Kingdom." And whereas ticket cancellation penalties are essentially compensation for financial damages resulting from the cancellation of tickets, and represent compensation for the passenger's non-compliance and cancellation of the ticket at short notice - less than 24 hours prior to the flight time - making it difficult to sell the ticket to another customer within such a limited timeframe. According to the definition of (Supply) provided in Article (1) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf above; the penalty is considered compensation for "specific damages" resulting from the cancellation of the ticket, and true fines and penalties are not considered consideration for any supply. This is not undermined by what was mentioned in the appealed decision that the Appellant did not separate the penalties associated with international and domestic transport; because the disputed item is a ticket cancellation penalty and is not related to the supply concerning the ticket itself, as it is compensation imposed as a result of damage or loss and not a consideration for goods or services, and thus falls outside the scope of Value Added Tax. Furthermore, the taxpayer exercised due diligence by communicating with the Authority, which is the legislative body, and it responded to the taxpayer's inquiry in the email attached in the case file confirming the non-applicability of the tax (outside the scope of Value Added Tax); therefore, the Circuit



concludes to accept the appeal, annul the Resolution Circuit's decision, and annul the Zakat, Tax and Customs Authority's decision.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision rejecting its lawsuit concerning the zero-rated sales item related to the (...) fleet unit concerning the operation and maintenance services of international flights. And whereas it objects to the Resolution Circuit's decision on the grounds that they are sales subject to tax at the zero rate as they relate to international flight services for (...) aircraft, and the fees for (...) aircraft remaining in international airports were incorrectly disclosed within the disputed item; as they represent transactions outside the scope of Value Added Tax. The Appellant argues the validity of the documents it submitted, which were extracted from accounting systems and based on contracts with its customers, clarifying that the flights pertaining to (...) are by their nature confidential flights not announced to the public. And whereas it is established that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and reached the conclusion stated in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires correction or commentary in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision; based on the foregoing, the Circuit concludes to reject the appeal and uphold the Resolution Circuit's decision regarding its outcome, based on its reasons.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision rejecting its lawsuit concerning the sales item for the (...) fleet unit related to adjustments for cancelled invoices reported within the sales item. And whereas it objects to the Resolution Circuit's decision and demands that, should the zero-rated sales related to the (...) fleet unit be reclassified to sales subject to tax at the standard rate, the adjustments listed on the 0% taxable sales be taken into consideration, as they aim to reduce sales and are part of the total value. Upon the Circuit's review of the case file and the defenses and documents contained therein; and based on Article (2) of the Implementing Regulations of the Value Added Tax Law which stipulated: "For the purposes of applying the Law and these Regulations, a Taxable Person in the Kingdom is a Person who conducts an independent Economic Activity for the purpose of generating income, and is registered for VAT purposes in the Kingdom or is required to be registered for VAT purposes therein in accordance with the Law and these Regulations."; and based on Article (14) of the same Regulations which stipulated: "Without prejudice to the provisions of Article Two of the Law, and for the purposes of applying the Agreement and the Law in the Kingdom, Tax shall be imposed on all Taxable Supplies of Goods and Services made by any Taxable Person in the Kingdom in the course of carrying on an Economic Activity, or received by any Taxable Person in the Kingdom in the course of carrying on an Economic Activity in cases where the Reverse Charge Mechanism applies, and on the import of Goods into the Kingdom."; and based on Paragraph (2) of Article (34) thereof which stipulated: "The international transport of passengers is zero-rated in accordance with the provisions of these Regulations, in the following cases: a) The transport is carried out by any Qualifying Means of Transport. b) The transport is carried out by scheduled passenger transport flights or by sea voyages conducted



according to a published timetable"; and based on Paragraph (3) of Article (34) thereof which stipulated: "Services directly or incidentally linked to a supply of international passenger transport are zero-rated, and these services include the following: a) Transport of passengers' luggage, including pets, bicycles, baby carriages, and excess baggage charges. b) Transport of vehicles and trailers belonging to passengers. c) Air passenger transport fees and additional air freight. d) Seat reservations. e) Fees for sleeping cabins and compartments."; and based on Paragraph (8) of Article (34) thereof which stipulated: "Qualifying Means of Transport means any vehicle, vessel, or aircraft designed to carry a minimum of ten (10) persons or designed to carry Goods on a commercial basis and its main purpose is to carry out international transport. Any means of transport that has been converted or used for recreational or private purposes shall not be considered a Qualifying Means of Transport"; and based on Paragraph (1) of Article (40) thereof which stipulated: "The value of a Taxable Supply shall be adjusted when related to a Taxable Person in the following cases: (a) The supply was cancelled or terminated after it occurred or was considered to have occurred, wholly or partially. (b) There is a material change or alteration in the nature of the supply resulting in a change in the due Tax. (c) The value of the supply was agreed upon in advance, then altered for any reason, including offering an additional discount after the completion of the sale. (d) Where Goods or Services, or any part thereof, are returned to the Supplier and the Supplier accepts their declaration." Upon reviewing the appealed decision, it becomes evident that the reasoning upon which the rejection of this item was based—relying on the lack of a response from the Authority and the lack of adjustments on the (Sales Adjustment) item—is unsound. Upon reviewing the submitted briefs, it becomes clear that the Appellant is requesting that the adjustments to sales pertaining to the (...) fleet be reclassified to sales subject to tax at the standard rate in the event that the imposition of the zero rate on sales pertaining to the (...) fleet is rejected. Upon reviewing the final assessment notice, it is evident that the Authority subjected the zero-rated sales for the (...) fleet unit to sales subject to tax at the standard rate without taking the associated adjustments into account. Whereas the Appellant submitted the credit notes related to the invoices by which the zero-rated sales for the (...) fleet were reduced through Credit Note No. (...) linked to Invoice No. (...) amounting to (14,432,838.75) Riyals; and whereas the Circuit concluded in the above item to subject the zero-rated sales for the (...) fleet unit to tax at the standard rate; this demonstrates the validity of the Appellant's claim to reclassify the adjustment amount subject of the appeal to the adjustments item on sales subject to tax at the standard rate. Consequently, the Circuit concludes to accept the appeal and annul the Zakat, Tax and Customs Authority's decision.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: Regarding the appeal of the Zakat, Tax and Customs Authority:

To accept the appeal procedurally.

On merits:



- 1- To reject the appeal of the Zakat, Tax and Customs Authority regarding the manpower (employees) supply services to (...) and uphold the Resolution Circuit's decision.

Second: Regarding the appeal of (...) (TIN ...):

To accept the appeal procedurally.

On merits:

- 1- To reject the appeal regarding the tickets sold in 2017 AD for scheduled flights in 2018 AD and 2019 AD and uphold the Resolution Circuit's decision.
- 2- To accept the appeal regarding the ticket cancellation penalties item, annul the Resolution Circuit's decision, and annul the Zakat, Tax and Customs Authority's decision.
- 3- To reject the appeal regarding the sales item for the (...) fleet unit concerning the operation and maintenance services of international flights and uphold the Resolution Circuit's decision.
- 4- To accept the appeal regarding the sales item for the (...) fleet unit related to adjustments for cancelled invoices reported within the sales item for an amount of (14,432,838.75) Riyals, and annul the Zakat, Tax, and Customs Authority's decision.

May the peace and blessings of Allah be upon our Prophet Muhammad, his family, and all his companions.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-240900

Case No. V-2024-240900

Principle No. 23

- A person shall be deemed subject to the provisions of the Value Added Tax (VAT) once they are obligated to register by statute, even if actual registration has not been proven, provided that the supplies have exceeded the mandatory registration threshold.

Principle No. 24

- A tenant's delay in paying rent shall not be considered a statutory ground to hold them liable for tax penalties resulting from the supplier's failure to remit the tax on time, due to the severance of the causal link between the delay and the penalty.

Facts



This is to consider the appeal submitted on 21/08/2024 AD by (...), National ID No. (...), Law Practice License No. (...), in his capacity as the agent for (...) under Power of Attorney No. (...) issued on 11/03/1445 AH, and in his capacity as the agent for (...) under Power of Attorney No. (...) issued on 02/03/1445 AH, against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-232887) in the lawsuit submitted by the Appellants against the Appellee.

Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision therein ruled as follows:

First: Procedurally:

- 1- Inadmissibility of considering the request for Value Added Tax on the rent value due on 31 January 2022 AD, corresponding to 28 Jumada Al-Thani 1443 AH, and the rental Value Added Tax installment due on 27 July 2022 AD, corresponding to 28 Dhu al-Hijjah 1443 AH, due to prior adjudication.
- 2- To accept the lawsuit procedurally for the remaining requests.



Second: On the Merits:

- 1- To Compel the Defendant, (...) Company, Commercial Registration (...), to pay to the Plaintiff, (...), National ID No. (...), an amount of (484,380.00) four hundred eighty-four thousand, three hundred eighty Riyals, as Value Added Tax due to the rent value according to the share of (...).
- 2- To Compel the Defendant, (...) Company, Commercial Registration (...), to pay to the Plaintiff, (...), National ID No. (...), an amount of (198,919.25) one hundred ninety-eight thousand, nine hundred nineteen Riyals and twenty-five Halalas, as Value Added Tax due on the rent value according to the share of (...).
- 3- To dismiss all other requests.

Whereas this decision was not accepted by the Appellants, they submitted to the Appeal Circuit an appeal brief containing their objection to the Resolution Circuit's decision regarding the partial acceptance of their claim for the Value Added Tax due on the rent subject of the lawsuit according to each of their shares, on the grounds that the entitlement to the full tax amount on the rent due to the Appellants has been established pursuant to the court judgment. Furthermore, the penalties resulted from the Appellee's procrastination in paying the rent, which satisfies the elements of entitlement to compensation; therefore, Appellee should be compelled to pay the penalties as compensation for the delay. The brief concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 23/11/1446 AH, corresponding to 21/05/2025 AD, at 01:55 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled for the partial acceptance of the Appellants' claim for the Value Added Tax due on the rent subject of the lawsuit according to each of their shares. Whereas the Appellants object to the Resolution Circuit's decision on the grounds that the entitlement to the full tax amount on the rent due to the Appellants has been established pursuant to the court judgment, and that the penalties resulted



from the Appellee's procrastination in paying the rent, which satisfies the elements of entitlement to compensation; therefore, the Appellee should be compelled to pay the penalties as compensation for the delay. Upon the Appeal Circuit's review of the case documents, and whereas the appeal was limited to the claim for the full tax amount and compelling the Appellee to pay the penalties as compensation for the delay in paying the rent; therefore, regarding the tax for the periods subject of the dispute, and after reviewing the case file and the documents contained therein, and what was stated in the appeal brief, it is established that the appeal is limited to the Appellants' request to compel the tenant to pay the tax due for the period from 2019 AD to 2021 AD pursuant to the judgment instrument issued by the Court of Appeal in Al-Madinah Al-Munawwarah No. (...), which was issued upholding the decision of the First-Instance Circuit providing for: "First: Compelling the Defendant to pay the Plaintiffs, equally between them, the rent of the property from 28/12/1440 AH until the rent due on 28/12/1442 AH in the amount of (9,930,000 Riyals), Second: Dismissing the request for tax on the aforementioned rent due to lack of the jurisdictional competence...", resulting from the leasing of the property on 25/03/1438 AH, corresponding to 24/12/2016 AD, under the contract concluded between them. Whereas the Circuit's decision to compel the Appellee to pay the tax amount to the Appellants in unequal amounts is based on the premise that (...) was not registered with the Authority during some of the periods subject of the claim, and therefore their eligibility to claim the tax amount for those periods lapses. Whereas Article (Two) of the Implementing Regulations of the Value Added Tax Law issued by the Board of Directors of the General Authority of Zakat and Tax Decision No. (3839) dated 14/12/1438 AH stipulated: "For the purposes of applying the Law and these Regulations, a Taxable Person in the Kingdom is a Person who conducts an independent Economic Activity for the purpose of generating income, and is registered for VAT purposes in the Kingdom or is deemed required to be registered for VAT purposes therein in accordance with the Law and these Regulations." Furthermore, the general principle is that the burden of paying the tax as an indirect tax on the goods and services received is borne by the customer or buyer (the recipient of the goods and services), except for what is excluded by a special provision from paying the tax on the goods and services received in accordance with certain cases stated in Article (Thirty) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf. The obligation to remit and pay the tax collected from the customer or buyer (the recipient of goods and services) to the competent tax authority falls upon the Supplier (the seller of goods and services) in accordance with the provisions of Paragraphs (1) and (2) of Article (Forty) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf. Accordingly, the tax accrual is based on the date of supply, the date of issuance of the invoice, or the payment of part of the price, whichever is earlier, regarding a non-continuous supply in accordance with Paragraph (1) of Article (Twenty-Three) of the same Agreement. According to this, for the tax due on the rent pursuant to the judgment instrument issued by the Court of Appeal in Al-Madinah Al-Munawwarah from 28/12/1440 AH, corresponding to 29/08/2019 AD, until the rent due on 28/12/1442 AH, corresponding to 07/08/2021 AD, the Appellants were deemed subject to the provisions of Value Added Tax at that time and were required to register in accordance with the provisions of Article (One) of the same Agreement and Article (Two) of the Implementing Regulations of the Value Added Tax Law, and the provisions of the Agreement, Law, and Regulations apply to them, considering that the value of the supply exceeds the mandatory registration threshold



stipulated in the Agreement, which permits them to claim the tax due on the aforementioned property rent from the Appellee (the tenant), especially since they have provided proof of their tax remittance. Whereas the period subject of the dispute falls within the scope of application of the Value Added Tax rate before the amendment and the Value Added Tax rate after the amendment (the amended rate), the Value Added Tax was calculated over periods according to the change in the tax rate, by applying the two rates (the basic tax rate before the amendment and the amended tax rate) to the periods of the lease term, as it is considered a continuous contract according to what was stipulated in Paragraph (10/c) of Article (79) of the Implementing Regulations of the Value Added Tax Law: "A Supplier may treat any supply of taxable Goods or Services related to a contract concluded before 11 May 2020 AD as a supply subject to the basic tax rate before the amendment for all supplies made under that contract until the date of expiry of the contract or its renewal or 30 June 2021 AD, whichever is earlier, provided that both the Supplier and the Customer are registered as Taxable Persons in the tax system and the Customer has the right to fully deduct input tax regarding the supply of Goods or Services supplied under the contract." Upon reviewing the basis of the rent entitlement that resulted in the claim subject of the lawsuit, the installment due on 28/12/1439 AH, corresponding to 08/09/2018 AD, was based on the preliminary judgment No. (...) endorsed by the Court of Appeal in Al-Madinah Al-Munawwarah by its decision No. (...), while the installments due from 28/12/1440 AH to 28/12/1442 AH were based on the judgment instrument No. (...) issued by the Court of Appeal in Al-Madinah Al-Munawwarah, which was issued upholding the preliminary Circuit's decision No. (...).

Consequently, the calculation is as follows:

Basis of Rent Entitlement	Due Date of Installment	Rent Amount	Value Added Tax (5%)
Preliminary Judgment No. (...) endorsed by the Court of Appeal No. (...)	28/12/1439 AH corresponding to 08/09/2018 AD	4,477,200 Riyals	223,860 Riyals
Judgment Instrument No. (...) issued by the Court of Appeal upholding preliminary judgment No. (...)	From 28/12/1440 AH corresponding to 29/08/2019 AD to 28/12/1441 AH corresponding to 18/08/2020 AD	4,965,000 Riyals	248,250 Riyals
	From 28/12/1441 AH corresponding to 18/08/2020 AD to	4,965,000 Riyals (One month's rent equals 413,750 Riyals) * 11	227,562.5 Riyals



	20/11/1442 AH corresponding to 30/06/2021 AD	months, of which subject to (5%) with total rent of (4,551,250 Riyals)	
	Value Added Tax at (15%)		
	28/12/1442 AH corresponding to 07/08/2021 AD	One month with rent amount (413,750 Riyals) subject to (15%)	62,062.5 Riyals
Total tax due for the above periods, including both rates			761,735 Riyals

Regarding the claim to compel the Appellee to pay penalties as compensation for the late in payment:

Whereas the principle requires that the Person responsible is obligated before the Authority to pay in accordance with what is stipulated in Paragraph (2) of Article Five of the Implementing Regulations of the Value Added Tax Law, it is not equitable to compel the Appellee to pay the penalties on the grounds that they are compensation for its delay in paying the rent and the tax resulting therefrom, due to the absence of a causal link between this delay and the damage; as the penalties accrued as a liability of the Appellants resulted from the failure to pay the tax to the Authority on its due date, and thus do not represent damage that occurred due to the delay in paying the rent, but rather a failure by them to perform their obligation, considering that the payment of the penalty is part of their responsibility as they are the (Person responsible) obligated to remit the tax to the Authority. This proves the validity of what the decision subject of the appeal concluded regarding this item.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by (...), National ID No. (...), and (...), National ID No. (...), procedurally.

Second: On the Merits: To uphold the decision of the Resolution Circuit with an amendment to the operative part of the decision in Item (Second/ Paragraph 1 and Paragraph 2) to become as follows: "Compelling (...) Company, Commercial Registration No. (...), to pay to (...), Civil Registry No. (...), an amount of (380,867.50) three hundred eighty thousand, eight hundred sixty-seven Riyals and fifty Halalas, and to pay to (...), Civil Registry No. (...), an amount of (380,867.50) three hundred eighty thousand, eight hundred sixty-seven Riyals and fifty Halalas."



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-241300

Case No. V-2024-241300

Principle No. 25

- The association of an activity with charitable works or programs shall not preclude it from being considered an economic activity subject to Value Added Tax, provided that financial consideration for the supplies subject of the activity is established.

Facts



This is to consider the appeal submitted on 28/08/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-234240) in the lawsuit submitted by the Appellee against the Appellant.

Whereas the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision therein ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To annul the Defendant's decision regarding the item of sales subject to tax at the basic rate for the period of the third quarter of 2018 AD and the penalties resulting therefrom.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision to annul its decision regarding the item of sales subject to tax at the basic rate for the period of the third quarter of 2018 AD and the penalties resulting therefrom. This is on the grounds that the Commercial Registration proves that the Appellee engages in an activity subject to Value Added Tax, and that it is a limited liability company, not a charitable foundation or association, and that the activity it practices (providing domestic pilgrims' services) stipulates a profit and loss policy; therefore, it practices commercial work that is deemed an economic activity, based on the fact that the Appellee is an establishment incorporated under the Companies Law and holds a Commercial Registration, and is thus considered a merchant under the Law, and its supplies are subject to the Value Added Tax Law. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.



On Monday, 03/09/1446 AH, corresponding to 03/03/2025 AD, at 01:04 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to postpone the consideration of the lawsuit to a session to be scheduled later. The session was adjourned at 01:19 PM.

On Sunday, 15/10/1446 AH, corresponding to 13/04/2025 AD, at 03:16 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to annul the Appellant's decision regarding the item of sales subject to tax at the basic rate for the period of the third quarter of 2018 AD and the penalties resulting therefrom. Whereas the Appellant objects to the Resolution Circuit's decision on the grounds that the Commercial Registration proves that the Appellee engages in an activity subject to Value Added Tax, and that it is a limited liability company, not a charitable foundation or association, and that the activity it practices (providing domestic pilgrims' services) stipulates a profit and loss policy; therefore, it practices commercial work that is deemed an economic activity, based on the fact that the Appellee is an establishment incorporated under the Companies Law and holds a Commercial Registration, and is thus considered a merchant under the Law, and its supplies are subject to the Value Added Tax Law. Upon the Appeal Circuit's review of the case documents, according to Commercial Registration No. (...) issued by the Ministry of Commerce and Investment on 14/11/1438 AH, the company's activity consists of providing domestic pilgrims' services, and it is a company licensed by the Ministry of Hajj and Umrah under License No. (...), wherein the company (the Appellee) registers qualified pilgrims on the Ministry of Hajj and Umrah's website, and company (...), in its capacity as the fund for the charitable (...) campaign



(on behalf of (...) Endowments and (...) Charitable Endowments), pays the fees imposed by the Ministry of Hajj. Subsequently, the Ministry of Hajj deducts a specific amount in exchange for the expenses incurred by the Ministry from those fees and declarations the remaining amount to the Appellee company, which in turn uses it for the pilgrims' expenses. The Appellant's action was based on the existence of a service supply event. Whereas the Authority submitted the financial report of company (...) under License No. (...) which clarifies the details of the financial entitlement for the reservation operations in the electronic track for domestic pilgrims for the Hajj season of 1440 AH, indicating that the revenues are inclusive of Value Added Tax; this brings the Appeal Circuit to the conclusion of accepting the submitted appeal. Regarding the error in declaration penalty and the late payment penalty, and the Appellant's claim to annul the decision issued to annul those penalties which resulted from the final assessment notice for the tax period subject of the dispute; whereas the above item has led to the acceptance of the appeal, and since the penalties resulted therefrom, the accessory follows the principal, which leads the Appeal Circuit to the conclusion of accepting the appeal regarding the penalties subject of the appeal.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by the Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits:

- 1- To accept the appeal regarding the item of domestic sales subject to tax at the basic rate, annul the Resolution Circuit's decision, and uphold the Appellant's decision.
- 2- To accept the appeal regarding the error in the declaration penalty item, annul the Resolution Circuit's decision, and uphold the Appellant's decision.
- 3- To accept the appeal regarding the late payment penalty item, annul the Resolution Circuit's decision, and uphold the Appellant's decision.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-141

Case No.

V-2024-246320

Principle No. 26

- Internal entries between departments or branches of a taxpayer shall not be deemed a supply subject to Value Added Tax, provided it is established that they do not represent a consideration for the supply of goods or services to third parties.

Facts

This is to consider the appeal submitted on 22/11/2024 AD by (...), National ID No. (...), in his capacity as the owner of (...) Establishment, under Commercial Registration No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-234241) in the lawsuit submitted by the Appellant against the Appellee. Since the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition.

Whereas the Resolution Circuit's decision No. (VJ-2023-98025) dated 04/04/2023 AD ruled as follows:

First: To dismiss the Plaintiff's lawsuit regarding the item of domestic sales subject to tax at the basic rate for the tax period subject of the lawsuit, due to the proven validity of the Defendant's decision.

Second: To dismiss the Plaintiff's lawsuit regarding the objection to the error in declaration penalty for the tax period subject of the lawsuit, due to the proven validity of the Defendant's decision.

Third: To dismiss the Plaintiff's lawsuit regarding the objection to the late payment penalty for the tax period subject of the lawsuit, due to the proven validity of the Defendant's decision.

Then, the Appeal Circuit's decision No. (VA-2024-192484) dated 27/03/2024 AD ruled as follows:

First: To accept the appeal submitted by (...) - National ID No. (...), procedurally, as it was submitted within the statutorily prescribed period.

Second: On the Merits: To annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (V-2023-98025) and to remand the lawsuit back to it for consideration in accordance with the reasons clarified.

Thereafter, the Resolution Circuit's decision No. (VJ-2024-234241) dated 23/06/2024 AD ruled as follows:



First: To accept the lawsuit procedurally.

Second: On the Merits:

- 1- To dismiss the Plaintiff's lawsuit regarding the final assessment notice for the tax period of December 2020 AD, as a result of subjecting an amount of (2,126,312.00) Riyals to the item of sales subject to tax at the basic rate and a tax amounting to (318,946.80) Riyals.
- 2- To dismiss the Plaintiff's lawsuit regarding the error in declaration penalty resulting from the final assessment notice for the tax period of December 2020 AD, amounting to (159,473.40) Riyals.
- 3- To dismiss the Plaintiff's lawsuit regarding the late payment penalty resulting from the final assessment notice for the tax period of December 2020 AD.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision dismissing its lawsuit regarding its objection to the final assessment for the tax period of December 2020 AD and the resulting penalties, on the grounds that the item of domestic sales subject to tax at the basic rate in the amount of (2,126,312) Riyals, which is the subject of the objection, consists of two parts (an advance payment of 1,520,000 Riyals and internal entries of 1,018,244.75 Riyals). Regarding the advance payment amount, he received it from (...) Establishment and did not issue a sales invoice against this amount, and this amount is merely an advance payment and a loan between (...) Establishment and (...) Trading, supported by official documents between the two parties, indicating that this amount is not for the purposes of an economic activity but rather a loan amount to facilitate the affairs of (...) Establishment. As for adding the amount of (1,018,244.75) Riyals, it represents internal entries, as the establishment follows an accounting policy to control costs according to production orders by charging each internal department with revenues specific to the production order and charging the other internal department with the costs and expenses of this production order. Furthermore, these expenses and revenues within the company's departments are contra accounts recorded in revenues and at the same time recorded in expenses, as each department is selling production and operating services to the other department. It is more correct that at the end of each year, these internal accounts are closed against each other so that they do not appear in the balance sheet and financial statements, especially in companies that external users benefit from. However, in the case of the Appellant, (...) Establishment is a sole proprietorship, and the purpose of the statements is Sharia Zakat. He confirms that due to the accountant's error in closing and placing the entries correctly, it led to their appearance in the financial statements, as clarified in the certified public accountant's letter. Moreover, the Authority neglected the provision of Article (18) of the Implementing Regulations of the Value Added Tax Law: "Without prejudice to Article Sixteen of these Regulations, with the exception of nominal supplies, goods and services supplied by a legal person to himself shall be considered outside the scope of Value Added Tax". It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Sunday, 06/11/1446 AH, corresponding to 04/05/2025 AD, at 03:12 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are



recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to dismiss the Appellant's lawsuit regarding its objection to the final assessment for the tax period of December 2020 AD and the penalties resulting therefrom, and regarding the item of domestic sales subject to tax at the basic rate. Whereas the Appellant objects to the Resolution Circuit's decision on the grounds that the item of domestic sales subject to tax at the basic rate in the amount of (2,126,312) Riyals, which is the subject of the objection, consists of two parts (an advance payment of 1,520,000 Riyals and internal entries of 1,018,244.75 Riyals). Regarding the advance payment amount, he received it from (...) Establishment and did not issue a sales invoice against this amount, and this amount is merely an advance payment and a loan between (...) Establishment and (...) Establishment, supported by official documents between the two parties indicating that this amount is not for the purposes of an economic activity but rather a loan amount to facilitate the affairs of (...) Establishment. After reviewing the case file and the defenses contained therein, it became clear that the Authority added the disputed amount to the item of domestic sales subject to tax at the basic rate, which is part of the advance payment amount of (1,520,000) Riyals. Whereas the Appellant submitted the statement of account for customer (...) from the date of 01/11/2020 AD until 31/08/2021 AD, which reveals the appearance of a bank transfer from Bank (...) on 12/12/2020 AD in the amount of (1,000,000) Riyals "payment from account as loan", credit, and on the same date, a cash receipt of (520,000) Riyals "payment from account as loan", credit, which the Appellant paid in installments on 14/03/2021 AD in the amount of (500,000) Riyals via bank transfer from Bank (...) "receipt ... loan", debit, and on 17/03/2021 AD in the amount of (500,000) Riyals via bank transfer from Bank (...) "receipt ... loan", debit, and on 11/04/2021 AD in the amount of (520,000) Riyals in cash by receipt voucher No. (586) from (...). By referring to the documents submitted in the case file, it is evident that the Authority subjected the amount of (1,111,690) Riyals to tax as it appears in the audited financial statements of (...) Establishment under Note No. (8) for the item 'accrued expenses and credit balances' as advances from customers, which contradicts the Appellant's defense that the amount is an advance payment, bringing the Circuit to the conclusion of dismissing the appeal regarding this item.



As for adding the amount of (1,018,244.75) Riyals, whereas the Appellant objects to adding this amount because it represents internal entries, and that the establishment follows an accounting policy to control costs according to production orders by charging each internal department with revenues specific to the production order and charging the other internal department with the costs and expenses of this production order. Furthermore, these expenses and revenues within the company's departments are contra accounts recorded in revenues and at the same time recorded in expenses, as if each department is selling production and operating services to the other department. It is more correct that at the end of each year, these internal accounts are closed against each other so that they do not appear in the balance sheet and financial statements, especially in companies that external users benefit from. However, in the case of the Appellant, (...) Establishment is a sole proprietorship and the purpose of the statements is Sharia Zakat. He confirms that due to the accountant's error in closing and placing the entries correctly, it led to their appearance in the financial statements, as clarified in the certified public accountant's letter. Moreover, the Authority neglected the provision of Article (18) of the Implementing Regulations of the Value Added Tax Law: "Without prejudice to Article Sixteen of these Regulations, with the exception of nominal supplies, goods and services supplied by a legal person to himself shall be considered outside the scope of Value Added Tax". After reviewing the case file and the defenses contained therein, it became clear that the Authority subjected an amount representing internal entries between the establishment's departments to a production line account, offset by a cost to another account, which was supposed to be settled and reversed in the cost account at the end of the period. Whereas the Appellant submitted a certificate from a certified public accountant stating that the disputed amount represents internal sales between the factory's departments, specifically pertaining to (factory tube manufacturing wages), and that these sales should have been settled and reversed with the cost account by the establishment's management. Regarding the Circuit's reliance in its decision on the discrepancy between the Tax Identification Number appearing on the invoice as (...), which is the Tax Identification Number belonging to (...) Company, and the Appellant's Tax Identification Number; and by referring to the audited financial statements, it is evident that (...) Factory is a branch of the Appellant ((...) - sole proprietorship). Therefore, according to the text of Article (18) Paragraph (1): "Without prejudice to Article Sixteen of these Regulations, with the exception of nominal supplies, goods and services supplied by a legal person to himself shall be considered outside the scope of Tax". Also, the Authority did not address this matter, and its procedure was based solely on internal entries. Whereas the Authority pointed out in its response memorandum that there was an error in determining the disputed amount regarding this item in the Resolution Circuit's decision, by referring to the submitted assessment notice, it has been established to the Circuit that the Authority's defense is valid, that the disputed amount is (1,014,622) Riyals instead of (1,018,245) Riyals. This brings the Circuit to the conclusion of accepting the appeal regarding this item.

Regarding the error in declaration penalty and the late payment penalty, and the Appellant's claim to annul those penalties resulting from the final assessment notice for the tax period subject of the dispute; whereas the item of sales subject to tax at the basic rate has led to the partial acceptance of the appeal, and since the penalties resulted therefrom, the accessory follows the principal, which leads the Appeal Circuit to the conclusion of partially accepting the appeal regarding the penalties subject of the appeal in accordance with what was stated above.



For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally.

Second: On the Merits:

- 1- To partially accept the item of domestic sales subject to tax at the basic rate in the amount of (1,014,622) one million, fourteen thousand, six hundred twenty-two Riyals, and dismissing the amount of (1,111,690) one million, one hundred eleven thousand, six hundred ninety Riyals, and amending the Resolution Circuit's decision accordingly.
- 2- To partially accept the appeal related to the "error in declaration penalty" item, and amend the Resolution Circuit's decision in accordance with what is stated in (Second/1) above.
- 3- To partially accept the appeal related to the "late payment penalty" item, and amend the Resolution Circuit's decision in accordance with what is stated in (Second/1) above.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-241318
Case No. V-2024-241318

Principle No. 27

- The determining factor for subjection to Value Added Tax is the existence of the statutory obligation to register and its effective date, not the date of actual registration. A person is considered subject to the tax provisions provided they are obligated to register, even if they are not actually registered.

Principle No. 28

- The supplier's right to claim Value Added Tax from the service recipient does not lapse merely due to their actual non-registration at the time of supply, provided they were statutorily obligated to register and subject to the tax provisions.

Facts



This is to consider the appeal submitted on 28/08/2024 AD by (...) (National ID No. ...) in his capacity as the agent for the Appellant / (...) (National ID No. ...) under power of attorney No. (...) dated 20/08/2024 AD and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam City No. (VD-2024-233106) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision therein ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To obligate the Defendant (...) National ID No. (...) to pay the Plaintiff (...), National ID No. (...), an amount of (450,000) four hundred fifty thousand Riyals representing the tax due on the lease agreement for the years 2022 AD and 2023 AD, and dismissing all other requests.

Whereas this decision was not accepted by the Appellant, he submitted to the Appeal Circuit an appeal brief containing his objection to the Resolution Circuit's decision to dismiss his request regarding obligating the Appellee to pay the Value Added Tax due on the lease agreement for the years from 2019 AD to 2021 AD. This objection is



based on the grounds that the Resolution Circuit's decision was built upon the registration date recorded in the registration certificate, and consequently did not accept the Plaintiff's request to obligate the Defendant to pay the rental value tax for the years 2019 AD to 2021 AD. The Appellant requests obligating the Appellee to pay the tax for that period (from 2019 AD – 2021 AD) because the supply is subject to the provisions of the Value Added Tax, given that the Appellant was obligated to register even if he was not actually registered. Furthermore, the determining factor in the matter of subjection is the effective date of registration, not the date of registration. He concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Monday, 03/09/1446 AH, corresponding to 03/03/2025 AD, at 01:27 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article Fifteen of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: Upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to obligate the Appellee to pay the Appellant an amount of (450,000) Riyals representing the tax due on the lease agreement for the years 2022 AD and 2023 AD, and to dismiss all other requests. Whereas the Appellant objects to the Resolution Circuit's decision because the decision was built upon the registration date recorded in the registration certificate, and requests obligating the Appellee to pay the tax for that period (from 2019 AD - 2021 AD) since the supply is subject to the Value Added Tax provisions, given that the Appellant was obligated to register even if not registered, and that the determining factor in subjection is the effective date of registration and not the date of registration itself. Upon the Appeal Circuit's review of the case file, it is established that the subject of the appeal lies in the Appellant's request to obligate the Appellee (the tenant) to pay the tax due for the period from 2019 AD - 2021 AD, resulting from



renting the property on 07/12/2019 AD under the contract concluded between them. The Circuit's decision to dismiss the Plaintiff's request for those years and accept the remaining years was based on the fact that the Plaintiff was not registered with the Authority at the time the lease agreement was concluded, and therefore his right to claim the tax amount for those years lapses. Whereas Article (Two) of the Implementing Regulations of the Value Added Tax Law issued by the Board of Directors of the General Authority of Zakat and Tax Resolution No. (3839) dated 14/12/1438 AH stipulates that: "For the purposes of implementing the Law and these Regulations, a Taxable Person in the Kingdom is a Person who conducts an independent Economic Activity for the purpose of generating income, and who is registered for Value Added Tax purposes in the Kingdom or who is considered obligated to register for Value Added Tax purposes therein in accordance with the Law and these Regulations." Furthermore, the fundamental principle regarding bearing the burden of paying the tax, as an indirect tax on the goods and services received, falls on the customer or the buyer (the recipient of goods and services), except for what is specifically exempted from paying the tax on received goods and services under certain cases mentioned in Article (Thirty) of the GCC Unified VAT Agreement. Additionally, the obligation to supply and pay the tax collected from the customer or buyer (recipient of goods and services) to the competent tax authority falls on the supplier (the seller of goods and services) according to the provisions of Paragraphs (1) and (2) of Article (Forty) of the GCC Unified VAT Agreement. Whereas the tax entitlement is determined by the date of supply, the issuance of the invoice, or the payment of part of the consideration, whichever is earlier, for non-continuous supplies in accordance with Paragraph (1) of Article (Twenty-Three) of the Agreement, therefore, the tax became due on the date the lease agreement was concluded on 07/12/2019 AD. At that time, the Appellant was considered subject to the provisions of the Value Added Tax and was obligated to register in accordance with the provisions of Article (One) of the Unified VAT Agreement and Article (Two) of the Implementing Regulations of the Value Added Tax Law. The provisions of the Agreement, the Law, and the Regulations apply to him, considering that the value of the supply exceeds the mandatory registration threshold stipulated in the Agreement. This entitles him to claim the due tax on the lease of the aforementioned property from the Appellee (the buyer), especially since he submitted proof of supplying the tax and that the effective date of his registration was 01/01/2019 AD as stated in the Value Added Tax registration certificate. Whereas the disputed period falls within the scope of applying the VAT rate both before and after its amendment; the Value Added Tax was calculated over periods according to the change in the tax rate. Both rates were applied to the lease period as it is considered a continuous contract, as stipulated in Paragraph (10/C) of Article (79) of the Implementing Regulations of the Value Added Tax Law: "The Supplier may treat any Taxable Supply of Goods or Services relating to a contract concluded before May 11, 2020, as a Supply subject to the standard Tax rate prior to amendment, in respect of all Supplies made under that contract until the contract expires, is renewed, or



June 30, 2021 is reached, whichever is earlier. This is provided that both the Supplier and the Customer are registered as Taxable Persons under the Tax Law, and that the Customer is entitled to deduct Input Tax in full in relation to the supply of Goods or Services supplied under the contract." This is calculated as follows:

Value Added Tax at the rate of (5%) on: The lease payment due on 01/07/1440 AH corresponding to 08/03/2019 AD in the amount of (85,000) Riyals.

Value Added Tax at the rate of (5%) on: The lease payment due on 01/07/1441 AH corresponding to 25/02/2020 AD in the amount of (85,000) Riyals.

Value Added Tax at the rate of (15%) on: The lease payment due on 01/07/1442 AH corresponding to 13/02/2021 AD in the amount of (255,000) Riyals.

The total for the periods = (425,000) Riyals. This brings the Appeal Circuit to the conclusion of upholding the Resolution Circuit's decision.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / (...) (National ID No. ...), procedurally.

Second: On the Merits:

- 1- To uphold the Resolution Circuit's decision to obligate the Defendant (...), National ID No. (...), to pay the Plaintiff (...), National ID No. (...), an amount of (450,000) four hundred fifty thousand Riyals representing the tax due on the lease agreement for the years (2022 AD and 2023 AD).
- 2- To annul the Resolution Circuit's decision dismissing the remainder of the Plaintiff's requests, and ruling to obligate the Appellee / (...), National ID No. (...), to pay the Appellant / (...), National ID No. (...) an amount of (425,000) four hundred twenty-five thousand Riyals representing the Value Added Tax for the lease periods from (2019 AD to 2021 AD).

May Allah's peace and blessings be upon our Prophet Muhammad, his family, and all his companions



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-242129
Case No. V-2024-242129

Principle No. 29

- The determining factor in characterizing a supply as continuous is its repetition or periodic continuation over a specific period of time, not the multiplicity of its execution stages or the fragmentation of its invoicing.

Facts

This is to consider the appeal submitted on 11/09/2024 AD by (...), (...) nationality (Resident ID No. ...) in his capacity as the legal representative of the Appellant company under the articles of association, against the decision of the Second Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VSR-2024-233250) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision therein ruled as follows:

First: To accept the lawsuit procedurally.

Second: To dismiss the lawsuit on merits.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision dismissing its lawsuit regarding its objection to the reassessment decision for the tax period of December 2021 AD and the resulting penalties. This is on the grounds that unbilled revenues are not continuous supplies and the provisions of Article (20) of the Regulations cannot be applied to them, especially since the accounting operations that the Appellee considered as continuous supplies are fundamentally not actual supplies made by the Appellant; rather, they are merely accounting entry operations recorded for the purposes of complying with accounting principles and standards which mandate establishments to match revenues with expenses. Furthermore, continuous supplies, according to the Appellee's definition issued under the Guideline for amending the basic Value Added Tax rate to 15%, are the supply of goods or services on a continuous basis over a specific period, which may include providing specific goods or services on a specific date, while the customer benefits from those goods and services over several stages and periods. A continuous supply can also be a long-term service performance contract over specific time stages, and the Appellee specifically determined the application of the continuous supply concept to the supply of water and energy of all kinds. The continuous supply of goods does not apply to the supply of goods where possession transfers from the supplier to the customer,



such as physical assets and properties. Therefore, the supplies that the Appellant provides to its customers through the exercise of its economic activities are not continuous supplies according to the aforementioned definition issued by the Appellee. The Appellant supplies, installs, operates, and tests the readiness of security devices and systems; consequently, the beneficiary of those supplies cannot benefit from them during the supply stages, neither partially nor completely, but rather they are benefited from only upon the completion of the supply. Additionally, the Appellant's supplies are not carried out in periodic and regular time stages and periods, and they are not repetitive and renewable, which negates the continuous nature of those supplies. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 12/09/1446 AH, corresponding to 12/03/2025 AD, at 01:04 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded above, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to dismiss the Appellant's lawsuit regarding its objection to the reassessment decision for the tax period of December 2021 AD and the penalties resulting therefrom. Whereas the Appellant objects to the Resolution Circuit's decision because unbilled revenues are not continuous supplies and the provisions of Article (20) of the Regulations cannot be applied to them, especially since the accounting operations that the Appellee considered as continuous supplies are fundamentally not actual supplies made by the Appellant; rather, they are merely accounting entry operations recorded for the purposes of complying with accounting principles and standards which mandate establishments to match revenues with expenses, and that the Appellant's supplies are not carried out in periodic and regular time stages and periods, and they are not repetitive and renewable, which negates the continuous nature of those supplies. Accordingly, it is clear to the Circuit that the Appellant, according to its statement of claim, requests the annulment of the Appellee's decision imposing a tax difference of (163,372.96) Riyals, an error in declaration penalty of (40,843.24) Riyals, and a late payment penalty of (163,372.98) Riyals, for a total amount of (367,589.18) Riyals:



Regarding the appeal on the item of (domestic sales subject to tax at the basic rate of 15%); based on Paragraph (1) of Article (23) of the Unified VAT Agreement for the States of the Gulf Cooperation Council, which states: "Tax becomes due on the date of the supply of Goods or Services, the date of issuance of the Tax Invoice or upon partial or full receipt of the Consideration and to the extent of the received amount, whichever comes first"; and based on Paragraph (3) of Article (23) of the same Agreement, which states: "As an exception to the provisions of paragraphs 1 and 2 of this Article, Tax becomes due in respect of supplies of a successive nature which lead to the successive issuance of invoices or consecutive payments, on the payment date specified in the invoice or the date of actual payment, whichever comes first, and at least once in every consecutive twelve (12) month period"; and based on Paragraph (1) of Article (20) of the Implementing Regulations of the Value Added Tax Law prior to amendment, which states: "In cases where Services are supplied on a successive basis and the contract or agreement relating to the Supply provides for payments to be made in specified installments on specified dates, which lead to the successive issuance of invoices, the date of Supply is considered to have occurred and Tax is due on the date the installment payment is due, the date of actual payment, or the date the invoice is issued, whichever comes first, and at least once in every consecutive twelve (12) month period"; and based on Paragraph (2) of Article (20) of the Implementing Regulations of the Value Added Tax Law prior to amendment, which states: "In all other cases where Supplies of Goods or Services are made on a continuous basis, this is considered a separate Supply on the date the invoice is issued or the date of payment, whichever comes first, to the extent of the invoice or payment amount"; and based on Paragraph (3) of Article (20) of the same Regulations, which states: "If no payment is received or no invoice is issued in respect of continuous Supplies of Goods or Services made by a Taxable Person, the Supply is considered to have occurred on the date falling twelve months after the later of the following two dates: a) the date the Supply of Goods or Services commenced. b) the previous date on which a Supply occurred by virtue of issuing an invoice or making a payment." Whereas the nature of the Appellant's activity is based on supplying goods and services to customers, and these supplies are based on three independent and separate steps in terms of supply and performance: the first step is the supply of goods, the second step is the installation of the supplied goods for the customer, and the third step is conducting tests, inspection, and evaluation of the installations. It is evident from the appeal brief that the Appellant adopts the following accounting and tax procedures:

1. Upon concluding an agreement for the supply of goods and services with customers and the advance payment becoming due under the agreement or contract, the advance payment value is recognized and recorded inclusive of Value Added Tax and disclosed in the declarations.
2. Upon the full or partial supply and installation of goods, and the customer's receipt of the goods and approval of the installations or part thereof, a primary invoice is issued to the customer for the supplies of goods and services for the value of the actual supplies provided; however, to charge the full value of the supplies of goods and services and for Value Added Tax purposes, an invoice is issued for the full value of the supplies minus the value of the unsupplied goods and services, so that the invoice reflects the net value of the goods and services that were supplied to the customer and came under their control. Accordingly, the accounting treatment for the invoice is to record the value



of the unsupplied goods and services in an intermediary account named "Unbilled Revenues" until they are supplied, and for tax purposes, the actual supplies are recognized under the invoice issued to customers within the Value Added Tax declaration.

3. Upon supplying the services or providing the goods that were not previously supplied under the primary invoice, the Appellant issues an invoice to the customers including those supplies as they have become actual supplies and are due, and the accounting treatment is to deduct them from the intermediary account "Unbilled Revenues" and they are recognized for tax purposes within the declarations. After reviewing the appealed decision and the documents submitted by both parties in the case file, it becomes clear that the dispute lies in whether the supplies made by the Appellant are considered continuous supplies or not, as the Appellant supplies the equipment first and issues the first invoice upon supplying the equipment, and a subsequent invoice upon the completion of installation, testing, and operation services, while the Authority considers the operation a single supply and therefore a continuous supply.

By examining the meaning of continuous supply; it is clear that the Appellee (the Authority) defined continuous supplies in its specific Guideline (for amending the basic Value Added Tax rate to 15%) as follows: "providing goods or services on a continuous basis over a specific period, which may include providing specific goods or services on a specific date, while the customer benefits from those goods or services over several stages and periods. A continuous supply can also be a long-term service performance contract over specific time stages." It is clear from the definition that a continuous supply is one that is carried out in a periodic and regular manner; such that the supply is executed repeatedly during a certain time period, for example, the supply of water and electricity. By reviewing the contracts submitted in the case file, it is evident from the contract concluded between (...) Company and the Appellant ((...) Company) that it stipulated: "The first party desires to assign the works of supply, installation, testing, and operation of data center systems," and by reviewing the contract for the project of completing the buildings and facilities works at (...) Establishment, (...) agreement contract, the service description is: "supply, installation, testing, delivery, and operation of the (...) system for the consultant and the owner in accordance with the project's plans and specifications, the consulting engineer's remarks, the operator's specifications and systems, and the quantities according to the supplier's offer." The contracts did not stipulate that the equipment and services be supplied on a periodic or repetitive basis, as the Appellant supplies the equipment and then provides the services, issuing a preliminary invoice upon supplying the equipment and issuing another invoice upon providing the installation and testing service. This is confirmed by the invoices submitted in the case file, which show that the Appellant supplies the good to the customer and then supplies the services related to the good (installation, operation, and testing), thus deducting the unperformed services from the invoice values to be paid after the completion of providing the services associated with the supply of goods. This proves that the supplies are not on a continuous basis, and consequently, the provisions of Article (20) of the Implementing Regulations of the Value Added Tax Law do not apply to the disputed supplies, making the tax due in accordance with the provisions of Paragraph (1) of Article (23) of the Unified VAT Agreement, i.e., on the date of supplying the good or service, the date



of issuing the invoice, or the date of partially or completely receiving the consideration to the extent of the received amount, whichever is earlier. This brings the Appeal Circuit to the conclusion of accepting the appeal regarding the item of domestic sales subject to tax at the rate of 15% and revoking the Resolution Circuit's decision.

Regarding the appeal on the item of (error in declaration fine); based on Paragraph (1) of Article (42) of the Value Added Tax Law, which states: "Anyone who submits a false tax declaration to the Authority, amends a tax declaration after submitting it, or submits any document to the Authority concerning the tax due from him, resulting in an error in calculating the tax amount less than what is due, shall be punished by a penalty equivalent to (50%) of the value of the difference between the calculated tax and the due tax." Whereas the Circuit concluded in the first item to accept the appeal regarding the item of domestic sales subject to tax at the rate of 15% and annul the Resolution Circuit's decision, and since the error in declaration penalty resulted from that, the accessory follows the principal, which leads the Appeal Circuit to the conclusion of accepting the appeal regarding the error in declaration penalty and revoking the Resolution Circuit's decision.

Regarding the appeal on the item of (late payment penalty); based on Paragraph (1) of Article (59) of the Implementing Regulations of the Value Added Tax Law, which states: "A Taxable Person must pay the Tax due from him for a Tax Period no later than the last day of the month following the end of that Tax Period"; and based on Article (43) of the Value Added Tax Law, which states: "Anyone who fails to pay the tax due during the period specified by the Regulations shall be punished by a fine equivalent to (5%) of the value of the unpaid tax, for each month or part thereof for which the tax was not paid." Whereas the Circuit concluded in the first item to accept the appeal regarding the item of domestic sales subject to tax at the rate of 15% and annul the Resolution Circuit's decision, and since the late payment penalty resulted from that, the accessory follows the principal, which leads the Appeal Circuit to the conclusion of accepting the appeal regarding the late payment penalty and revoking the Resolution Circuit's decision.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / (...) Company – Commercial Registration No. (...), procedurally.

Second: On the Merits:

- 1- To accept the appeal regarding the item of domestic sales subject to tax at the rate of 15%, annul the Resolution Circuit's decision, and annul the Authority's decision.
- 2- To accept the appeal regarding the error in declaration fine, annul the Resolution Circuit's decision, and annul the Authority's decision.
- 3- To accept the appeal regarding the late payment penalty, annul the Resolution Circuit's decision, and annul the Authority's decision.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-243657
Case No. V-2024-243657

Principle No. 30

- Value Added Tax (VAT) is not included within the value of a government contract merely due to a general provision in the Government Tenders and Procurement Law stating that the contract value includes fees and taxes, unless the contract under dispute and its documents explicitly state otherwise; as those fees and taxes refer to what the contractor bears, whereas the contractor is obligated to collect Value Added Tax and remit it to the Authority.

Facts

This is to consider the appeal submitted on 10/10/2024G by (...), National ID No. (...), in his capacity as the Manager of the Company and its legal representative under the Articles of Association No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-238903) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to prevent repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: To dismiss the Plaintiff's lawsuit regarding the item of claiming payment of the due tax in the amount of (17,505,963.32) Riyals.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision dismissing its lawsuit regarding its claim to oblige the Ministry of Environment, Water and Agriculture to pay the Value Added Tax in the amount of (17,505,963.32) Riyals resulting from supplies related to a public works contract No. (...). This is because the Resolution Circuit stated in its reasoning that the Appellant had submitted its bid after reviewing the contract conditions. The Appellant pointed out that the contract is based on the Government Tenders and Procurement Law issued in 1427H, and the bid did not include Value Added Tax. It added that the competition documents did not contain any reference to it, and no separate item was included for it, despite the Appellee subsequently updating the competition documents. The Appellant emphasized that the new law relied upon by the Circuit was not in force at the time of signing the contract, and that the Circuit concluded that the contract value includes all taxes based on Article (15) of the Terms and



Conditions Brochure and Article (65) of the new law; however, the Appellant responded to this by stating that Article (15) refers to taxes paid by the contractor, whereas Value Added Tax is collected and not paid, furthermore, Article (65) was issued within a subsequent law that was not in force at the time of concluding the contract. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 25/10/1446H, corresponding to 23/04/2025G, at 12:31 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445H. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to task the Secretariat with requesting the Appellant Company (...) to submit proof that it declared and paid the claimed Value Added Tax to the Zakat, Tax and Customs Authority, or that the latter demanded the Appellant to pay it, within one week from its date. The session was concluded at 02:20 PM.

On Tuesday, 22/11/1446H, corresponding to 20/05/2025G, at 03:08 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445H. Upon calling the parties to the lawsuit, there appeared (...), National ID No. (...) in his capacity as a proxy for the Appellant under Power of Attorney No. (...) issued on (16/02/1446H), and Advocacy License No. (...), and there appeared (...), National ID No. (...) in her capacity as a representative for the Appellee under Authorization No. (...) issued on (15/05/1446H). After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and upon questioning the Appellant's proxy regarding the appeal, he answered within the scope of what was previously mentioned in the appeal brief and adhered to its contents. Upon presenting the appeal to the Appellee's representative, she answered within the scope of what was previously mentioned in the defense memorandum and adhered to its contents. Upon being asked by the Circuit whether they wished to add anything, they decided to suffice with what was previously submitted. In this session, the Circuit asked the Appellant's representative for the details of calculating the claimed amount, proof of entitlement, and the correct tax rate applicable to it, whether it is 5% or 15%. He requested a grace period to provide full details. The Circuit also asked the Appellee's representative whether she accepted the application of a 5% rate to the contract and not 15% as requested by the Appellant. She answered that it was stated in the defense memorandum that the contract is inclusive of all costs, including Value Added Tax, and she requested a grace period to refer back to the financial department to verify this matter and declaration to the Circuit with the answer. Accordingly, the Circuit decided to grant both parties a maximum grace period of ten calendar days to submit what they have, and to postpone the hearing of the lawsuit to a session to be scheduled later. The session was concluded at 04:03 PM.



On Tuesday, 06/01/1447H, corresponding to 01/07/2025G, at 04:14 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445H. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the decision issued by the Resolution Circuit ruled to dismiss the Appellant's lawsuit regarding its claim to oblige the Ministry of Environment, Water and Agriculture to pay the Value Added Tax in the amount of (17,505,963.32) Riyals resulting from supplies related to a public works contract No. (...). Whereas the Appellant objects to the Resolution Circuit's decision because the Resolution Circuit stated in its reasoning that the Appellant had submitted its bid after reviewing the contract conditions, and the Appellant pointed out that the contract is based on the Government Tenders and Procurement Law issued in 1427 AH, and the bid did not include Value Added Tax, adding that the competition documents did not contain any reference to it, and no separate item was included for it despite the Appellee subsequently updating the competition documents, and the Appellant emphasized that the new law relied upon by the Circuit was not in force at the time of signing the contract, and that the Circuit concluded that the contract value includes all taxes based on Article (15) of the Terms and Conditions Brochure and Article (65) of the new law, whereas the Appellant responded to this by stating that Article (15) refers to taxes paid by the contractor, while Value Added Tax is collected and not paid, furthermore, Article (65) was issued within a subsequent law that was not in force at the time of concluding the contract.

Upon the Appeal Circuit's review of the appeal brief and what was submitted by the parties during the memorandum exchange stage, and of the appealed resolution decision and its underlying reasons; and whereas the dispute centers on the Value Added Tax resulting from a supply contract related to a public works contract concluded between the Appellant and the Appellee, whereby the Appellant requests to oblige the Appellee to pay the Value Added Tax amount; and since the general rule is that the burden of paying an indirect tax on received goods and services is borne by the customer, according to the definition stipulated in Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, which states: "Taxable Person: A person who conducts



an economic activity independently for the purpose of generating income, and who is registered or obligated to register for Tax purposes in accordance with the provisions of this Agreement." Except what is excluded by a special provision under certain cases mentioned in Article (30) of the Unified Value Added Tax Agreement, which states: "Exception from paying Tax in special cases: Each Member State may exempt the categories below from paying Tax upon receiving Goods and Services in that Member State, and each Member State may allow such persons to recover the Tax borne upon receiving Goods and Services, in accordance with the conditions and controls it determines. These categories include: - Government bodies specified by each State. - Charities and public utility institutions in accordance with what is specified by each State. - Companies exempted under agreements for hosting international events. - Citizens of the Member State when constructing their homes for private use. - Farmers and fishermen who are not registered for Tax." Upon contemplating the facts of the lawsuit, it was not proven that any of the exception cases apply to the Appellee (the Ministry of Environment, Water and Agriculture), as it is deemed obligated to pay the tax. As for the Minister of Finance's Circular No. (71664) dated 07/05/1439 AH, what is stated therein is the affirmation that the government entity bears the Value Added Tax unless the contractor or contracting party explicitly states that they bear it, and there is no truth to the Appellee's defense that the amount was inclusive of Value Added Tax since the contract did not stipulate so. Furthermore, regarding Article (42) of the Government Tenders and Procurement Law issued by Royal Decree No. M/58 dated 04/09/1427 AH (applicable at the time of concluding the contract), which stated: "The total value of the contract shall be inclusive and covering all costs of its execution in accordance with its terms, including the value of fees and taxes paid by the contractor. No exemption may be granted from them, nor may the profits of contractors with the government entity or the incomes of their employees be exempted from tax or paid on their behalf, except what is excluded by virtue of a special statutory provision." It is evident that it relates to fees and taxes that the contractor bears the payment of, whereas regarding Value Added Tax, the contractor must collect it and remit it to the Zakat, Tax and Customs Authority. Since it is established that the Appellee acknowledged in its letter dated 28/04/1442 AH that the contract concluded between the Appellant and the Appellee does not include Value Added Tax, and since it is also established that the National Water Company's letter dated 29/07/2021 AD confirmed the same substance and that the contract does not include Value Added Tax, according to their contents; therefore, the Appeal Circuit concludes to accept the appeal on the merits, annul the decision of the lower Circuit, and rule to oblige the Appellee / Ministry of Environment, Water and Agriculture to pay the Value Added Tax resulting from the contract subject matter of the lawsuit in the amount of (17,505,963.32) seventeen million x-hundred and five thousand nine hundred and sixty-three Riyals and thirty-two Halalas.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:



Decision

First: To accept the appeal submitted by / (...) Company – Commercial Registration No. (...), procedurally.

Second: To accept the appeal submitted by / (...) Company – Commercial Registration No. (...) on the merits, annul the decision of the Circuit, and ruling to oblige the Appellee / Ministry of Environment, Water and Agriculture to pay the Value Added Tax resulting from the contract subject matter of the lawsuit in the amount of (17,505,963.32) seventeen million five hundred and five thousand nine hundred and sixty-three Riyals and thirty-two Halalas.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-19

Case No.

V-2024-245963

Principle No. 31

- A taxable person's claim that point-of-sale sales belong to another establishment is insufficient to negate tax liability, unless they provide matching documents that enable linking the sales to the tax declarations, invoices, and bank statements of the other establishment.

Principle No. 32

- It is not sufficient to reject the deduction of input tax due to the deficiency of some invoice data or the existence of procedural errors issued by the supplier, provided that it is proven that the invoices were issued in the name of the taxable person, are related to their activity, and they were charged with the tax.

Facts



This is to consider the appeal submitted on 07/11/2024 AD by the Zakat, Tax and Customs Authority against the decision of the Third Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2024-235458) in the lawsuit submitted by (...) against the Zakat, Tax and Customs Authority.

Also, to consider the appeal submitted on 11/11/2024 AD by (...), National ID No. (...), against the decision of the Third Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VTR-2024-235458) in the lawsuit submitted by (...) against the Zakat, Tax and Customs Authority.

Whereas the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To amend the purchases item by adding an amount of (101,276) Riyals to the purchases item subject to tax at the basic rate for the tax period subject to the lawsuit.

Second: To amend the fines in accordance with what was stated in item First.

Third: To dismiss any other requests.

Whereas this decision was not accepted by the parties, the Appellant (Zakat, Tax and Customs Authority) submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision to amend its



procedure regarding the purchases item by adding an amount of (101,276) Riyals to the purchases item subject to tax at the basic rate for the tax period subject to the lawsuit. The Appellant argued that the case documents lacked the trial balance related to the (...) establishment, and that the submitted invoices were not sufficient to prove the Appellee's entitlement to the deduction; however, the appealed decision was content with the fact that the Appellee incurred the input tax related to those invoices. Furthermore, the invoices do not meet the requirements that must be met in a tax invoice, as it is impossible to verify that the deduction has not been repeated on the same invoice if reliance is placed solely on the mere incurring of the tax amount. Moreover, it must be verified that they belong to the Appellee, because the point-of-sale device of the (...) establishment was used by the (...) establishment; therefore, it cannot be said that all supplies made by the Appellee in the name of (...) actually belong to it. The appeal brief also included the Appellant's objection to the Resolution Circuit's decision to amend the error in declaration penalty and the late payment penalty in accordance with what was stated in the purchases item. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

The Appellant (...) also submitted to the Appeal Circuit an appeal brief containing his objection to the Resolution Circuit's decision to dismiss the Appellant's objection to the Appellee's (the Authority) procedure of subjecting sales with a value of (8,570,680.94) Riyals to tax at the basic rate (15%), as he did not provide proof of the validity of his claim. The Appellant argued that the differences resulting from point-of-sale records registered within the ... Bank belonging to the Appellant's (...) establishment (TIN (...)) relate to sales of the (...) establishment (TIN (...)), which is an establishment owned by the same taxable person, and due to the lack of a point-of-sale device, one of the devices owned by the (...) establishment was used. It was provided that the (...) establishment had supplied and declared those sales; therefore, the tax was imposed twice on the same sales, once at the establishment responsible for the sales (...) and again at (...). The appeal brief also included the Appellant's objection to the Resolution Circuit's decision dismissing his objection regarding the error in declaration penalty and the late payment penalty resulting from the sales item. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Tuesday, 01/11/1446 AH, corresponding to 29/04/2025 AD, at 01:57 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded above, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits: Upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties; regarding the appeal submitted by the (Zakat, Tax and Customs Authority) against the Resolution Circuit's decision to amend its procedure regarding the purchases item by adding an amount of (101,276) Riyals to the purchases item subject to tax at the basic rate for the tax period subject to the lawsuit, because the Resolution Circuit's decision was content with the Appellee incurring the input tax related to those invoices: Whereas Paragraph (1) of Article (48) of the Unified VAT Agreement for the States of the Gulf Cooperation Council stipulates: "For the purposes of exercising the right of deduction, the Taxable Person shall hold the following documents: a. The tax invoice obtained in application of the provisions of this Agreement...". Paragraph (2) of Article (48) of the Unified VAT Agreement for the States of the Gulf Cooperation Council also stipulates: "Each Member State may allow the Taxable Person to exercise the right of deduction in the event that the tax invoice is unavailable or does not meet the conditions stipulated in this Agreement, provided that the value of the due tax is proven by any other means." Paragraph (7) of Article (49) of the Implementing Regulations of the Value Added Tax Law stipulates: "Input tax may not be deducted unless the Taxable Person has evidence that the input tax amount paid or due for payment in accordance with what was specified by Article forty-eight of this Agreement. In cases where the Taxable Person does not possess the documents specified in the Agreement, he may claim the deduction when he is able to provide the following alternative evidence to the Authority: a. A simplified tax invoice issued correctly in accordance with these Regulations. c. Other commercial documents permitted at the discretion of the Authority, proving that the Taxable Person has been correctly charged and has paid the relevant Value Added Tax." Upon the Appeal Circuit's review of the documents submitted by the parties to the lawsuit, and whereas the Appellant submitted the assessment summary as a result of its re-evaluation and did not clarify the details of the reasons for excluding the invoices it is appealing against in the amount of (101,276) Riyals out of (1,916,705.23) Riyals, it is not clear what the basis for excluding the purchases subject to the appeal is. Referring to the issued decision and examining the invoices that were accepted, it becomes clear that they relate to 32 tax invoices, and after reviewing them, the following is clear: 1/ (3) invoices issued by the supplier (...) and the supplier (...) issued in the name of a different customer - they do not include the customer's name, with a total of (19,220) Riyals. 2/ (29) invoices issued to the customer in the name of the Appellee (...). Based on the above, the Circuit deems the Appellant's decision correct regarding the invoices totaling (19,220) Riyals, as it cannot be proven that they are purchases incurred by the Appellee (...) in light of the presence of another customer's name. Regarding the remaining invoices, totaling (29) tax invoices, since the Appellant (the Authority) did not clarify the details of its exclusion other than the lack of proof of the right to deduction due to them being invoices that do not



meet the conditions; and the impossibility of proving that they relate to the (...) establishment due to the (...) establishment's use of the Appellee's point-of-sale device, the Appellant's argument is not productive in the lawsuit due to the proven issuance of the invoices in the name of the Appellee (...). In addition, the party responsible for the errors contained in the tax invoice is the supplier, not the customer, as the latter does not have the authority to amend those invoices. Based on the foregoing, and since the Appellee submitted the indicative documents while the Appellant did not clarify the details of its exclusion of the invoices subject to the appeal, the Circuit concludes to partially accept the purchases item subject to tax at the basic rate of 15% in the amount of (19,220) Riyals, reject the rest, amend the Resolution Circuit's decision, and amend the Authority's decision accordingly. Regarding the appeal submitted by the (Zakat, Tax and Customs Authority) against the Resolution Circuit's decision to amend the error in declaration penalty in accordance with what was stated in the purchases item: Whereas Paragraph (1) of Article (42) of the Value Added Tax Law stipulates: "Anyone who submits a false tax declaration to the Authority, amends a tax declaration after submitting it, or submits any document to the Authority concerning the tax due from him, resulting in an error in calculating the tax amount less than what is due, shall be punished by a penalty equivalent to (50%) of the value of the difference between the calculated tax and the due tax." Whereas what the Circuit concluded in the item above led to (partial acceptance of the purchases item subject to tax at the basic rate of 15% in the amount of (19,220) Riyals and rejection of the rest), and since the error in declaration penalty resulted from that, the accessory follows the principal. Therefore, the Circuit concludes to partially accept the item of the error in declaration fine, amend the Resolution Circuit's decision, and amend the Authority's decision.

Regarding the appeal submitted by the (Zakat, Tax and Customs Authority) against the Resolution Circuit's decision to amend the late payment penalty in accordance with what was stated in the purchases item: Whereas Article (43) of the Value Added Tax Law stipulates: "Anyone who fails to pay the tax due during the period specified by the Regulations shall be punished by a fine equivalent to (5%) of the value of the unpaid tax, for each month or part thereof for which the tax was not paid." Whereas what the Circuit concluded in the item above led to (partial acceptance of the purchases item subject to tax at the basic rate of 15% in the amount of (19,220) Riyals and rejection of the rest), and since the late payment penalty resulted from that, the accessory follows the principal. Therefore, the Circuit concludes to partially accept the item of the late payment penalty, amend the Resolution Circuit's decision, and amend the Authority's decision.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision to dismiss his objection regarding the Appellee's (the Authority) procedure of subjecting sales with a value of (8,570,680.94) Riyals to tax at the basic rate (15%), as he did not provide proof of the validity of his claim: Whereas Paragraph (1) of Article (23) of the Unified Agreement for the States of the Gulf Cooperation Council stipulates: "Tax shall be due on the date of supply of Goods or Services, the date of issuance of the Tax Invoice, or the date of receipt of payment, in part or in full, and to the extent of the amount received, whichever is earlier." Article (2) of the Value Added Tax Law also stipulates: "Tax shall be imposed on the import and supply of Goods and Services, in accordance with the provisions of the Agreement, the Law, and the Regulations." Article (14) of the Implementing Regulations of the Value Added Tax Law



also stipulates: "Without prejudice to Article two of the Law and for the purposes of applying the Agreement and the Law in the Kingdom, Tax shall be imposed on all supplies of Goods and Services carried out by any Taxable Person in the Kingdom, or on those received by any Taxable Person in the Kingdom in cases where the reverse charge mechanism applies, and on the import of Goods into the Kingdom." By reviewing the documents submitted by the parties to the lawsuit, it becomes clear that the total differences subjected by the Appellee (the Authority) consist of the following:

First: Bank deposit differences with a total of (8,521,928.27) Riyals: It is clear according to the Appellee's assessment summary that the bank deposit differences consist of point-of-sale sales that were not disclosed in the amount of (8,508,928.27) Riyals and fixed asset sales in the amount of (13,000) Riyals that the Appellant (...) did not disclose in his tax declaration. Whereas the Appellant indicates that the sales resulting from the point-of-sale records in the amount of (8,508,928.27) Riyals relate to the (...) establishment due to its use of the Appellant's point-of-sale device, and he indicates that the (...) establishment had declared them within its tax declaration for the period subject to dispute. Whereas additional documents supporting the Appellant's argument that the sales resulting from point-of-sale records had been declared in the tax declaration belonging to the (...) establishment were requested. Whereas the Appellant submitted sales invoices, bank account statements, and the tax declaration belonging to the (...) establishment. Whereas it appears that the total value of sales disclosed in the declaration is (16,795,881.31) Riyals, and by comparing it with the statement submitted for the sales of the (...) establishment, it is clear that the amounts do not match, as the total value mentioned in the statement is (16,930,168.65) Riyals. As the Appellant clarified in the same statement, the value of the sales through which the point-of-sale device of the (...) establishment was used, the amount does not match the amount subject to dispute, even though the invoices are included in the statement; however, it cannot be accepted due to the discrepancy in the submitted documents. Regarding the letter submitted and issued by the (...) establishment, which is included in its declaration for the sales subject to dispute in its tax declaration, it cannot be relied upon or proven through it, as the Appellant is the owner of both establishments, as he indicated in his submitted brief. Regarding the fixed asset sales in the amount of (13,000) Riyals, the Appellant did not address them, although he submitted a number of invoices and sales statements related to the Appellant's establishment (...), he did not submit the tax declaration belonging to the establishment to match those statements and invoices with what was declared, although the taxable person was requested to submit the tax declaration, he did not submit it within the lawsuit files, so it cannot be verified whether they were disclosed or not. Based on the foregoing, the Circuit concludes to dismiss the appeal in this item. Second: Financial statement differences in the amount of (48,752.67) Riyals: It appears that the Appellee (the Authority) subjected sales in the amount of (48,752.67) Riyals, which represents the differences of the financial statements from the declared sales. Whereas the Authority clarified in its response memorandum that it examined the financial statements for the year 2021 AD and compared them with the total revenues according to the tax declarations for the year 2021 AD. Contemplating the facts of the lawsuit, it is clear that proving revenue "accounting-wise" in the financial statements depends, according to the International Financial Reporting Standards, on requirements and exceptions that determine the appropriate accounting treatment, which may not necessarily agree with the controls of the tax accrual determinants



for supply in accordance with the Value Added Tax laws and regulations. Therefore, it is not considered sufficient evidence of the occurrence of one of the tax accrual determinants, which must be relied upon in the event of subjecting an amount to a specific tax period, and since the accounting proof bases for revenue recognition are different from the tax accrual determinants, this necessitates a difference between the revenue in the financial statements and the supplies in the tax declarations, which is considered an indicator for expanding the examination and not conclusive evidence of the existence of taxable revenue that was not declared. This indicates that the Authority's decision of subjecting the differences related to the entire year 2021 AD to the tax declaration of the period subject to the lawsuit (the first quarter of 2021 AD) is inappropriate. The Circuit concludes to accept the appeal and annul the Resolution Circuit's decision in this item.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision to dismiss his objection regarding the error in declaration penalty resulting from the sales item: Whereas Paragraph (1) of Article (42) of the Value Added Tax Law stipulates: "Anyone who submits a false tax declaration to the Authority, amends a tax declaration after submitting it, or submits any document to the Authority concerning the tax due from him, resulting in an error in calculating the tax amount less than what is due, shall be punished by a fine equivalent to (50%) of the value of the difference between the calculated tax and the due tax." Whereas what the Circuit concluded in the item above led to (partial acceptance of the sales item subject to the basic rate of 15% in the amount of (48,752.67) Riyals and rejection of the amount of (8,521,928.27) Riyals, and amending the Resolution Circuit's decision and the Authority's decision), and since the error in declaration penalty resulted from that, the accessory follows the principal. Therefore, the Circuit concludes to partially accept the item of the error in declaration fine, amend the Resolution Circuit's decision, and amend the Authority's decision.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision to dismiss his objection regarding the late payment penalty resulting from the sales item: Whereas Article (43) of the Value Added Tax Law stipulates: "Anyone who fails to pay the tax due during the period specified by the Regulations shall be punished by a fine equivalent to (5%) of the value of the unpaid tax, for each month or part thereof for which the tax was not paid." Whereas what the Circuit concluded in the item above led to (partial acceptance of the sales item subject to the basic rate of 15% in the amount of (48,752.67) Riyals and rejection of the amount of (8,521,928.27) Riyals, and amending the Resolution Circuit's decision and the Authority's decision), and since the late payment penalty resulted from that, the accessory follows the principal. Therefore, the Circuit concludes to partially accept the item of the late payment penalty, amend the Resolution Circuit's decision, and amend the Authority's decision.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:



Decision

First: To accept both appeals procedurally.

Second: Appeal of (...):

- 1- To partially accept the sales item subject to the basic rate of 15% in the amount of (48,752.67) Riyals, reject the amount of (8,521,928.27) Riyals, and amend the Resolution Circuit's decision and the Authority's decision accordingly.
- 2- To accept partially the error in declaration penalty item and amend the Resolution Circuit's decision and the Authority's decision in accordance with item (Second/1) above.
- 3- To partially accept the late payment penalty item and amend the Resolution Circuit's decision and the Authority's decision in accordance with item (Second/1) above.

Third: Appeal of the Zakat, Tax, and Customs Authority:

- 1- To partially accept the purchase item subject to tax at the basic rate of 15% in the amount of (19,220) Riyals, reject the rest, and amend the Resolution Circuit's decision and the Authority's decision accordingly.
- 2- To partially accept the error in declaration penalty item and amend the Resolution Circuit's decision and the Authority's decision in accordance with item (Third/1) above.
- 3- To partially accept the late payment penalty item and amend the Resolution Circuit's decision and the Authority's decision in accordance with item (Third/1) above.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-132

Case No.

V-2024-246133

Principle No. 33

- Differences between accounting revenues and tax declarations are not, in themselves, sufficient to prove undisclosed taxable supplies, provided it is established that the revenue is estimated, its final value was determined, and it was declared for tax purposes in a subsequent period.

Facts

This is to consider the appeal submitted on 22/11/2024 AD by (...), National ID No. (...), in his capacity as the owner of the (...) establishment, Commercial Registration No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-235042) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To dismiss the Plaintiff's lawsuit.

Whereas this decision was not accepted by the Appellant, he submitted to the Appeal Circuit an appeal brief containing his objection to the Resolution Circuit's decision dismissing his lawsuit regarding his objection to the Appellee's (the Authority) decision to perform a final reassessment of the local sales item subject to the basic rate (5%) for the tax period of the fourth quarter of 2018 AD, and the resulting imposition of an error in declaration fine. The Appellant argued that these were accrued revenues that were disclosed and for which tax was paid in the 2019 AD declarations, as the tax on accrued revenues is remitted when their final value is realized upon invoicing or payment in accordance with Article (20), Paragraph (2) of the Implementing Regulations; however, the Appellee (the Authority) reassessed the tax period subject to dispute and imposed the tax again. The Appellant also pointed out that the accrued revenues appearing in the 2018 AD financial statements, Note (11), in the amount of 5,686,000 Riyals, were unbilled because they were estimated and recorded for the purposes of compliance with International Financial Reporting Standards (IFRS), noting that a large portion of those estimated revenues were not realized and were later canceled during 2020 AD, and that the realized revenues had their tax remitted after their final value was



determined during 2019 AD in accordance with supplier notifications and invoices issued in 2019 AD. He concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 02/11/1446 AH, corresponding to 30/04/2025 AD, at 02:48 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded above, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became clear to the Circuit that the procedural requirements for hearing the appeal have been fulfilled in accordance with the conditions stipulated in the relevant laws, regulations, and decisions. Consequently, the appeal is procedurally accepted as it was submitted by a party with legal standing and within the prescribed statutory period for its procedure.

On merits:, upon the Appeal Circuit's review of the case papers and its examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the Appellant objects to the Resolution Circuit's decision dismissing his lawsuit regarding his objection to the Appellee's (the Authority) decision to perform a final reassessment of the local sales item subject to the basic rate (5%) for the tax period of the fourth quarter of 2018 AD, as the Appellant argued that these were accrued revenues that were disclosed and for which tax was paid in the 2019 AD declarations. Whereas Article (14) of the Implementing Regulations of the Value Added Tax Law stipulates: "Without prejudice to Article two of the Law and for the purposes of applying the Agreement and the Law in the Kingdom, Tax shall be imposed on all supplies of Goods and Services carried out by any Taxable Person in the Kingdom, or on those received by any Taxable Person in the Kingdom in cases where the reverse charge mechanism applies, and on the import of Goods into the Kingdom." Paragraph (2) of Article (20) of the Implementing Regulations of the Value Added Tax Law also stipulates: "In all cases where supplies of goods or services are made on a continuous basis, this is considered a separate supply and Tax is due on the date of issuance of the invoice or the date of payment, whichever is earlier, to the extent of the invoice or payment amount." Based on the foregoing, it is clear that the dispute lies in the Appellee's (the Authority) reassessment and the addition of sales in the amount of (5,880,261) Riyals to the sales item subject to the 5% rate, and whereas the Resolution Circuit's decision concluded to dismiss the Plaintiff's lawsuit and uphold the Authority's decision due to his failure to provide supporting documentation. Whereas the Appellant indicates that he had already disclosed and paid the tax for them in the 2019 AD declarations due to the nature of those revenues, which would cause double taxation for two consecutive years, whereas it is clear that the Authority's decision of subjecting the sales subject to dispute was the result of differences between revenues in the 2018 AD



financial statements and all tax declarations submitted for the year 2018 AD. Whereas, upon contemplating the facts of the lawsuit, it is clear that proving revenue "accounting-wise" in the financial statements is not sufficient evidence of the occurrence of one of the tax accrual determinants in general, due to the difference in the bases of proof between them. Consequently, the existence of differences between financial statements and tax declarations is inevitable due to the difference in accounting versus tax bases of proof, which can be taken as an indicator to expand examination, but they are not, in themselves, conclusive evidence of the existence of taxable revenue that was not declared. Upon reviewing what the Appellant submitted, it is clear that the nature of his activity consists of providing travel and tourism services. The Appellant presented, initially before the Resolution Circuit and through his appeal brief, a justification for the revenue differences subject to dispute, clarifying that they were estimated revenues for commissions and discounts in declaration for supplies from suppliers, the final value of which was determined by the suppliers in 2019 AD through invoices and notices issued by the suppliers, which led him to disclose them in the 2019 AD declarations. He supported the validity of his arguments by presenting transfers and credit settlement notices issued in 2019 AD, which prove that the revenue accrued during 2019 AD in accordance with Article (20), Paragraph (2) of the Regulations. In addition, he presented a statement issued by one of the suppliers (...) which included that the final value of incentives and rewards cannot be determined until after the end of the 2018 AD financial year, and they are paid and determined in 2019 AD, which corroborates what the Appellant indicated regarding the fact that the revenues recorded in the financial statements were estimated revenues whose final value is determined after the end of the financial year through invoices and notices issued by the suppliers that took place in 2019 AD, for which the Appellant disclosed them in the 2019 AD declarations. Furthermore, the Appellee (the Authority) did not contest the validity of the fact that the Appellant had declared the revenues subject to dispute in 2019 AD. Whereas the Authority, in accordance with the powers granted to it under the Implementing Regulations of the Value Added Tax Law, is the entity responsible for examining the taxable person's declarations and verifying the payment of tax on the revenues subject to dispute in the other tax declarations. Consequently, and since the Appellant exercised the necessary due diligence by presenting the documents that prove the validity of his arguments, the Circuit concluded to accept the appeal in this item.

Regarding the Appellant's objection to the error in declaration penalty and his request to annul that fine: Whereas Paragraph (1) of Article (42) of the Value Added Tax Law stipulates: "Anyone who submits a false tax declaration to the Authority, amends a tax declaration after submitting it, or submits any document to the Authority concerning the tax due from him, resulting in an error in calculating the tax amount less than what is due, shall be punished by a fine equivalent to (50%) of the value of the difference between the calculated tax and the due tax." Upon reviewing the entire case file and the arguments contained therein, it was found that the decision issued by the Resolution Circuit ruled to impose an error in declaration penalty after the Appellee (the Authority) amended the Appellant's declaration. Whereas the Appeal Circuit concluded in the item above to accept the appeal regarding the sales item subject to the basic rate (5%), and since the error in declaration penalty resulted from that, the accessory follows the principal. Therefore, the Circuit concluded to accept the appeal in this item.



For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally.

Second: On the Merits:

- 1- To accept the appeal regarding the amount of (5,880,261) Five million, eight hundred and eighty thousand, two hundred and sixty-one Riyals related to the sales item subject to the basic rate (5%), annul the Resolution Circuit's decision, and annul the Zakat, Tax and Customs Authority's decision.
- 2- To accept the appeal regarding the error in declaration fine, annul the Resolution Circuit's decision, and annul the Zakat, Tax and Customs Authority's decision.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-246183
Case No. V-2024-246183

Principle No. 34

- Clearing accounts or temporary intermediate accounts do not constitute a supply subject to Value Added Tax when it is proven that they are internal accounting tools for control and reconciliation purposes, and do not represent an actual supply of goods or services.

Facts

This is to consider the appeal submitted on 14/11/2024 AD by (...) (National ID No. ...) in his capacity as an agent for the Appellant (...) (TIN) pursuant to Power of Attorney No. (...) dated 14/01/2025 AD, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-93972) in the lawsuit submitted by (...) against the Zakat, Tax and Customs Authority.

Whereas the facts of this lawsuit have been set forth in the appealed decision, the Appel Circuit refers to it to avoid repetition. Whereas the Resolution Circuit's decision therein ruled the following:

First: Acceptance of the lawsuit procedurally.

Second: On the Merits:

- 1- Amending the Defendant's decision by subjecting the commission value to tax instead of the full contract value regarding the manpower (employees) supply services to (...); rejecting the Plaintiff's lawsuit regarding the clearing account; and confirming the end of the dispute regarding maintenance services and supply of spare parts, for the tax period (October 2019 AD).
- 2- Rejecting the Plaintiff's lawsuit regarding tickets sold in 2017 and scheduled in 2018 and 2019, amounting to (15,260) Riyals, for the tax period (October 2019 AD).
- 3- Rejecting the Plaintiff's lawsuit regarding ticket cancellation penalties, amounting to (11,630,720) Riyals, for the tax period (October 2019 AD).
- 4- Rejecting the Plaintiff's lawsuit regarding the zero-rated sales item related to the (...) Fleet unit, amounting to (13,311,420) Riyals, for the tax period (October 2019 AD).

Whereas this decision was not accepted by both parties, the Appellant (the Zakat, Tax and Customs Authority) submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision which



ruled to amend its decision regarding the manpower (employees) supply services to (...) by subjecting only the collected commission value to tax and not the full contract. This is on the grounds that, originally, salaries received in light of an employer-employee relationship are not subject to value-added tax, while the commission collected by the company is subject to value-added tax at the standard rate. According to the guidelines, the criterion for establishing an employer-employee relationship between the labor provided by the taxpayer and the beneficiaries of their services is met when all conditions outlined in Section (2) of the Employee Benefits Guideline are fulfilled, with the necessity of separating commissions from salaries in the issued tax invoices. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

Also, the Appellant (...) submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision ruling the rejection of its lawsuit regarding the clearing account, arguing that these are temporary, non-real intermediary accounts that are intermediated between two accounts for a temporary period and then closed. Furthermore, the assessment basis relied upon by the Authority did not clarify the reasons for the procedure nor the statutory bases upon which it relied to subject amounts to tax without thoroughly verifying their nature, as the Authority excluded the negative (credit) amounts recorded in these accounts and subjected the positive (debit) amounts to tax at the standard rate, which led to inflating the sales in the tax return. In addition to its objection to the Resolution Circuit's decision ruling the rejection of its lawsuit regarding tickets sold in 2017 and scheduled in 2018 and 2019, because ticket sales systems are managed according to global systems like the "..." system and according to standards set by the International Air Transport Association (IATA). It requests reconsideration of the issued decision, recognizing it as a tax collecting entity that does not bear the tax cost, and applying value-added tax in alignment with the nature of its work and the fundamental principles of the Law, while taking into consideration the regulatory constraints governing the aviation industry globally which cannot be bypassed. Additionally, its objection to the Resolution Circuit's decision ruling the rejection of its lawsuit regarding ticket cancellation penalties, because they do not constitute a supply but rather compensation for damage. The brief also included its objection to the Resolution Circuit's decision ruling the rejection of its lawsuit regarding the zero-rated sales item related to the (...) Fleet unit concerning international flight operation and maintenance services, because these are sales subject to tax at the zero rate as they relate to international flight services for (...) aircraft. Furthermore, the stay fees for (...) aircraft in international airports were incorrectly disclosed within the disputed item; as they represent transactions outside the scope of value-added tax. The Appellant argues the validity of the documents it submitted, which were extracted from accounting systems and based on contracts with its clients, clarifying that (...) flights are by nature confidential flights not announced to the public. The brief also included its objection to the Resolution Circuit's decision ruling the rejection of its lawsuit regarding the sales item for the (...) Fleet unit concerning adjustments for cancelled invoices reported within the sales item. It requests that, in the event the zero-rated sales related to the (...) Fleet unit are reclassified to sales subject to tax at the standard rate, the adjustments listed on the 0% taxable sales be taken into consideration as they aim to reduce sales and are considered part of the total value. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.



On Monday, 17/09/1446 AH, corresponding to 17/03/2025 AD, at 01:10 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote litigation procedures; pursuant to the provisions of Paragraph (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. After reviewing the appeal request, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Whereas by reviewing the case documents and the submitted appeal briefs, it became evident to the Circuit that the conditions for considering the two appeal requests procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the two appeal requests acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period.

On the merits, upon the Appeal Circuit's review of the lawsuit papers and examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by the parties. Regarding the appeal submitted by (the Zakat, Tax and Customs Authority) against the Resolution Circuit's decision ruling the amendment of its decision concerning the manpower (employees) supply services to (...) by subjecting only the collected commission value to tax and not the full contract. Whereas the Appellant objects to the Resolution Circuit's decision because salaries received under an employer-employee relationship are originally not subject to value-added tax, while the commission collected by the company is subject to VAT at the standard rate. According to the guidelines, the criterion for establishing an employer-employee relationship between the labor provided by the taxpayer and the beneficiaries of their services is met when all conditions outlined in Section (2) of the Employee Benefits Guideline are fulfilled, with the necessity of separating commissions from salaries in the issued tax invoices. Since it is established that the appealed decision regarding the dispute under consideration came in accordance with the provisions of the Law and with the sound grounds upon which it was based and which are sufficient to uphold its judgment, as the Circuit that issued it undertook the scrutiny of the core of the dispute therein and concluded in its regard to the outcome it reached in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires rectification or comment in light of the defenses raised before this Circuit, which leads to concluding that they have no impact on the outcome of the decision. Based on the foregoing, the Circuit concludes to reject the appeal and uphold the Resolution Circuit's decision based on its grounds.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision ruling the rejection of its lawsuit concerning the clearing account. Whereas it objects to the Resolution Circuit's decision because these are temporary, non-real intermediary accounts that are intermediated between two accounts for a temporary period and then closed. Furthermore, the assessment basis relied upon by the Authority did not clarify the reasons for the procedure nor the statutory bases upon which it relied to subject amounts to tax without thoroughly verifying their nature, as



the Authority excluded the negative (credit) amounts recorded in these accounts and subjected the positive (debit) amounts to tax at the standard rate, which led to inflating the sales in the tax return. By reviewing the documents submitted by the parties to the lawsuit, it was proven that the role of the settlement accounts recorded in the company's accounting cycle represents temporary intermediary accounts for internal control purposes and do not represent actual supplies. This is supported by the submitted documents including the trial balance and the detailed statement of the clearing account, which is intermediated between two accounts for a temporary period and includes negative and positive balances resulting in zero. Also, the procedure followed by the Authority in subjecting one side of the accounting entries (debit) and leaving its corresponding accounts (credit) contradicts accounting principles, especially since the Authority did not prove that what was subjected to tax represents actual supplies subject to tax at the standard rate, but rather it subjected the entire debit side of the account. Consequently, and since the Appellant exercised due care by submitting indicative and considerable documents to prove the validity of its defenses, and the Appellee (the Authority) did not submit anything to negate otherwise. And since the Resolution decision based its rejection on "that the submitted documents do not clarify the basis of the statutory account, its role in the company's accounting cycle, and the nature of the negative and positive accounts, and supporting that with explanation and documents." And whereas the Appellant provided a detailed explanation in its appeal brief clarifying that the nature of the accounts is a tool for control and verifying the accuracy of financial data to process payment flows and verify their validity, where unverified financial transactions are recorded to temporarily contain these transactions until they are classified and allocated to the final accounts, supporting its defenses with screenshots from the accounting system (SAP) and the method of accounting entries from their recording to their settlement. This leads the Appeal Circuit to conclude the acceptance of the appeal concerning the sub-accounts (clearing accounts), annul the Resolution Circuit's decision, and annul the Authority's decision.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision ruling the rejection of its lawsuit concerning tickets sold in 2017 and scheduled in 2018 and 2019. Whereas it objects to the Resolution Circuit's decision because ticket sales systems are managed according to global systems like the "..." system and according to standards set by the International Air Transport Association (IATA). It requests reconsideration of the issued decision, recognizing it as a tax collecting entity that does not bear the tax cost, and applying value-added tax in alignment with the nature of its work and the fundamental principles of the Law, while taking into consideration the regulatory constraints governing the aviation industry globally which cannot be bypassed. Since it is established that the appealed decision regarding the dispute under consideration came in accordance with the provisions of the Law and with the sound grounds upon which it was based and which are sufficient to uphold its judgment, as the Circuit that issued it undertook the scrutiny of the core of the dispute therein and concluded in its regard to the outcome it reached in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires rectification or comment in light of the defenses raised before this Circuit, which leads to concluding that they have no impact on the outcome of the decision. Based on the foregoing, the Circuit concludes to reject the appeal and uphold the Resolution Circuit's decision based on its grounds.



Regarding the appeal submitted by (...) against the Resolution Circuit's decision ruling the rejection of its lawsuit concerning ticket cancellation penalties. Whereas it objects to the Resolution Circuit's decision because it is not a supply but rather compensation for damage. By the Circuit's review of the case file and the defenses and documents contained therein. Whereas Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf defined (Supply) as: "Any form of supply of goods or services for consideration in accordance with the cases provided for in Chapter Two of this Agreement." And based on Article (2) of the Value Added Tax Law which stipulated that: "Tax shall be imposed on the import and supply of goods and services, in accordance with the provisions stipulated in the Agreement, the Law, and the Regulations." And based on Article (14) of the Implementing Regulations of the Value Added Tax Law which stipulated that: "Without prejudice to Article Two of the Law and for the purposes of applying the Agreement and the Law in the Kingdom, Tax shall be imposed on all supplies of goods and services made by any Taxable Person in the Kingdom, or on those received by any Taxable Person in the Kingdom in cases where the reverse charge mechanism applies, and on the import of goods into the Kingdom." Whereas ticket cancellation penalties act as compensation for financial damages resulting from ticket cancellation, representing compensation for the passenger's non-commitment and cancellation of the ticket at short notice—less than 24 hours before the flight time—making it difficult to sell the ticket to another customer within such a limited time. According to the definition of (Supply) stated in Article (1) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf above; the penalty constitutes compensation for "specific damages" as a result of ticket cancellation. Genuine fines and penalties are not considered consideration for any supply. This is not affected by what was mentioned in the appealed decision that the Appellant did not separate the penalties linked between international and domestic transport; because the disputed item is a ticket cancellation penalty and is not linked to the supply related to the ticket itself, as it is a compensation imposed as a result of damages or loss and not in exchange for goods or services, and thus falls outside the scope of value-added tax. In addition, the Taxpayer exercised due diligence by communicating with the Authority, which is the legislating entity, and which responded to the Taxpayer's inquiry in the email attached in the case file by confirming the non-applicability of the tax (Out of VAT scope). This leads the Circuit to conclude the acceptance of the appeal, the annulment of the Resolution Circuit's decision, and the annulment of the Zakat, Tax and Customs Authority's decision.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision ruling the rejection of its lawsuit concerning the zero-rated sales item related to the (...) unit concerning international flight operation and maintenance services. Whereas it objects to the Resolution Circuit's decision because these are sales subject to tax at the zero rate as they relate to international flight services for (...) aircraft. Furthermore, the stay fees for (...) aircraft in international airports were incorrectly disclosed within the disputed item; as they represent transactions outside the scope of value-added tax. The Appellant argues the validity of the documents it submitted, which were extracted from accounting systems and based on contracts with its clients, clarifying that (...) flights are by nature confidential flights not announced to the public. Since it is established that the appealed decision regarding the dispute under consideration came in accordance with the provisions of the Law and with the sound grounds upon which it was



based and which are sufficient to uphold its judgment, as the Circuit that issued it undertook the scrutiny of the core of the dispute therein and concluded in its regard to the outcome it reached in its operative part. And whereas the Appeal Circuit did not notice anything regarding it that requires rectification or comment in light of the defenses raised before this Circuit, which leads to concluding that they have no impact on the outcome of the decision. Based on the foregoing, the Circuit concludes to reject the appeal and uphold the Resolution Circuit's decision based on its grounds.

Regarding the appeal submitted by (...) against the Resolution Circuit's decision ruling the rejection of its lawsuit concerning the sales item for the (...) Fleet unit related to adjustments for cancelled invoices reported within the sales item. Whereas it objects to the Resolution Circuit's decision and requests that, in the event the zero-rated sales related to the (...) Fleet unit are reclassified to sales subject to tax at the standard rate, the adjustments listed on the 0% taxable sales be taken into consideration as they aim to reduce sales and are considered part of the total value. By the Circuit's review of the case file and the defenses and documents contained therein. Based on Article (2) of the Implementing Regulations of the Value Added Tax Law which stipulated that: "For the purposes of applying the Law and these Regulations, a Taxable Person in the Kingdom is a Person who independently carries out an Economic Activity for the purpose of generating income, and has been registered for VAT purposes in the Kingdom or is deemed required to be registered for VAT purposes therein in accordance with the Law and these Regulations." And based on Article (14) of the same Regulations which stipulated that: "Without prejudice to Article Two of the Law and for the purposes of applying the Agreement and the Law in the Kingdom, Tax shall be imposed on all supplies of goods and services made by any Taxable Person in the Kingdom, or on those received by any Taxable Person in the Kingdom in cases where the reverse charge mechanism applies, and on the import of goods into the Kingdom." And based on Paragraph (2) of Article (34) thereof which stipulated that: "International Transport of passengers is zero-rated in accordance with the provisions set out in these Regulations, in the following cases: a) the transport is made by any Qualifying Means of Transport. b) the transport is made by a scheduled passenger flight or voyage, or by a voyage made in accordance with a published timetable." And based on Paragraph (3) of Article (34) thereof which stipulated that: "Services directly or incidentally related to a supply of International Transport of passengers are zero-rated, and these services include the following: a) transporting passenger luggage, including pets, bicycles, pushchairs and excess baggage charges. b) transporting vehicles and trailers belonging to passengers. c) air passenger transport charges and additional air freight. d) seat reservations. e) cabin and sleeper berth charges." And based on Paragraph (8) of Article (34) thereof which stipulated that: "A Qualifying Means of Transport means any vehicle, vessel, or aircraft designed to carry a minimum of ten (10) persons or designed to carry goods on a commercial basis and its main purpose is to carry out International Transport. Any means of transport which has been converted or used for recreational or personal purposes is not considered a Qualifying Means of Transport." And based on Paragraph (1) of Article (40) thereof which stipulated that: "The value of a Taxable Supply is adjusted when related to the Taxable Person, in the following cases: (a) the supply is cancelled or suspended after its occurrence or deemed to have occurred fully or partially. (b) there is a material change or alteration in the nature of the supply resulting in a change in the Tax due. (c) the value of the supply is agreed upon in advance, then altered



for any reason, including offering an additional discount after the completion of the sale. (d) when goods or services, or any part thereof, are returned to the Supplier and the Supplier accepts their return." By reviewing the appealed decision, the invalidity of the grounds upon which it based the rejection of this item becomes evident, which relied on the absence of a response from the Authority and the lack of adjustments to the (Adjustments to Sales) item. By reviewing the submitted briefs, the Appellant's request to reclassify the adjustments to sales pertaining to the (...) Fleet into sales subject to tax at the standard rate if the zero-rating of the (...) Fleet's sales is rejected, becomes evident. By reviewing the final assessment notice, it is evident that the Authority subjected the zero-rated sales for the Royal Fleet unit to the standard rate without taking into consideration the adjustments related thereto. And whereas the Appellant submitted the credit notes related to the invoices by which the zero-rated sales for the (...) Fleet were reduced, through Credit Note No. (...) linked to Invoice No. (...) and Credit Note No. (...) linked to Invoice No. (...), totaling (249,049,905) Riyals. And whereas the Circuit concluded in the above item to subject the zero-rated sales for the (...) Fleet unit to the standard rate; this demonstrates the validity of the Appellant's claim to reclassify the adjustment amount subject of the appeal into the adjustments item on standard-rated sales. This leads the Circuit to conclude the acceptance of the appeal and the annulment of the Zakat, Tax and Customs Authority's decision.

For these reasons and after statutory deliberation, the Circuit unanimously decided the following:

Decision

First: Regarding the appeal of the Zakat, Tax and Customs Authority:

Acceptance of the appeal procedurally.

On the merits:

- 1- Rejection of the appeal of the Zakat, Tax and Customs Authority regarding the manpower (employees) supply services to (...) and upholding the Resolution Circuit's decision

Second: Regarding the appeal of (...) (TIN ...):

Acceptance of the appeal procedurally.

On the merits:

- 1- Acceptance of the appeal concerning the sub-accounts (clearing accounts), annulment of the Resolution Circuit's decision, and annulment of the Authority's decision.
- 2- Rejection of the appeal concerning tickets sold in 2017 for flights scheduled in 2018 and 2019, and upholding the Resolution Circuit's decision.
- 3- Acceptance of the appeal concerning the ticket cancellation penalties item, annulment of the Resolution Circuit's decision, and annulment of the Authority's decision.
- 4- Rejection of the appeal regarding the sales item for the (...) Fleet unit concerning international flight operation and maintenance services, and upholding the Resolution Circuit's decision.



- 5- Acceptance of the appeal regarding the sales item for the (...) Fleet unit concerning adjustments for cancelled invoices reported within the sales item in the amount of (249,049,905) Riyals, and annulment of the Authority's decision.

May Allah's peace and blessings be upon our Prophet Muhammad, his family, and all his companions.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-246704
Case No. V-2024-246704

Principle No. 35

- Including more than one activity or branch under a single VAT registration certificate requires the disclosure of the sales of such activities under the same Tax Identification Number (TIN). A claim of the existence of an independent number does not negate tax liability unless proven by a statutory document.

Facts

This is to consider the appeal submitted on 23/12/2024 AD by the Zakat, Tax and Customs Authority x against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-239160) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were stated in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To annul the Appellee's (the Authority) decision regarding the sales item subject to the basic tax rate for the third quarter of 2022 AD, and the resulting fines, and dismissing all other requests.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision revoking its decision regarding the sales item subject to the basic tax rate for the third quarter of 2022 AD, and the resulting penalties. This is because the station, as a taxable economic activity, had been examined and addressed during the pleadings by subjecting the revenues contained in its statement, and the Appellee did not deny or dispute its taxability; rather, it acknowledged that the station is registered in the tax systems under the same Tax Identification Number (TIN) as the grocery store. However, the Circuit overlooked this and did not request the Authority to prove the taxability of the station, which led the Authority to conclude that the Circuit had relied upon the Appellee's acknowledgment of the station's taxability, especially since this was not a point of contention between the Appellee and the Authority. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Thursday, 10/11/1446 AH, corresponding to 08/05/2025 AD, at 03:01 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are



recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. Upon reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit requested the Secretariat to instruct the Appellee (...) to submit its response to the appeal within two weeks from that date, and to instruct the Appellant, the Zakat, Tax and Customs Authority, to submit its response to the Appellee's response memorandum within one week from the expiration of the deadline for the Appellee to submit its memorandum. The session was adjourned at 03:14 PM.

On Wednesday, 08/12/1446 AH, corresponding to 04/06/2025 AD, at 02:57 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, the Circuit found that the requirements for the admissibility of the appeal procedurally are met in accordance with the relevant regulations, rules, and decisions; thus, the appeal is accepted procedurally as it was submitted by a party with legal standing within the statutory period.

On merits, upon reviewing the case documents and examining the documents and evidence, as well as the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision of the Resolution Circuit had annul the Appellant's decision regarding the sales item subject to the basic tax rate for the third quarter of 2022 AD, and the resulting fines. The Appellant challenged this decision, arguing that the station—as a taxable economic activity—had been examined and addressed during the pleadings by subjecting the revenues in its statement, and that the Appellee did not deny or dispute its taxability, but rather acknowledged that the station is registered in the tax systems under the same Tax Identification Number (TIN) as the grocery store. The Appellant argued that the Circuit overlooked this and failed to request proof of taxability from the Authority, leading the Authority to conclude that the Circuit relied on the Appellee's acknowledgment, especially since this was not a point of dispute.

Upon the Appeal Circuit's review of the case file, the appeal brief, and the documents provided, it appeared that the Appellee submitted several accounts: First: **Personal Accounts:** The Appellee holds personal accounts in various banks in the name of (...). While the Appellee indicated in its response before the Resolution Circuit that these are personal accounts, a review of the bank statements revealed a small number of personal transfers in addition to a number of transfers received from the station's account. It was not evident that these accounts relate to commercial



transactions subject to tax as alleged by the Appellant. Second: **Economic Activity-Related Accounts:** The Appellee holds two accounts related to the conduct of economic activity:

An account in Bank (...) with account number (...) in the name of "(Grocery ...)", which the Appellee states is linked to the grocery activity for which the tax declaration was filed. As the total deposits during the period under dispute amounted to (78,867.27) SAR, this amount is not considered subject to tax as a matter of dispute between the parties. Another account in Bank (...) with account number (...) in the name of "(Station ...)." While the Appellee argued that the station has its own tax number and that it is not valid to pay tax twice on the station's activity, the Appellant submitted a VAT registration certificate in the appeal brief, which shows that the station is included in the Appellee's list of branches. This means the activities of the station and the grocery store share the same Tax Identification Number (...), and therefore, the sales related to the station activity must be disclosed in the same tax declaration under dispute. The Appellee's argument regarding the station having a separate tax number is nullified by the VAT registration certificate submitted by the Appellant. Accordingly, the Appeal Circuit concludes to partially accept the Authority's appeal regarding the total deposits made to the station's account during the period under dispute, totaling (238,135.79) SAR.

Regarding the fine for error in the tax declaration and the fine for late payment, and the Appellant's request to annul the decision cancelling those fines which resulted from the final assessment notice for the tax period under dispute: as the item above resulted in the partial acceptance of the appeal, and since the fines are consequential to this assessment, they take the same ruling. Consequently, the Appeal Circuit concludes to partially accept the appeal regarding the fines under appeal.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by the Zakat, Tax and Customs Authority procedurally.

Second: On the Merits:

- 1- To accept the appeal regarding the local sales item subject to the basic tax rate in the amount of (238,135.79) Two hundred and thirty-eight thousand, one hundred and thirty-five Riyals and seventy-nine Halalas partially, and amend the Resolution Circuit's decision.
- 2- To accept the appeal regarding the fine for error in the tax declaration partially, and amend the Resolution Circuit's decision, in accordance with (Second/1) above.
- 3- To accept the appeal regarding the fine for late payment partially, and amend the Resolution Circuit's decision, in accordance with (Second/1) above.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-246714
Case No. V-2024-246714

Principle No. 36

- Every supplier is obligated to issue a tax invoice fulfilling the statutory requirements within the limits of its share of the supply, and its obligation does not extend to shares or percentages it does not own in the subject matter of the supply.

Facts

This is to consider the appeal submitted on 24/12/2024 AD by (...), National ID No. (...), in his capacity as the agent for the Appellant under Power of Attorney No. (...) issued on 15/09/2024 AD, and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-237312) in the lawsuit submitted by the Appellee against the Appellant.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To obligate the Defendant (... Real Estate Investment Company), Commercial Registration No. (...), to deliver a tax invoice fulfilling all conditions in accordance with the statement of claim of the Plaintiff (Bank ...), Commercial Registration No. (...), and to dismiss all other requests.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision obligating it to deliver a tax invoice fulfilling all conditions. This objection is based on the argument that the appealed decision mandated the delivery of a fully compliant tax invoice despite it being proven to the Circuit that the Company owns only (25%) of the real estate property. This confirms the Company's lack of standing in this lawsuit, which should have been filed against the owner of the largest share of the property, who owns (75%). Furthermore, the Company had already issued a tax invoice for the percentage pertaining to its share; thus, the decision cannot be executed. This necessitates the annulment of the appealed Circuit decision and a ruling to dismiss the lawsuit for being filed against a party lacking standing. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.



On Tuesday, 25/09/1446 AH, corresponding to 25/03/2025 AD, at 12:55 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to postpone the consideration of the lawsuit for further study. The session was adjourned at 01:30 PM.

On Monday, 14/11/1446 AH, corresponding to 12/05/2025 AD, at 03:25 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for such procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit had obligated the Appellant to deliver a tax invoice fulfilling all conditions. The Appellant objects to the Resolution Circuit's decision on the grounds that the appealed decision mandated the delivery of a fully compliant tax invoice despite it being proven to the Circuit that the Company owns only (25%) of the property, which confirms the Company's lack of standing in this lawsuit, and that the lawsuit should have been filed against the owner of the largest share (75%). The Appellant also argued that the Company had issued a tax invoice for its share, making the decision in executable, and warranting the annulment of the appealed decision and a judgment dismissing the lawsuit for being filed against a party lacking standing.

Upon the Appeal Circuit's review of the case documents and the submitted defenses, it is established that the property subject of the supply, documented by Deed No. (...), was (25%) owned by the Appellant, and the sale was executed from the property owners (... Company) to the Bank (...) pursuant to the cheque dated 27/05/2019 AD issued in the name of the sellers. Whereas the Appellant submitted the tax invoice issued within the limits of its ownership, a comparison with the statutory requirements set forth in Paragraph (5) of Article (53) of the Value Added Tax Implementing Regulations revealed that it did not include certain requirements, such as the name and



address of both the supplier and the customer, among other data stipulated in this paragraph. Consequently, the Appeal Circuit concludes to accept the appeal on merits, annul the appealed Circuit's decision, and rule to obligate the Appellant (... Company) to provide a tax invoice fulfilling the conditions according to the statutory requirements within the limits of its ownership of the supplied property, amounting to (25%), to the Bank (...).

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by/ (... Real Estate Investment Company), Commercial Registration No. (...), procedurally.

Second: To accept the appeal submitted by/ (... Real Estate Investment Company), Commercial Registration No. (...), On merits, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-237312), and ruling to obligate the Appellant/ (... Real Estate Investment Company), Commercial Registration No. (...), to provide a tax invoice fulfilling the conditions according to the statutory requirements within the limits of its ownership of the supplied property at a percentage of (25%) to the Bank (...), Commercial Registration No. (...).



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-264767
Case No. VT-2025-264767

Principle No. 37

- For a tax reassessment decision to be valid, it must set out the basis of tax calculation, the net tax due, and the due date for payment. A general statement or a broad reference that does not disclose the source of the differences or the method of their calculation is insufficient.

Facts



This is to consider the appeal submitted on 22/05/2025 AD by (...), National ID No. (...), in his capacity as the owner of (...) Establishment pursuant to Commercial Registration No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2025-51) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

Non acceptance of the lawsuit procedurally, due to the lapse of the statutory period.

Whereas this decision was not accepted by the Appellant, the Appellant submitted to the Appeal Circuit an appeal brief containing his objection to the Resolution Circuit's decision dismissing the lawsuit procedurally due to the lapse of the statutory period regarding the objection to the reassessment decision for the third quarter of 2020 AD and the resulting penalties. This was based on the grounds that he had submitted several objections to the Authority within the statutory period. The Appellant pointed out the invalidity of relying on the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH, because their enforcement commenced from the date of issuance of the Royal Order, emphasizing that the Appellant filed an objection with the General Secretariat of Zakat, Tax and Customs Committees immediately upon receiving the Authority's rejection of the objection on 19/11/2023 AD. Furthermore, the Resolution Circuit accepted the objection in lawsuit No. (V-2023-227871) but requested that each period be limited to a separate lawsuit, noting that the said lawsuit was accepted procedurally and is still pending before the Appeal Circuit. The Appellant added that the Authority violated the statutory assessment procedures by failing to notify the taxpayer of the basis for calculating the assessment at the time, which later turned out to belong to another taxpayer. Therefore, all of the Authority's claims are based on an invalid foundation, which led to the entitlement of the amount of 18 million Riyals. The Appellant confirmed that



the Authority did not provide evidence proving the existence of sales by the Establishment, meaning it did not conduct economic activity during the disputed period. He concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 12/02/1447 AH, corresponding to 06/08/2025 AD, at 02:10 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for such procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit dismissed the lawsuit procedurally due to the lapse of the statutory period regarding the objection to the reassessment decision for the third quarter of 2020 AD and the resulting penalties. The Appellant objects to the Resolution Circuit's decision on the grounds that he had submitted several objections to the Authority within the statutory period. The Appellant pointed out the invalidity of relying on the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH, because their enforcement commenced from the date of issuance of the Royal Order, emphasizing that he filed an objection with the General Secretariat of Zakat, Tax and Customs Committees immediately upon receiving the Authority's rejection of the objection on 19/11/2023 AD. Furthermore, the Resolution Circuit accepted the objection in lawsuit No. (V-227871-2023) but requested that each period be limited to a separate lawsuit, noting that the said lawsuit was accepted procedurally and is still pending before the Appeal Circuit. The Appellant added that the Authority violated the statutory assessment procedures by failing to notify the taxpayer of the basis for calculating the assessment at the time, which later turned out to belong to another taxpayer. Therefore, all of the Authority's claims are based on an invalid foundation, which led to the entitlement of the amount of 18 million Riyals. The Appellant confirmed that the Authority did not provide evidence proving the existence of sales by the Establishment, meaning it did not conduct economic activity during the disputed period.

Upon the Appeal Circuit's review of the facts and documents of the lawsuit, whereas it is established that the Authority's decision was issued on 17/02/2022 AD, and the Appellant indicated that the decision did not include



the basis of the assessment calculation, and the Authority argued that it had notified the taxpayer of the basis of calculation via a previous email sent to him on (15/08/2021 AD). Upon contemplating the content of the email in which the Authority stated that the assessment was based on the following grounds:

- 1- Subjecting the monitored revenue difference after calculation, based on Article Fourteen of the Value Added Tax Implementing Regulations.
- 2- Imposing an evasion fine for filing declarations that do not reflect the true nature of the activity, based on Article (39) Paragraph (1) of the Value Added Tax Law.
- 3- Reassessing and calculating the submitted Zakat declarations.

Upon reviewing the above, it was not evident how the Authority determined each of the assessment periods nor how the value was calculated based on the data, as the answer provided in the aforementioned email was general. This demonstrates that the decision issued by the Authority did not contain the net tax due, the due date for payment, and the basis of calculating the assessment as stipulated in Article (64) of the Value Added Tax Implementing Regulations, which stated: "2. The assessment must set out the net tax due, the due date for payment, and the basis on which the assessment is calculated...". Regarding the Authority's request to remand the lawsuit in the event the Appeal Circuit decides to accept the lawsuit, in order to preserve its right to litigation at two levels, this is answered by the provisions of Article (27/3) of the Rules of Operation for Zakat, Tax, and Customs Circuits: "If the Appeal Circuit decides to annul the Resolution Circuit's decision issued for lack of jurisdiction, or for accepting a subsidiary defense that results in preventing the progression of the lawsuit, or for the inadmissibility of its consideration due to prior adjudication (res judicata), or for non-cognizance due to the lapse of time, or for non-acceptance procedurally....., it may decide on it without remanding, unless the circumstances of the lawsuit are ready for a decision, or if the circumstances of the lawsuit necessitate an expedited decision, or if its subject matter is one on which the decisions or principles of the Appeal Circuits have settled." Consequently, the Appeal Circuit concludes with the operative part stated below.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally.

Second: To accept the appeal on merits, annul the appealed Circuit's decision, and annul the decision of the Zakat, Tax and Customs Authority.



Tax Refund



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-238924
Case No. V-2024-238924

Principle No. 38

- A taxpayer's right to deduct input tax is only established by submitting matching documents that prove they actually bore the tax and that the purchases are related to them. The accounting entry alone is insufficient if it contradicts the financial statements or payment documents.

Facts



This is to consider the appeal submitted on 25/06/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-228083) in the lawsuit submitted by the Appellee against the Appellant.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To accept the Plaintiff's lawsuit requesting the annulment of the Defendant's decision and accept the deduction of input tax for the amount of (6,000,000) Riyals, and dismiss all other requests.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision revoking its decision regarding the final assessment for the second quarter of 2023 AD. This is because the accounting entry shows that the transaction is an increase in the company's capital, not an expense incurred by the company, as the credit side does not reflect any resources or assets transferred to (...) to presume the existence of a commercial exchange transaction. Furthermore, the submitted invoices and documents show that the Appellee is not a party to the deed of transfer it relies on, thus violating the provisions of Article (48) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and Articles (49) and (53) of the Value Added Tax Implementing Regulations. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Monday, 16/10/1446 AH, corresponding to 14/04/2025 AD, at 01:32 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the procedures of remote visual litigation; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits



issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for such procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and documents, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit had annul the Appellant's decision regarding the final assessment for the second quarter of 2023 AD. The Appellant objects to the Resolution Circuit's decision on the grounds that the accounting entry shows the transaction is an increase in the company's capital, not an expense incurred by the company, as the credit side does not reflect any resources or assets transferred to (...) to presume the existence of a commercial exchange transaction. Furthermore, the submitted invoices and documents show that the Appellee is not a party to the deed of transfer it relies on, thus violating the provisions of Article (48) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and Articles (49) and (53) of the Value Added Tax Implementing Regulations. Upon the Appeal Circuit's review of the lawsuit documents, it appears that the Appellee declared purchases valued at (6,150,000) Riyals according to the tax declaration, which consist of the land value of (6,000,000) Riyals in addition to the brokerage fee of (150,000) Riyals. The Resolution Circuit's decision accepted the tax deduction for the land value only because the Appellee submitted the accounting entry to prove the land purchase. By comparing the land purchase value with the financial statements, a discrepancy is evident between the financial statements and the proof entry; thus, the accounting entry cannot be linked to the statements. Additionally, the payment cheques prove that the partner (...) is the one who paid the land value, contrary to what the accounting entry shows as being shared equally between the two partners. This does not make it clear that the company incurred the purchase tax, and therefore, it is not entitled to exercise the deduction according to Paragraph (1) of Article (48) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and Paragraph (7) of Article (49) of the Value Added Tax Law Implementing Regulations. Furthermore, the company's VAT registration certificate shows that the effective date is 01/11/2022 AD, and the purchases it claims to deduct are dated 25/05/2020 AD according to its statement. Consequently, it is proven to have violated the provisions of Paragraph (2) of Article (49) of the Value Added Tax Law Implementing Regulations because the purchase tax incurred exceeded the period of (6) months prior to the effective date of registration. Based on the above, the Circuit concludes to accept the Authority's appeal regarding the exclusion of



the amount of (6,000,000) Riyals from the purchases subject to the (5%) rate and to annul the Resolution Circuit's decision.

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

Decision

First: To accept the appeal submitted by the Zakat, Tax and Customs Authority procedurally.

Second: To accept the appeal submitted by the Zakat, Tax and Customs Authority on merits regarding the purchases item subject to the (5%) rate valued at (6,000,000) Six Million Riyals, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-228083), and uphold the Appellant's decision regarding it.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-33

Case No.

V-2024-240667

Principle No. 39

- The determining factor in deducting input tax is the connection of the goods or services to the taxable economic activity, once it is proven that they are necessary for carrying out or continuing the activity, without requiring them to be linked to a specific supply contract.

Facts



This is to consider the appeal submitted on 14/08/2024 AD by Company (...), Commercial Registration No. (...), represented by (...), National ID No. (...), in his capacity as agent under Power of Attorney No. (...) issued on 18/12/1445 AH, and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-228012) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To reject the Plaintiff's lawsuit.

Whereas this decision was not accepted by the Appellant, it submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision dismissing its lawsuit regarding its objection to the final assessment notice for the tax period of the second quarter of 2023 AD and the resulting fine for error in the declaration. This is because the reason for excluding the disputed purchases was the Appellee's claim that the Appellant does not practice an economic activity, the contrary of which was proven before the decision-issuing Circuit. Furthermore, the Circuit did not request documents proving the connection of the disputed purchases to the Appellant's economic activity, and the purchases represent operating expenses; therefore, it is inconceivable that operating expenses would be subsequent to the service supply contract. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Thursday, 19/10/1446 AH, corresponding to 17/04/2025 AD, at 01:31 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are



recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for such procedure.

On merits, upon reviewing the Appeal Circuit's the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit rejected the Appellant's lawsuit regarding its objection to the final assessment notice for the tax period of the second quarter of 2023 AD and the resulting fine for error in the declaration. The Appellant objects to the Resolution Circuit's decision on the grounds that the reason for excluding the disputed purchases was the Appellee's claim that the Appellant does not practice an economic activity, the contrary of which was proven before the decision-issuing Circuit. Furthermore, the Circuit did not request documents proving the connection of the disputed purchases to the Appellant's economic activity, and the purchases represent operating expenses; therefore, it is inconceivable that operating expenses would be subsequent to the service supply contract, Upon the Appeal Circuit's review of the disputed final assessment notice, it appears that the basis for calculating the assessment was not mentioned within the reasons stated in the notice, which violates the provisions of Paragraph (2) of Article (64) of the Value Added Tax Law Implementing Regulations. It is established that the Appellant practices an economic activity under the contract submitted and concluded on (27/08/2023 AD) between: 1- The First Party/Supplier (Company ...), which is the Appellant. 2- The Second Party/Customer (Company ...), which is a subsidiary of the Appellant. The purpose of the contract is to provide advisory and administrative services, as the First Party (the Appellant) possesses the necessary expertise to provide the services needed by the Second Party. It is unreasonable to provide such services without incurring operating expenses represented in administrative expenses, such as compulsory medical insurance for its employees, and other expenses. This is particularly so since the Appellant submitted insurance invoices issued in its name (Company ...) and journal entries proving that it incurred these operational costs, in addition to funding its branches and other subsidiaries according to the bank receipts of ... Bank submitted, and receiving consideration for part of the employees' costs and providing services to other subsidiaries. It also submitted a title deed proving the holding company's ownership of a commercial real property. Referring to the reasons on which the Resolution Circuit's decision was based—namely, the lack of linkage between the purchases to be deducted and the contract that



proves the practice of the economic activity, and the lack of clarity regarding the inputs claimed for deduction within the context of the economic activity, as the referred-to contract proving the practice of an economic activity was concluded on 27 August 2023 AD while the disputed period concerns the second quarter of 2023 AD—this does not constitute an effective defense in the lawsuit. The costs incurred are necessary operating expenses for the activity carried out by the Appellant with the aim of generating income. Paragraph (1) of Article (49) of the Value Added Tax Law Implementing Regulations stipulates: "Without prejudice to any specific provision in this Article, a taxable person may deduct Input Tax on Goods and Services supplied to him in the course of carrying out his Economic Activity...". Therefore, it is not necessary for these expenses to pre-date the date of concluding the contract or be related to it, as a service cannot be supplied without bearing the burden of operating, administrative, and general expenses. Additionally, what was stated in the Resolution Circuit's decision regarding the Appellant's failure to declare any revenues in the disputed tax declaration is irrelevant, as the dispute lies in the validity of claiming a deduction for a purchase invoice.

Regarding the Authority's defense to apply another tax treatment relating to proportional deduction, it is not considered in this context. Paragraph (3) of Article (51) of the Regulations concerning the proportional deduction mechanism stipulates: "In cases where a taxable person incurs Input Tax on Goods or Services used for making Taxable Supplies and Exempt Supplies, or where the Exempt Supply cannot be determined independently of this supply, then the proportional deduction of Input Tax shall be determined in accordance with this Article." This does not apply to the Appellant's case, as dividends received from subsidiaries are not considered a type of supply. Paragraph (1) of Article (5) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf stipulates: "Supply of Goods means the transfer of ownership of such Goods or the right to dispose of them." This makes the Authority's reliance on the application of proportional deduction misplaced and in violation of the mechanism for calculating the proportional deduction rate followed and set forth in Paragraph (4) of Article (51) of the Value Added Tax Law Implementing Regulations. Consequently, the Appeal Circuit concludes to accept the appeal.

Regarding the fine for error in the tax declaration and the Appellant's request to annul that penalty, which resulted from the final assessment notice for the disputed tax period, since the above item led to the acceptance of the appeal, and since the penalty resulted from it, that which is associated with it shall take its ruling. Accordingly, the Appeal Circuit concludes to accept the appeal regarding the disputed penalty.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:



Decision

First: To accept the appeal submitted by the Zakat, Tax and Customs Authority procedurally.

Second: On the Merits:

1. To accept the appeal regarding the item of purchases subject to tax at the standard rate of 15%, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-228012), and annul the decision of the Zakat, Tax and Customs Authority.
2. To accept the appeal regarding the item of the fine for error in the tax declaration, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-228012), and annul the decision of the Zakat, Tax, and Customs Authority.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-241162

Case No. V-2024-241162

Principle No. 40

- The determining factor in proving the right to deduct Input Tax is the availability of documents proving the Taxpayer's incurrence of the purchases and linking them to the related payments.

Facts



This is to consider the appeal submitted on 27/08/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-231854) in the lawsuit submitted by Company (...) against the Zakat, Tax and Customs Authority.

Also, to consider the appeal submitted on 25/09/2024 AD by (...), National ID No. (...), in his capacity as the legal representative of Company (...), Commercial Registration No. (...) pursuant to the Articles of Association, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-231854) in the lawsuit submitted by Company (...) against the Zakat, Tax and Customs Authority.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

- First: To accept the lawsuit procedurally.
- Second: On the Merits:
 - a) To amend the action of the Defendant (the Authority) by accepting the deduction of the amount of SAR 85,139.5 and its tax of SAR 12,770.86, and dismissing otherwise regarding the item of local purchases subject to the standard rate of 15% for the period related to June 2023 AD.
 - b) To amend the action of the Defendant (the Authority) in imposing the Late Payment Fine for June 2023 AD.
 - c) To amend the action of the Defendant (the Authority) in imposing the Error in declaration penalty for June 2023 AD.

Whereas this decision was not accepted by both parties, the Appellant (Zakat, Tax and Customs Authority) submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision to amend its action regarding the item of local purchases subject to the standard rate of 15% for the period related to June 2023 AD and amending the resulting penalties. This is due to the Appellee's violation of tax provisions, as it disclosed



invoices containing a Tax Identification Number belonging to another taxpayer without submitting the supporting documentation required for the tax deduction, thereby violating the Value Added Tax Law Implementing Regulations, as it is obligated to submit the correct invoices and documents proving the right to the deduction. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

Furthermore, the Appellant (...) submitted to the Appeal Circuit an appeal brief containing its objection to the Resolution Circuit's decision dismissing its objection to the Final Assessment Notice for the period of June 2023 AD regarding the exclusion of invoices issued by Company (...). This was on the grounds that it submitted all invoices of Company (...) for month 6 of 2023 AD in Arabic, including the bank transfer relating to the payment of the invoice amounts, and a statement detailing the invoice number, the amount related to the invoice, the invoice payment date, and the bank transfer method. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Sunday, 02/09/1446 AH, corresponding to 02/03/2025 AD, at 03:22 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the two appeals procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the two appeals are accepted procedurally as they were submitted by a party with legal standing and within the statutory period prescribed.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled to amend the action of the Appellant (Zakat, Tax and Customs Authority) regarding the item of local purchases subject to the standard rate of 15% for the period related to June 2023 AD and to amend the resulting penalties. Whereas it objects to the Resolution Circuit's decision due to the Appellee's violation of tax provisions, as it disclosed invoices containing a tax number belonging to another taxpayer without submitting the supporting documentation required for the tax deduction, thereby violating the Value Added Tax Law Implementing Regulations, and being obligated to submit correct invoices and documents proving the right to deduct. Since it is established that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and with the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and arrived at the



conclusion stated in its operative part. And whereas the Appeal Circuit has not observed anything regarding it that necessitates correction or comment in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision. Based on the foregoing, the Circuit concluded to dismiss the appeal and uphold the Resolution Circuit's decision as concluded, based on its reasons.

Regarding the appeal submitted by (Company ...) against the Resolution Circuit's decision dismissing its objection to the Final Assessment Notice for the period of June 2023 AD concerning the exclusion of invoices issued by Company (...). Whereas it objects to the Resolution Circuit's decision because it submitted all invoices of Company (...) for month 6 of 2023 AD in Arabic, including the bank transfer related to the payment of the invoice amounts, and a statement clarifying the invoice number, the amount related to the invoice, the invoice payment date, and the bank transfer method. Upon the Appeal Circuit's review of the Resolution Circuit's decision and its ruling, and after reviewing the entire case file; it becomes clear that the basis of the appealed decision is founded on the following: (the lack of clarity in linking the amounts mentioned in the bank transfers and the company's purchases statement, in addition to the invoices being in English). Referring to the documents submitted by both parties in the case file, it is evident that the Appellant (...) submitted the following documents: (purchase invoices in Arabic, in addition to linking them with the supporting bank transfers for the invoices, purchase orders, an invoice statement clarifying payment dates and amounts). Accordingly, it is evident that the Appellant provided sufficient and supporting documentation confirming its actual incurrence of those purchases, which entitles it to the right to exercise the deduction of Input Tax in its Tax declaration, in accordance with Paragraph (1) of Article (48) of the Unified Value Added Tax Agreement for the Cooperation Council for the Arab States of the Gulf, and Paragraph (7) of Article (49) of the Implementing Regulations of the Value Added Tax Law, which leads the Appeal Circuit to conclude to accept the appeal.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: Regarding the appeal of the Zakat, Tax and Customs Authority:

1. To accept the appeal procedurally.
2. To reject the appeal on merits.

Second: Regarding the appeal of Company (...), Commercial Registration No. (...):

1. To accept the appeal procedurally.
2. To accept the appeal regarding the item of local purchases subject to tax at the standard rate in the amount of (1,410,945.39) One Million Four Hundred Ten Thousand Nine Hundred Forty-Five Riyals and Thirty-Nine Halalas, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-231854), and annul the Authority's decision.

May Allah's peace and blessings be upon our Prophet Muhammad, his family, and all his companions



Appeal Committee for Tax Violations and Disputes

First Appeal Circuit for Value Added Tax and Excise

Tax Violations and Disputes

Decision No. VA-2025-243700

Case No. V-2024-243700

Principle No. 41

- A change in the legal form of an entity does not preclude the acceptance of the deduction of Input Tax, provided it is established that the existing entity is an extension of the previous entity and that the purchases subject to the deduction pertain to the same activity.

Principle No. 42

- The mere possibility of a prior deduction of Input Tax is insufficient to reject the deduction, unless the Authority proves with certainty that the Taxpayer has previously deducted the exact same purchases in a prior declaration.

Facts



This is to consider the appeal submitted on 13/10/2024 AD by (...), National ID No. (...), in his capacity as the legal representative of the Appellant pursuant to Power of Attorney No. (...) issued on 07/02/1446 AH, and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-233181) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision No. (VR-2023-90250) dated 23/10/2024 AD ruled as follows:

To dismiss the lawsuit for lack of articulation.

Then, the Appeal Circuit's decision No. (VA-2024-194410) dated 26/02/2024 AD ruled as follows:

First: To accept the appeal submitted by Company (...), Commercial Registration No. (...), procedurally, as it was submitted within the statutorily prescribed period.

Second: To accept the appeal submitted by Company (...), Commercial Registration No. (...) On merits, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2023-90250), and remanding the lawsuit to it for consideration in accordance with the outlined reasons.

Then, the Resolution Circuit's decision No. (VR-2024-233181) dated 03/09/2024 AD ruled as follows:



First: To accept the lawsuit procedurally.

Second: On the Merits:

- 1- To partially accept the Plaintiff's lawsuit, annul the decision of the Defendant (the Authority) to exclude the amount of (1,874.8) Riyals and adding it to the item of purchases subject to tax at the rate of (15%), and dismissing otherwise.
- 2- To partially accept the Plaintiff's lawsuit and amending the decision of the Defendant (the Authority) to recalculate the Late Payment Fine in proportion to the outcome of the first item.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision regarding the partial acceptance of its lawsuit concerning the Final Assessment for the period of September 2020 AD. This is on the grounds that the invoice submitted by it is eligible for deduction, and it provided documents demonstrating that it paid the tax and the principal purchase amount, submitting (77) bank transfers to Al-Zulal Factory issued by the company. Accordingly, the documents are sufficient to prove its right to deduct the invoices. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 25/10/1446 AH, corresponding to 23/04/2025 AD, at 03:10 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to postpone the consideration of the lawsuit and hold an in-person session. The session was adjourned at 03:45 PM.

On Monday, 28/11/1446 AH, corresponding to 26/05/2025 AD, at 02:32 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to postpone the consideration of the lawsuit for further study. The session was adjourned at 02:59 PM.

On Monday, 20/12/1446 AH, corresponding to 16/06/2025 AD, at 12:30 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda,



and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled for the partial acceptance of the Appellant's lawsuit concerning the Final Assessment for the period of September 2020 AD. Whereas the Appellant objects to the Resolution Circuit's decision because the invoice submitted by it is eligible for deduction, and it provided documents demonstrating that it paid the tax and the principal purchase amount, submitting (77) transfers to Factory (...) issued by the company; therefore, the documents are sufficient to prove its right to deduct the invoices. Upon the Appeal Circuit's review of the case documents, and regarding the Authority's defense that the invoices were issued in favor of another taxpayer, it becomes clear according to the submitted documents that the other taxpayer referred to by the Authority is the Appellant company itself. It is evident that the taxpayer (Establishment ...) was transformed from an establishment into a closed joint-stock company, which is the Appellant "Company ..., Commercial Registration No. (...)". As for the Appellee's statement, which is as follows: "(...) Establishment filed a declaration for the disputed period (September 2020 AD) and claimed a deduction for local purchases higher than the invoice value; specifically, it included purchases valued at 1,152,826.82 Riyals, which means it might have deducted these invoices in the previous declaration." Whereas the Authority is the one possessing certain knowledge of whether the taxpayer had deducted the exact same purchases in the previous declaration or not, as it is the competent entity to receive tax declarations; and whereas the decision must be based on certainty and not founded on the "possibility" or "probability" that the taxpayer has deducted them, as the Zakat, Tax and Customs Authority is the administrative entity authorized to do so and has sufficient powers and authorities to enable it to know with certainty whether the taxpayer actually deducted them in the previous declaration or not. What it submitted of documents is insufficient, as it presented the declaration related to the establishment for the disputed period and relied on the fact that it claimed a deduction for purchases higher than the invoice it rejected; however, this does not mean that it had previously deducted them. Furthermore, regarding the conditions that must be met in the invoice, the Authority did not clarify the defects that preclude the acceptance of these invoices and refute their validity, especially since the Authority argued before the Resolution Circuit that it [the taxpayer] might have obtained its deduction in its previous declaration when it was an establishment. How, then, can these invoices be formally defective if it had previously accepted their deduction? Whereas the Appellant submitted the statement of purchases and the invoices for those



purchases claimed for deduction, making it compliant with what is contained in Paragraph (7) of Article (49) of the Value Added Tax Law Implementing Regulations, which states: "Input Tax may not be deducted unless the Taxable Person holds evidence of the amount of Input Tax paid or payable as required by Article Forty-Eight of the Agreement. In cases where the Taxable Person does not hold the documents specified in the Agreement, the Taxable Person may claim a deduction provided he is able to submit to the Authority the following alternative evidence: a. a simplified tax invoice correctly issued in accordance with these Regulations. b. where a supply results from the transfer of Goods to another Member State, a commercial document or other document showing the value on which Value Added Tax is calculated on the date of transfer. c. other commercial documents acceptable at the Authority's discretion, providing evidence that the Taxable Person has been correctly charged and has paid the relevant Value Added Tax." Consequently, the Appeal Circuit concludes to accept the appeal on merits regarding the amount of (830,544) Riyals from the item of purchases subject to tax at the standard rate of 15%, and annul the Resolution Circuit's decision.

Regarding the Late Payment Fine and the Appellant's request to annul said penalty resulting from the Final Assessment Notice for the disputed tax period, the above item has led to the acceptance of the appeal, and since the penalty resulted from it, that which is associated with it follows its ruling. Accordingly, the Appeal Circuit concludes to accept the appeal regarding the disputed penalty.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by / Company (...), Commercial Registration No. (...), procedurally.

Second: On the Merits:

To accept the appeal on merits regarding the amount of (830,544) Riyals from the item of purchases subject to tax at the standard rate of 15%, annul the Resolution Circuit's decision, and annul the Appellee's decision and the resulting fines.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-158

Case No.

V-2024-245790

Principle No. 43

- The Taxpayer's right to deduct Input Tax associated with the Reverse Charge Mechanism shall not be forfeited merely because the tax due emerged through an assessment, provided that the conditions for deduction are met and there is no evidence of exempt sales restricting this right.

Facts

This is to consider the petition for reconsideration filed on 05/11/2024 AD, by the branch of Company (...), Commercial Registration No. (...), represented by / (...), National ID No. (...) in his capacity as the company's manager pursuant to the manager appointment resolution, against the decision of the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes No. (VA-2024-192307) in the lawsuit submitted by the Petitioner against the Respondent.

Whereas the facts of this lawsuit were set forth in the decision subject to the petition for reconsideration, the Appeal Circuit refers thereto to avoid repetition. Whereas the Appeal Circuit's decision ruled as follows:

Affirming the abandonment of litigation in the objection.

Whereas this decision was not accepted by the Petitioner, it submitted a petition for reconsideration brief to the Appeal Circuit, containing the following summary: "A petition for reconsideration regarding the litigation that was ruled to be abandoned, as the company reactivated the lawsuit within the prescribed time limit without exceeding it, relying on Paragraph (E/1) of Article (200) of the Law of Sharia Procedures," and concluded by requesting the acceptance of the petition for reconsideration.

On Wednesday, 27/08/1446 AH, corresponding to 26/02/2025 AD, at 01:53 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the petition, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to postpone the consideration of the lawsuit for further study. The session was adjourned at 04:09 PM.



On Monday, 30/10/1446 AH, corresponding to 28/04/2025 AD, at 02:25 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the petition, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Based on the Income Tax Law, issued by Royal Decree No. (M/1) dated 15/01/1425 AH, and amended by Royal Decree No. (M/113) dated 2/11/1438 AH, and after reviewing the Rules of Operation for Zakat, Tax, and Customs Circuits, issued by Royal Order No. (25711) dated 08/04/1445 AH:

Procedurally, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, it became clear that the contested decision issued by the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes ruled to affirm the abandonment of litigation in the objection. As the general principle dictates that final judicial rulings may not be reconsidered except in the cases stipulated in Article (200) of the Law of Sharia Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH, which states: "1. Any of the litigants may petition for a reconsideration of final judgments in the following cases: a- If the judgment was based on papers that were proven to be forged after the judgment, or based on testimony ruled by the competent authority after the judgment to be perjury. b- If the petitioner obtains, after the judgment, conclusive papers in the lawsuit that were impossible to produce before the judgment. c- If an act of fraud was committed by the adversary that would influence the judgment. d- If the judgment decreed something that the litigants did not request or more than what they requested. e- If the operative part of the judgment contradicts itself. f- If the judgment was rendered in absentia. g- If the judgment was issued against someone who was not properly represented in the lawsuit. 2. Anyone against whom the judgment is deemed binding, and who was not joined or intervened in the lawsuit, has the right to petition for a reconsideration of final judgments." And based on the provisions of Paragraph (1) of Article (Forty) of the Rules of Operation for Zakat, Tax, and Customs Circuits, which states: "1- Any of the parties to the lawsuit has the right to petition for a reconsideration of final decisions issued by any of the Circuits." Whereas the Petitioner relies on Paragraph (E/1) of Article (200) of the Law of Sharia Procedures, and upon the Appeal Circuit's review of the minutes of the session held on 19/03/2024 AD, it was proven that it did not include a judicial admission by the Appellant acknowledging the settlement of the dispute. Furthermore, since the decision subject to the petition ruled to (affirm the abandonment of litigation in the objection), which is something the litigants did not request, and based on Paragraph (1/D) of Article (200) of the aforementioned Law of Sharia Procedures, the Appeal Circuit concludes to accept the petition for reconsideration procedurally.



On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, it became clear to the Appeal Circuit that the Appellant objects to the appealed decision due to the lack of clarity regarding the basis of the assessment in the Assessment Notice, depriving it of the right to discuss its details and provide an effective response. It also clarified that a discrepancy exists in the tax treatment between Withholding Tax and Value Added Tax, which resulted in an unfair assessment for some periods that are either not subject to tax or subject to a lower rate, and that the Authority ignored its right to fully deduct the Input Tax despite fulfilling the conditions, demanding equal treatment across all tax periods due to the identical nature of facts and records.

Upon the Appeal Circuit's review of the merits of the decision subject to the petition for reconsideration, the petition brief, and the documents submitted by both parties in the case file, it is evident that the concept of the "Reverse Charge Mechanism" treats the taxpayer as both a buyer and a supplier simultaneously. Since purchases are, in most cases, related to the economic activity, and in the absence of evidence of exempt sales, the declaration is made in the first column "Original Amount" next to the item, and the system-provided form will assume the existence of matching revenues and expenses of the "same" value. Consequently, the result is a tax due of zero Riyals in the Petitioner's case.

However, the Respondent (the Authority) made a modification in the "Adjustment" column, resulting in denying the Petitioner the deduction of any purchases under the Reverse Charge Mechanism, despite the "absence" of evidence indicating exempt sales by the Petitioner. The Respondent did not cite the text of Paragraph (1) of Article (46) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf to justify this action. Furthermore, neither the Assessment Notice nor the declaration form reflected the existence of any exempt sales, whereas the existence of taxable sales, which generates the right to deduction, was proven. Additionally, the "Final Assessment Notice" did not clarify the reason for doing so, sufficing with stating the reason as "Adjustment of taxable imports through the reverse charge mechanism based on Article 47 Paragraph 1 of the Regulations and Article 41 of the Agreement." The "Objection Rejection Notice" stated the reason as: "Based on Article 41 and Article 44 Paragraph 3 of the Unified Value Added Tax Agreement and Article 47 Paragraph 1 of the Value Added Tax Law Implementing Regulations."

These are texts that can be relied upon if the modification was made by adding the disputed amount in the main column, as it was not proven that the Petitioner had exempt sales, which would result in a tax due of zero Riyals. However, the amount was added to the adjustment column, resulting in the Petitioner being deprived of deducting the tax on the entirety of the purchases despite the lack of evidence of exempt sales and the proven existence of sales subject to the standard rate according to the tax declaration related to the disputed period. This renders the basis of the assessment calculation unclear, violating the text of Paragraph (2) of Article (64) of the Value Added Tax Law Implementing Regulations.

As for the Respondent's defense that the reason for this is due to the Petitioner not initially declaring them, thus lacking the right to deduct, and that "it may deduct based on the assessment notice" related to the period as a proof



document in subsequent periods, this argument is invalid. The texts relied upon in making the disputed decision, according to the two aforementioned notices, are the text of Paragraph (1) of Article (47) of the Value Added Tax Law Implementing Regulations. This text clarifies the obligation to declare the tax due under the reverse charge item in addition to any deductible input tax to the extent that enables it to "benefit" from the deduction of VAT on inputs in the tax declaration for that period, specifically in the case of "declaration." The text did not exclude the case of declaring the tax due through an "assessment," nor did it state that this would forfeit the right to deduct the associated inputs.

Moreover, the Respondent's acknowledgment of the Petitioner's right to deduct those inputs in subsequent periods does not justify adding the amount to the adjustment column, which proves the invalidity of that defense. Similarly, the text of Paragraph (3) of Article (44) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf also clarifies the right of the person liable for payment under the reverse charge mechanism to deduct deductible inputs, provided that they have declared the tax due, again in the case of "declaration." The text did not exclude the case of declaring the tax through an "assessment," nor did it imply this would forfeit the right to deduct associated inputs. The Respondent's acknowledgment of the Petitioner's right to deduct those inputs in subsequent periods based on the assessment notice does not justify adding the amount to the adjustment column, thereby confirming the invalidity of the defense regarding the Petitioner's lack of right to deduct purchases related to the reverse charge mechanism.

Accordingly, the Appeal Circuit concludes to accept the appeal on merits regarding the right to deduct the amount of (5,084,634.71) Five Million, Eighty-Four Thousand, Six Hundred Thirty-Four Riyals and Seventy-One Halalas, and annul the Resolution Circuit's decision and the Appellee's decision.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the petition for reconsideration procedurally.

Second: To accept the petition for reconsideration on merits, and annul the decision of the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes No. (VA-2024-192307).

Third: To accept the appeal procedurally.

Fourth: To accept the appeal on merits regarding the right to deduct the amount of (5,084,634.71) Five Million, Eighty-Four Thousand, Six Hundred Thirty-Four Riyals and Seventy-One Halalas, annul the Resolution Circuit's decision, and annul the Appellee's decision.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-246746
Case No. V-2024-246746

Principle No. 44

- The acceptance of the registration of a person eligible for a refund does not automatically result in the acceptance of the refund application, as the requirements for the refund for the claimed period and amounts must be met in accordance with statutory provisions.

Facts

This is to consider the appeal submitted on 25/12/2024 AD by (...), (a non-resident company in the Kingdom), Commercial License No. (...), represented by/ (...), National ID No. (...), in its capacity as an agent for the Company pursuant to Power of Attorney No. (...) issued by the Dubai Courts, and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate City No. (VJ- 2024-240147) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: To dismiss the Plaintiff's lawsuit regarding the request for a Value Added Tax refund for the year 2023 AD in the amount of (1,840,018.7) Riyals.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision dismissing its lawsuit regarding the request for a Value Added Tax refund for the year 2023 AD. This is because it adhered to all procedures and statutory due dates stipulated in the Regulations, as the company's registration as a person eligible for a refund was approved on 03/06/2024 AD. Consequently, this approval confirmed the eligibility for a refund in accordance with Paragraph (1) of Article (71) of the Value Added Tax Law Implementing Regulations. Subsequently, the company submitted the refund request for the year (2023 AD) within the statutory due date before 30/06/2024 AD on the Authority's website, but it was unable to submit the request due to the icon not appearing. Therefore, the company submitted the request via email on 27/06/2024 AD, i.e., within the statutory due date. Relying on Paragraph (1) of Article (72) of the Regulations, a person's eligibility for a refund precedes submitting a request to the Authority in this regard; therefore, this Article did not link the date of submitting the request to the tax period for which the eligible person is



entitled to a tax refund. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Tuesday, 07/12/1446 AH, corresponding to 03/06/2025 AD, at 02:50 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to postpone the consideration of the lawsuit to a session to be determined later. The session was adjourned at 03:13 PM.

On Sunday, 26/12/1446 AH, corresponding to 22/06/2025 AD, at 01:26 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled to dismiss the Appellant's lawsuit regarding the request for a Value Added Tax refund for the year 2023 AD. Whereas the Appellant objects to the Resolution Circuit's decision because it adhered to all procedures and statutory due dates stipulated in the Regulations, as the company's registration as a person eligible for a refund was approved on 03/06/2024 AD. Consequently, this approval confirmed the eligibility for a refund in accordance with Paragraph (1) of Article (71) of the Value Added Tax Law Implementing Regulations. Subsequently, the company submitted the refund request for the year (2023 AD) within the statutory due date before 30/06/2024 AD on the Authority's website, but it was unable to submit the request due to the icon not appearing. Therefore, the company submitted the request via email on 27/06/2024 AD, i.e., within the statutory due date. Relying on Paragraph (1) of Article (72) of the Regulations, a person's eligibility for a refund precedes submitting a request to the Authority in this regard; therefore, this Article did not link the date of submitting the request to the tax period for which the eligible person is entitled to a tax refund. Since it is established



that the appealed decision regarding the dispute under consideration was consistent with the provisions of the Law and with the sound reasons upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and arrived at the conclusion stated in its operative part. And whereas the Appeal Circuit has not observed anything regarding it that necessitates correction or comment in light of the defenses raised before this Circuit, which leads to the conclusion that they do not affect the outcome of the decision. Based on the foregoing, the Circuit concluded to dismiss the appeal and uphold the Resolution Circuit's decision as concluded, based on its reasons.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal submitted by/ (...), Commercial License No. (...) procedurally.

Second: To reject the appeal submitted by/ (...), Commercial License No. (...) on merits.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-247525
Case No. V-2025-247525

Principle No. 45

- The Off-plan Sale License and documents approved by the competent authority shall be relied upon to prove the fulfillment of the requirements of a refund-eligible project, provided that it is proven to have been issued prior to the period under claim.

Facts

This is to consider the appeal submitted on 30/01/2025 AD by Company (...), Commercial Registration No. (...), represented by/ (...), National ID No. (...) in his capacity as the legal representative pursuant to the Juristic Person Representation License No. (...) and pursuant to Power of Attorney No. (...) issued on 27/03/1446 AH, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam City No. (VD-2024-242428) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To dismiss the Plaintiff's lawsuit.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision dismissing its lawsuit regarding its objection to the Appellee's decision of partial acceptance of the tax refund for the fourth quarter of 2022 AD. This is on the grounds that one of the essential conditions for issuing the license is the existence of a partnership agreement between the developer and the owner, as stipulated by Article (6) of the Law of Sale and Lease of Off-plan Real Estate Projects. Article (19) of the Regulations of the Law of Sale and Lease of Off-plan Real Estate Projects also requires the existence of a partnership agreement between the developer and the title deed owner. Whereas the Appellant was granted the license as a result of fulfilling the statutory requirements, which fall under the jurisdiction of the Real Estate General Authority, the Appellee has no authority to claim the invalidity of such contracts. Furthermore, the content of those projects, based on the regulations issued by the Real Estate General Authority and the Ministry of Municipalities and Housing, constitutes a partnership, and the Appellee has no authority to restrict, invalidate, or



weaken the regulations issued by other government entities. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 29/12/1446 AH, corresponding to 25/06/2025 AD, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled to dismiss the Appellant's lawsuit regarding its objection to the Appellee's decision of partial acceptance of the tax refund for the fourth quarter of 2022 AD. Whereas the Appellant objects to the Resolution Circuit's decision because one of the essential conditions for issuing the license is the existence of a partnership agreement between the developer and the owner, as stipulated by Article (6) of the Law of Sale and Lease of Off-plan Real Estate Projects, and because Article (19) of the Regulations of the Law of Sale and Lease of Off-plan Real Estate Projects requires the existence of a partnership agreement between the developer and the title deed owner. Whereas the Appellant was granted the license as a result of fulfilling the statutory requirements, which falls under the jurisdiction of the Real Estate General Authority, the Appellee has no authority to claim the invalidity of such contracts, and the content of those projects constitutes a partnership, and the Appellee has no authority to restrict, invalidate, or weaken the regulations issued by other government entities.

Upon the Appeal Circuit's review of the case documents, it was established that the reason for the Appellee's decision of partial rejection of the amounts under dispute, pursuant to the "Notice of Cancellation of Review Request," is as follows: "Based on Paragraph (Sixth) of the Rules and Procedures for Licensed Real Estate Developers as Persons Eligible for Value Added Tax Refund." Regarding what the Resolution Circuit's decision pointed out about the Taxpayer's failure to submit a set of documents, by referring to the case file, it is clear that the Appellant submitted financial statements and a sample of purchase invoices with proof of payment documents. Especially since the Authority's justification for the rejection was based on the text of Paragraph (6/c) of the Rules and Procedures for Licensed Real Estate Developers as Persons Eligible for Value Added Tax Refund, based on the form of the contracts



which include proof that they do not constitute a partnership according to the Appellee's defense; however, this does not constitute sufficient evidence that the contracts did not fulfill the statutory conditions. Whereas the Appellant submitted the sales contract approved by the Off-plan Sale or Lease Committee for the projects under dispute, and also submitted a letter issued by the Real Estate General Authority regarding those projects, which the Resolution Circuit indicated was issued on the date of the audit; however, by reviewing the letter issued by the Real Estate General Authority regarding the projects under dispute, the following was established:

- The (...) project, which obtained the Off-plan Sale License on 10/10/2018 AD, was obtained "after" the real estate developer, Company (...), completed the statutory requirements, including the development agreement concluded between the real estate developer and the land owner by partnership between the two parties, which grants the real estate developer the right to sell and sign contracts with buyers on behalf of the owner, based on the sales contract approved by the Off-plan Sale or Lease Committee.
- The (...) project, which obtained the Off-plan Sale License on 30/07/2018 AD, was obtained "after" the real estate developer, Company (...), completed the statutory requirements, including the development agreement concluded between the real estate developer and the land owner by partnership between the two parties, which grants the real estate developer the right to sell and sign contracts with buyers on behalf of the owner, based on the sales contract approved by the Off-plan Sale or Lease Committee.
- The (...) project, which obtained the Off-plan Sale License on 07/09/2022 AD, was obtained "after" the real estate developer, Company (...), completed the statutory requirements, including the development agreement concluded between the real estate developer and the land owner by partnership between the two parties, which grants the real estate developer the right to sell and sign contracts with buyers on behalf of the owner, based on the sales contract approved by the Off-plan Sale or Lease Committee.

Based on the above notification, through which it is proven that the Real Estate General Authority acknowledges that the Appellant obtained the Off-plan Sale License on a date "prior" to the date of the period under dispute, and that obtaining it was after the Appellant completed the statutory requirements which include the existence of the development agreement concluded between the real estate developer and the land owner "by partnership" between the two parties, which is considered evidence of the existence of an actual partnership, and consequently the Appellant's entitlement to the refund based on the text of Paragraph (c) of Clause (Sixth) of the Rules and Procedures for Licensed Real Estate Developers as Persons Eligible for Value Added Tax Refund. Consequently, the reference to the date of the issuance of the Real Estate General Authority's letter during the audit period lacks merit, as the content of the letter clarifies that the partnership is a requirement for obtaining the license, which it is proven that the Appellant obtained prior to the period under dispute. Accordingly, the Appeal Circuit concludes to accept the appeal regarding the Value Added Tax refund in the amount of (18,511,098.26) Eighteen Million, Five Hundred Eleven Thousand, Ninety-Eight Riyals and Twenty-Six Halalas.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:



Decision

First: To accept the appeal submitted by/ Company (...), Commercial Registration No. (...) procedurally.

Second: To accept the appeal submitted by/ Company (...), Commercial Registration No. (...), regarding the Value Added Tax refund in the amount of (18,511,098.26) Eighteen Million, Five Hundred Eleven Thousand, Ninety-Eight Riyals and Twenty-Six Halalas, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam City No. (VD-2024-242428), and annul the Appellee's decision.



Penalties



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-247593
Case No. V-2025-247593

Principle No. 46

- The mere establishment of the underlying violation is insufficient to impose a tax evasion penalty without specifying the decision subject to the penalty, its basis of calculation, and notifying the Taxpayer thereof.

Facts



This is to consider the appeal submitted on 05/02/2025 AD by (...), National ID No. (...) in his capacity as representative for Company (...), Commercial Registration No. (...) pursuant to Power of Attorney No. (...) issued on 04/04/1445 AH, and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-243088) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: Non acceptance of the Plaintiff's lawsuit.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision ruling the inadmissibility of its lawsuit regarding its objection to the Authority's decision to impose tax evasion penalties and late payment penalty resulting from the tax declarations for the months of (April, July, November) of the year 2018 AD, the months of (January, February, March, April, May, June, July, August, September, October, November, December) of the year 2019 AD, and the month of (February) of the year 2020 AD. This is on the grounds of an error in considering the Authority's decision immune from appeal, the failure to verify the notification, and the failure to clarify the statutory basis for calculating the penalty. The Appellant also pointed out the incorrect characterization of the lawsuit by the Circuit, as the Circuit relied on the existence of an error in the tax declaration that resulted in outstanding tax discrepancies, in addition to the Circuit's failure to verify the satisfaction of the core elements of the tax evasion offense. It concluded by requesting the acceptance of the appeal.



On Monday, 17/02/1447 AH, corresponding to 11/08/2025 AD, at 01:18 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. Upon calling the parties to the lawsuit, (...), National ID No. (...) attended in his capacity as agent for the Appellant pursuant to Power of Attorney No. (...) issued on (04/04/1445 AH), and Law Practice License No. (...), and (...), National ID No. (...) attended in his capacity as representative for the Zakat, Tax and Customs Authority pursuant to Delegation No. (...) issued by the Deputy Governor for Legal Affairs and Compliance at the Zakat, Tax and Customs Authority. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and upon asking the Appellant's agent about the appeal, he responded in line with what was previously mentioned in the appeal brief and adhered to its contents. Upon presenting the appeal to the Appellee's representative, he responded in line with what was previously mentioned in the response memorandum and adhered to its contents.

In this session, the Circuit asked the Appellant's representative whether there were other tax periods under audit or litigation concerning the Appellant other than the periods mentioned in this lawsuit, and he answered in the negative. After the Circuit discussed with the parties to the lawsuit, the Circuit ordered both parties to submit the following within a period not exceeding fourteen calendar days from its date: Submitting the decision(s) issued by the Authority and contested by the Appellant regarding both: the tax evasion penalty and the late payment penalty for each tax period separately if those decisions are separate from each other. The Authority shall submit proof of notifying the Appellant of its decisions related to imposing the tax evasion penalty and the late payment penalty. The Authority shall submit proof of the existence of the basis for calculating the tax evasion penalty and the basis for calculating the late payment penalty in all decisions it issued related to this lawsuit. The Authority shall submit the decision related to each tax period separately if those decisions are separate from each other. Accordingly, the Circuit decided to postpone the consideration of the lawsuit to a session to be determined later. The session was adjourned at 02:08 PM.

On Wednesday, 25/03/1447 AH, corresponding to 17/09/2025 AD, at 04:05 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to postpone the consideration of the lawsuit to a session to be determined later. The session was adjourned at 04:38 PM.

On Sunday, 06/04/1447 AH, corresponding to 28/09/2025 AD, at 12:30 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on



the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled the inadmissibility of the Appellant's lawsuit regarding its objection to the Authority's decision to impose tax evasion penalties and late payment penalty resulting from the tax declarations for the months of (April, July, November) of the year 2018 AD, the months of (January, February, March, April, May, June, July, August, September, October, November, December) of the year 2019 AD, and the month of (February) of the year 2020 AD. Whereas the Appellant objects to the Resolution Circuit's decision because of an error in considering the Authority's decision immune from appeal, the failure to verify the notification, and the failure to clarify the statutory basis for calculating the penalty. The Appellant also pointed out the incorrect characterization of the lawsuit by the Circuit, as the Circuit relied on the existence of an error in the tax declaration that resulted in outstanding tax discrepancies, in addition to the Circuit's failure to verify the satisfaction of the core elements of the tax evasion offense.

Upon the Appeal Circuit's review of the case documents, the following was established:

First: Regarding the tax evasion penalty for the tax period of (April) of the year 2018 AD: Whereas the Circuit requested the Authority in the session held on 11/08/2025 AD to submit the decisions issued by the Authority and contested by the Appellant regarding both: the tax evasion penalty and the late payment penalty for each tax period separately if those decisions are separate from each other; and for the Authority to submit proof of notifying the Appellant of its decisions related to imposing the tax evasion penalty and the late payment penalty; and for the Authority to submit proof of the existence of the basis for calculating the tax evasion penalty and the basis for calculating the late payment penalty in all decisions it issued related to this lawsuit; and for the Authority to submit the decision related to each tax period separately if those decisions are separate from each other. However, the Authority did not submit the assessment notices related to the period under dispute, which constitute the basis for calculating the tax evasion penalty. Accordingly, the Circuit concludes to annul the Authority's decision to impose the tax evasion penalty regarding the tax period of (April) of the year 2018 AD.



Second: Regarding the tax evasion penalty for the tax periods of (July, November) of the year 2018 AD, the year 2019 AD, and the month of (February) of the year 2020 AD: Whereas the Appellant requests the annulment of the Appellee's decision related to imposing the tax evasion penalty; and since it is established that the case documents demonstrated the proof of the tax evasion violation against the Appellant, this Circuit concludes to dismiss this request. Since it is also established that the imposition of the penalty is in accordance with the violation classification schedule referred to in Article (48) of the Value Added Tax Law, which states: "1- The Authority shall impose the penalties stipulated in the Law in accordance with a classification of violations and determination of penalties issued by a decision of the Board of Directors. 2- The penalty shall be imposed by a decision of the Governor of the Authority, or whomever is delegated by the Board of Directors. 3- The decision imposing the penalty may include a provision for publishing its operative part at the expense of the violator in a local newspaper published in their place of residence. If there is no newspaper in their place of residence, then in the nearest region, or by publishing it via any other appropriate means, depending on the type, severity, and effects of the violation committed, after the decision becomes final." Since the classification stipulated in Paragraph (1) of Article (48) of the Value Added Tax Law is of a regulatory nature and contains abstract general rules applicable to all individuals to whom the conditions specified in the decision apply, and affects their legal statuses, the Law requires the announcement and publication of those decisions to the public, and the burden of proving this lies with the Administration, which is consistent with established judicial principles. Whereas the publication of that decision has not been proven, the application of Article (40) of the Value Added Tax Law shall be by imposing the tax evasion penalty at its minimum limit, which is the value of the tax due. Accordingly, the Appeal Circuit concludes to uphold the Resolution Circuit's decision while imposing the value of the penalty at its minimum limit, amounting to (5,684,034.96) Riyals.

Third: Regarding the late payment penalty: Whereas the Circuit requested the Authority in the session held on 11/08/2025 AD to submit the decisions issued by the Authority and contested by the Appellant regarding the late payment penalty for each tax period separately, if those decisions are separate from each other; however, the Authority did not submit those decisions despite being granted sufficient time, and it submitted invoices related to tax periods outside the tax periods relevant to this lawsuit. Accordingly, the Appeal Circuit concludes to annul the late payment penalty.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:



Decision

First: To accept the appeal procedurally.

Second: On the Merits:

1. To accept the appeal and annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City, and annul the decision of the Zakat, Tax and Customs Authority regarding the tax evasion penalty for the tax period of (April) of the year 2018 AD.
2. To reject the appeal and uphold the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City regarding the tax evasion penalty for the tax periods of (July, November) of the year 2018 AD, the year 2019 AD, and the month of (February) of the year 2020 AD, with modifying the value of the penalty to be at its minimum limit, amounting to (5,684,034.96) Five Million, Six Hundred Eighty-Four Thousand, Thirty-Four Riyals and Ninety-Six Halalas.
3. To accept the appeal and annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City, and annul the decision of the Zakat, Tax and Customs Authority regarding the late payment penalty for the tax periods under dispute.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-242980
Case No. I-2024-242980

Principle No. 47

- The late payment penalty on a presumptive assessment shall be calculated from the date the Taxpayer is notified of the assessment, provided that the tax difference due could not be determined or paid until the issuance of such assessment.

Facts

This is to consider the appeal submitted on 19/09/2024 AD by (...) (National ID No. ...) in his capacity as Manager of the Appellant company's branch pursuant to the external Power of Attorney and the Commercial Registration, against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-212183) issued in Lawsuit No. (I-2023-212183) regarding the tax assessment for the year 2017 AD, in the lawsuit submitted by the Appellant against the Zakat, Tax and Customs Authority, wherein the Resolution Circuit ruled as follows:

First/A: To reject the Plaintiff's objection to the item of the Authority's assessment notice for the year 2017 AD, in accordance with the grounds of the decision.

First/B: To reject the Plaintiff's objection to the item of the Authority's assessment notice regarding the statute of limitations for the year 2017 AD, in accordance with the grounds of the decision.

Second: To reject the Plaintiff's objection to the item of profit attribution for goods supply operations conducted from outside the Kingdom to customers inside the Kingdom at a profit rate of (7.43%).

Third: To dismiss the Plaintiff's objection to the item of profit attribution for (...) contract discounts at a rate of (7.43%) for the year 2017 AD.

Fourth: To reject the Plaintiff's objection to the item of adjusted carried-forward losses at a maximum of (25%) of its share in the profit according to its declaration for the year 2017 AD.

Fifth: To reject the Plaintiff's objection to the late payment penalty item for the year 2017 AD.

Whereas this decision was not accepted by the Taxpayer, it submitted an appeal brief which the Circuit reviewed, and which summarized – regarding the "late payment penalty item for the year 2017 AD" – that the late payment penalty imposed by the Authority on the items is itself under objection, and that it arose due to a clear, genuine



difference in points of view between the Authority and the company branch. The Circuits have ruled in many objections not to impose a late payment penalty when there is a genuine difference in points of view between the Authority and the taxpayers. It added that, in accordance with Paragraph (a) of Article (77) of the Income Tax Law and Article (68) of the Law's Executive Regulations, the late payment penalty is calculated from the tax due date until the date of payment. Consequently, the calculation of the late payment penalty begins from the date the tax becomes final, and this does not occur until the Taxpayer accepts the assessment or the objection procedures are concluded. The Taxpayer also objects to the item of "statute of limitations for the year 2017 AD," the item of "profit attribution for goods supply operations conducted from outside the Kingdom of Saudi Arabia to customers inside the Kingdom at a profit rate of 7.43%," the item of "profit attribution for (...) contract discounts at a rate of 7.43% for the year 2017 AD," and the item of "adjusted carried-forward losses at a maximum of 25% of the taxable profit according to the declaration submitted for the year 2017 AD," and requests the annulment of the Resolution Circuit's decision on the appealed items for the aforementioned reasons.

On Tuesday, 28/01/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its session at 11:24 AM in the presence of its members whose names are recorded above, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. Upon calling the litigants, (...), National ID No. (...) attended as agent for the Appellant pursuant to an external Power of Attorney ratified by the Ministry of Justice No. (...) issued on 29/01/1445 AH, and Law Practice License No. (...), and the representative of the Appellee (...) (National ID No. ...) attended pursuant to a delegation issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs No. (...) dated 19/03/1445 AH. Upon asking the Appellee's representative what she wished to add, she stated that she adheres to what was previously submitted in this lawsuit. Upon presenting this to the Appellant's agent, he replied that he adheres to what was previously submitted in this lawsuit. Upon asking the parties what they wished to add, they decided to suffice with what was previously submitted; accordingly, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the appeal brief submitted by the Taxpayer, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, regarding the Taxpayer's appeal concerning the item of "statute of limitations for the year 2017 AD," the item of "profit attribution for goods supply operations conducted from outside the Kingdom of Saudi Arabia to customers inside the Kingdom at a profit rate of 7.43%," the item of "profit attribution for (...) contract discounts at a rate of 7.43% for the year 2017 AD," and the item of "adjusted carried-forward losses at a maximum of 25% of the taxable profit according to the declaration submitted for the year 2017 AD," the Circuit finds no fault in adopting the



grounds of the appealed decision without adding thereto, as it considers those grounds sufficient to preclude the need to state anything new. By upholding the decision based on those grounds, it is confirmed that the Circuit did not find in the challenges directed at the decision anything worthy of a response beyond what those grounds already contained. Since the appealed decision regarding the dispute on the appealed items was consistent with the sound grounds upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and arrived at the conclusion stated in its operative part, and since this Circuit did not observe anything necessitating correction or comment in light of the defenses raised before it, this Circuit concludes to dismiss the Taxpayer's appeal and uphold the Resolution Circuit's decision appealed against regarding the result reached on these items, based on its grounds.

Regarding the Taxpayer's appeal concerning the "late payment penalty item for the year 2017 AD," where the Taxpayer requests the annulment of the Resolution Circuit's decision on the basis that the late payment penalty imposed by the Authority on the items is itself under objection and arose due to a clear, genuine difference in points of view between the Authority and the company branch; and whereas Paragraph (a) of Article (77) of the Income Tax Law issued by Royal Decree No. (M/1) dated 15/01/1425 AH states: "In addition to the fines set forth in Article seventy-six of this Law and in Paragraph (b) of this Article, the Taxpayer shall pay a late payment penalty of one percent (1%) of the unpaid tax for every thirty days of delay. This includes the delay in paying the tax required to be withheld and the accelerated payments, and it shall be calculated from the tax due date to the date of payment." Furthermore, Paragraph (1) of Article (68) of the Implementing Regulations of the Income Tax Law issued by Ministerial Resolution No. (1535) dated 11/06/1425 AH states: "There shall be added to the fines provided for in the preceding Article 1% of the unpaid tax for every thirty days of delay in the following cases: b- Delay in paying the tax due under the Authority's assessment." Also, Paragraph (3) of Article (67) of the same Regulations states: "Unpaid tax means the difference between what the Taxpayer paid on the statutory date and the tax due for payment under the provisions of the Law, including adjustments made by the Authority which have become final as stated in Paragraph (2) of Article seventy-one of these Regulations, including cases under objection, where the penalty is calculated from the statutory date for submitting the declaration and payment." Based on the foregoing, and whereas the late payment penalty is calculated from the date the tax is due on the Taxpayer, yet in the case of tax due under a presumptive assessment, the calculation of the late payment penalty for payment is from the date of the Authority's notification of the tax assessment, as the Taxpayer cannot pay the tax difference due under the presumptive assessment until the Authority issues the assessment under objection. Accordingly, the Circuit concludes to accept the Taxpayer's appeal in part and amend the Resolution Circuit's decision by calculating the late payment penalty from the date of the Authority's notification of the presumptive assessment.

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:



Decision

First: To accept the appeal procedurally from the Taxpayer/ branch of Company (...), Commercial Registration No. (...), TIN (...), against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-212183) issued in Lawsuit No. (I-2023-212183) regarding the tax assessment for the year 2017 AD.

Second: On the Merits:

1. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (statute of limitations for the year 2017 AD).
2. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (profit attribution for goods supply operations conducted from outside the Kingdom of Saudi Arabia to customers inside the Kingdom at a profit rate of 7.43%).
3. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (profit attribution for (...) contract discounts at a rate of 7.43% for the year 2017 AD).
4. To reject the Taxpayer's appeal and uphold the Resolution Circuit's decision regarding the item of (adjusted carried-forward losses at a maximum of 25% of the taxable profit according to the declaration submitted for the year 2017 AD).
5. To amend the Resolution Circuit's decision regarding the Taxpayer's appeal on the item of (late payment penalty for the year 2017 AD).



Procedural Principles



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-232770
Case No. V-2024-232770

Principle No. 48

- Legal standing in a lawsuit shall vest in the Real Estate Investment Fund Manager, provided it is established that they are the legal representative of the Fund before judicial authorities, and that the transaction in dispute was concluded for the account of or for the benefit of the Fund.

Facts

This is to consider the appeal submitted on 01/03/2024 AD by (...), National ID No. (...), in its capacity as the legal representative for the Appellant pursuant to Power of Attorney No. (...) issued on 04/03/1445 AH, and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-205383) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

Non-acceptance of the lawsuit procedurally for being filed against a party lacking standing.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision ruling the inadmissibility of the lawsuit for lack of standing. This is on the grounds that the lawsuit was filed against Company (...) for Investment in its capacity as the manager of the (...) Fund. The Appellant argues that the premise of the appealed decision—that Company (...) for Investment is not the manager of the (...) Real Estate Fund—is incorrect, and the defendant acknowledges being the manager of the Fund. Furthermore, the Appellant contends that the lawsuit should be directed against the Fund Manager, Company (...) for Investment, rather than the Fund directly, as the Fund lacks legal personality and a Commercial Registration, and does not act except through its manager. Consequently, the manager represented the Fund in the commission agreement and on its official documents. The Appellant further stated that (...) Real Estate Company, holding Commercial Registration No. (...), has no relation to the lawsuit due to the independence of its financial standing outside the subject of the dispute, and that the lawsuit cannot be directed against it because it is a Special Purpose Vehicle (SPV) with a specific mandate restricted to holding the Fund's assets in accordance with the Capital Market Authority's regulations and the Fund's Terms and Conditions, having been established by the



Fund Custodian to hold assets on behalf of the Fund. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Tuesday, 10/05/1446 AH, corresponding to 12/11/2024 AD, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and after discussion and deliberation, the Circuit determined that the lawsuit required further study. The Circuit decided to postpone the consideration of the lawsuit to a session to be determined later and requested the Secretariat to instruct the Appellee to attach the Fund's Articles of Association to the case file within (10) days.

On Wednesday, 06/08/1446 AH, corresponding to 05/02/2025 AD, at 01:39 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled the inadmissibility of the lawsuit for lack of standing. Whereas the Appellant objects to the Resolution Circuit's decision because the lawsuit was filed against Company (...) for Investment in its capacity as the manager of the (...) Real Estate Fund, and whereas the Appellant argues that the decision is incorrect, that the Fund Manager is the proper party to be sued, that the Fund lacks legal personality, and that the separate SPV entity has no relation to the dispute; upon the Appeal Circuit's review of the Real Estate Investment Funds Regulations, Article (9) of which defines the legal basis for managing the Fund, stating: "A contractual relationship shall be established between the Fund Manager and the unitholders upon signing the Fund's Terms and Conditions licensed by the Authority in accordance with the provisions of these Regulations." Whereas Article (13) of the same Regulations regarding Fund management states: "a- The Fund Manager shall act



for the interest of unitholders in accordance with the provisions of these Regulations, the Financial Market Institutions Regulations, and the Fund's Terms and Conditions. b- The Fund Manager is obligated to adhere to all principles and duties stipulated in the Financial Market Institutions Regulations, including the duty of trust towards unitholders, which includes acting in their best interest and exercising reasonable care. e- Obligations of the Fund Manager: 7- Managing the Fund's assets in a manner that achieves the interests of the unitholders in accordance with the Fund's Terms and Conditions. 8- Ensuring the legality and validity of contracts concluded for the benefit of the Fund." After referring to the commission agreement, the First Party is defined as follows: "The First Party is Al-Bilad Abhar Real Estate Fund, which is a Special Purpose Vehicle... represented in signing this agreement by Mr. (...) in his capacity as the CEO of the Fund Manager, Company (...) for Investment." Article (3) of the commission agreement provides for the obligations of the First Party: "The First Party undertakes to pay the commission...". The preamble of the agreement also outlines the descriptions of the real estate to be purchased and the responsibility of the Fund Manager in managing the Fund. Based on the provisions cited above, and whereas the contract is the law of the contracting parties, it is established that legal standing vests in (Company (...) for Investment, CR No. ...) pursuant to the Articles of Association, which stipulate that the Fund Manager is Company (...) for Investment, and that its duties include statutory representation before judicial authorities according to Paragraph (1-1-7) of the Fund's Articles of Association: "Representing the entity before the Capital Market Authority, Notaries Public, and judicial, governmental, and private entities, and others." Accordingly, the Appeal Circuit concludes to accept the filed appeal.

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

Decision

First: To accept the appeal submitted by/ (...) Real Estate Company, Commercial Registration No. (...), procedurally.

Second: To accept the appeal submitted by/ (...) Real Estate Company, Commercial Registration No. (...), on merits; annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-205383), and remitting the case back to it for consideration in accordance with the reasons set forth above.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Income Tax Violations and Disputes in Riyadh City

Decision No. IR-2025-243554
Case No. IW-2024-243554

Principle No. 49

- It is necessary to investigate the technical issues required to resolve the dispute, including commissioning an expert where appropriate. It is not permissible to omit such investigation when its omission affects the outcome, in order to ensure the parties' right to two-tier litigation.

Facts

This is to consider the decision of the First Appeal Circuit for Income Tax Violations and Disputes No. (IR-2024-238777) dated 05/08/2024 AD, issued regarding the petition registered under No. (IW-2024-238777), which provides: "First: To accept the petition for reconsideration procedurally from the petitioner, the Taxpayer/ Company (...), Commercial Registration No. (...), TIN (...), against the decision of the First Appeal Circuit for Income Tax Violations and Disputes No. (IR-2024-204918) issued in lawsuit No. (IW-2023-204918) regarding tax assessments for the years from (2006 AD) to (2014 AD). Second: On the Merits: To accept the petition for reconsideration and remand the case to the First Appeal Circuit for Income Tax Violations and Disputes for consideration, in accordance with the reasons and grounds set forth in this decision." Accordingly, this Circuit decided to examine the lawsuit on its merits pursuant to its decision issued in the aforementioned petition.

Whereas the appeal was resubmitted on 08/10/2024 AD by (...), ID No. (...), in his capacity as agent for the Appellant, pursuant to the external Power of Attorney authenticated by the Ministry of Justice and the Ministry of Foreign Affairs No. (...) and Law Practice License No. (...), against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2023-127704) issued in lawsuit No. (IW-2022-127704) regarding the tax assessments for the years from 2006 AD to 2014 AD, in the lawsuit submitted by the Taxpayer against the Zakat, Tax and Customs Authority, wherein the Resolution Circuit ruled as follows:

First: To accept the lawsuit submitted by the Plaintiff/ Company (...), TIN (...), against the Defendant/ Zakat, Tax and Customs Authority, procedurally.

Second: On the Merits:

1a- To reject the Plaintiff's objection regarding the consideration that it has a permanent establishment in the Kingdom.



1b- To reject the Plaintiff's objection regarding the imposition of a lump-sum profit on the company's revenues estimated by the Defendant.

2- To reject the Plaintiff's objection regarding the withholding tax item.

3a- To reject the Plaintiff's objection regarding the imposition of a concealment penalty.

3b- To reject the Plaintiff's objection regarding the imposition of a non-registration penalty.

3c- To reject the Plaintiff's objection regarding the imposition of a non-filing of declaration penalty.

3d- To amend the Defendant's action regarding the late payment penalty item, in accordance with the reasons.

Whereas this decision was not accepted by the Taxpayer, it submitted an appeal brief which the Circuit reviewed, and which summarized that the Taxpayer requests the acceptance of its appeal and the overturning of the Resolution Circuit's decision appealed against.

On Sunday, 05/01/2025 AD, the First Appeal Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and after deliberation, and whereas the lawsuit is ready for a ruling in its current state, and whereas the Circuit did not find any necessity for the presence of the parties to the lawsuit, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the appeal brief submitted by the Taxpayer, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, after reviewing the case file and its contained documents, and whereas the Taxpayer submitted a petition for reconsideration registered under No. (IW-2024-238777) against the decision issued by this Circuit No. (IR-2024-204918) in the lawsuit registered under No. (IW-2023-204918), the operative part of which provided for accepting the petition for reconsideration and remanding the case to the First Appeal Circuit for Income Tax Violations and Disputes for consideration, regarding the item of (unit pricing), the item of (unit type), and the item of (15% operating fees). Whereas the Taxpayer argues the existence of documents related to the pricing issued by the Ministry of Commerce, and the prices approved for the years from 1430 AH (2008 AD) to 1436 AH (2014 AD); and whereas the Taxpayer communicated with the Ministry of Commerce via email to provide it with the unit prices for the years from 2008 AD to 2014 AD, which are the years under audit, and whereas the Ministry of Commerce



responded that its request was "(outside the jurisdiction of the Ministry of Commerce)," which contradicts the document that the Authority claims to have relied upon in its assessment of the Company, in addition to the letter from the operating company and copies of the structural plan of the units which clarify that they are not royal suites, and all documents supporting the validity of its viewpoint.

Whereas the Circuit found it impossible for the Taxpayer to obtain the unit pricing from official entities; and whereas estimating the subject of the Taxpayer's obligation in this lawsuit must be determined to resolve this lawsuit; it was necessary for the Resolution Circuit to commission an expert to determine the unit pricing in accordance with the provisions of Articles (25) and (26) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. This is in application of the principle approved by the Supreme Judicial Council in its decision No. (34/5) dated 11/02/1431 AH, which stated: "It is known that the judge is not obligated to bring evidence that the litigants did not bring, despite their ability to do so, but it is not permissible for him (the judge) to abandon what can be done to reveal and show the truth regarding the existence of presumptions and evidence that need to be reinforced by the judge's scrutiny. Furthermore, the judge's proactive role in proving rights and investigating the facts in a manner that reveals the truth does not require the burden of proving the facts to fall solely on the plaintiff; rather, if the evidence needs disclosure and investigation by the judge, he shall undertake it, and this shall not be considered a breach of the required neutrality of the judge." Accordingly, in order to guarantee the parties' right to two-tier litigation, the Circuit concludes to remand the case to the Resolution Circuit in accordance with the reasons set forth.

Based on the foregoing and incorporating the aforementioned grounds, the Circuit unanimously decided as follows:

Decision

First: To accept the appeal procedurally from the petitioner, the Taxpayer/ Company (...), Commercial Registration No. (...), TIN (...), against the decision of the Second Circuit for the Resolution of Income Tax Violations and Disputes in Riyadh City No. (ISR-2023-127704) issued in lawsuit No. (IW-2022-127704) regarding the tax assessments for the years from 2006 AD to 2014 AD.

Second: On the Merits:

To remand the case to the Resolution Circuit in accordance with the reasons and grounds set forth in this decision.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-95

Case No.

V-2024-243953

Principle No. 50

- In matters of prior adjudication, the decisive factor is the substance of the claims and the unity of their subject matter, regardless of any difference in the tax period or the procedural classification of the lawsuit.

Facts



This is to consider the appeal submitted on 15/10/2024 AD by (...), National ID No. (...), in his personal capacity, against the decision of the Second Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VSR-2024-85627) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the appealed decision, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision No. (VSR-2022-1514) dated 07/09/2022 AD ruled as follows:

Non acceptance of the lawsuit procedurally.

Subsequently, the Appeal Circuit's decision No. (VA-2023-144128) dated 04/12/2023 AD ruled as follows:

First: To accept the appeal submitted by (...) - National ID No. (...) procedurally, as it was filed within the statutorily prescribed period.

Second: To accept the appeal submitted by (...) - National ID No. (...) on merits, annul the decision of the Second Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VSR-2022-1514), and remanding the case to the issuing Circuit for consideration on merits.

Thereafter, the Resolution Circuit's decision No. (VSR-2024-85627) dated 15/09/2024 AD ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits: To reject the Plaintiff's lawsuit.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision dismissing its lawsuit regarding its objection to the Appellee's decision concerning the tax period of the second and third quarters of 2020 AD. This is on the grounds that the Appellant purchased three land plots on 13/03/2019 AD for a value of (2,342,797) SAR, inclusive of Value Added Tax amounting to (111,561.75) SAR. These plots were subdivided into eight plots, sold, declared, and the tax



was paid. An input tax refund of (111,561.75) SAR was requested within the tax declaration for the first quarter of 2021 AD, which was submitted on 12/09/2022 AD. After the audit, the Appellee (the Authority) decided to accept a partial refund of (56,695.19) SAR and reject the refund of (54,866.56) SAR. The Appellant noted that he operates in a personal capacity and is not a real estate specialist. He concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Thursday, 26/10/1446 AH, corresponding to 24/04/2025 AD, at 01:07 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled to dismiss the Appellant's lawsuit regarding its objection to the Appellee's decision concerning the tax period of the second and third quarters of 2020 AD. Whereas the Appellant objects to the Resolution Circuit's decision based on the purchase of three land plots on 13/03/2019 AD for a value of (2,342,797) SAR, inclusive of Value Added Tax amounting to (111,561.75) SAR, and the subsequent subdivision and sale of these plots, and the request for an input tax refund of (111,561.75) SAR in the first quarter of 2021 AD, and the Authority's subsequent partial acceptance of the refund. Upon the Appeal Circuit's review of the case documents, it is established that the Appellant is seeking a refund of invoices related to real estate in its tax declaration for the tax period of (the first quarter of 2022 AD), for which it had previously requested the same amount of (111,562.00) SAR in lawsuit No. (V-2023-201834), which resulted in a decision by the Appeal Circuit to reject the claim. Consequently, the Resolution Circuit's decision was issued regarding periods unrelated to the lawsuit (the second and third quarters of 2020 AD), and no evidence to the contrary was established. Since the claims presented by the Appellant in this lawsuit are without merit, as the same claims have already been adjudicated by the Circuit, the Appeal Circuit concludes to annul the Resolution Circuit's decision and rule to dismiss the case due to prior adjudication.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:



Decision

First: To accept the appeal submitted by/ (...), National ID No. (...), procedurally.

Second: On the Merits: To annul the decision of the Resolution Circuit and ruling to dismiss the case due to prior adjudication.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-244646
Case No. V-2024-244646

Principle No. 51

- Financial Reorganization Procedures shall not divest the Debtor of its capacity to manage its business or represent its establishment before judicial authorities, unless it is proven that a decision has been issued to divest it of management authority.

Facts

This is to consider the petition filed on 30/10/2024 AD by Company (...), Commercial Registration No. (...), represented by (...) (National ID No. (...)) in his capacity as the Liquidation Trustee, pursuant to the judicial ruling issued on 29/07/1443 AH by the Commercial Court in Riyadh City – Fifth Appeal Circuit, against the decision of the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes No. (VA-2024-225286), submitted by the Respondent against the Petitioner.

Whereas the facts of this lawsuit were set forth in the decision subject to the petition, the Appeal Circuit refers thereto to avoid repetition. Whereas the Appeal Circuit's decision ruled as follows:

First: To accept the appeal submitted by/ the Zakat, Tax and Customs Authority procedurally, as it was filed within the statutorily prescribed period.

Second: To annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam City No. (VD-2023-97991), and ruling that the lawsuit is inadmissible for being submitted by a party lacking standing.

Whereas this decision was not accepted by the Petitioner, it submitted a petition for reconsideration to the Appeal Circuit, summarized as follows: "The decision subject to the petition relied on Article 100 of the Bankruptcy Law, which pertains to liquidation, whereas Article 69—concerning Financial Reorganization procedures—should have been applied, as the lawsuit was filed during this stage and by the company's legal representative. Following the court's decision to terminate the financial reorganization and initiate liquidation, the Trustee became responsible for pursuing the lawsuit pursuant to Article 100, which justifies the request for reconsideration." The Petitioner concluded by requesting the acceptance of the petition for reconsideration.

The First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual



litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the petition, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Procedurally, upon the Circuit's consideration of the submitted petition and the grounds contained therein, and whereas the principle for final judicial rulings is that they may not be reconsidered except in the cases provided for in Article (200) of the Law of Sharia Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH, which states: "1- Any of the litigants may petition for reconsideration of final judgments in the following cases: a- If the judgment was based on documents proven to be forged after the judgment, or on testimony, proven by the competent authority after the judgment, to be perjured. b- If the petitioner obtains, after the judgment, conclusive documents in the lawsuit that they were unable to produce before the judgment. c- If the litigant committed fraud that influenced the judgment. d- If the judgment grants something not requested by the litigants or grants more than what was requested. e- If the operative part of the judgment contradicts itself. f- If the judgment was rendered in absentia. g- If the judgment was rendered against a party who was not properly represented in the lawsuit. 2- Any person against whom the judgment is considered binding, and who was not joined or did not intervene in the lawsuit, may petition for reconsideration of final judgments."; and provided that this is done within the statutory period specified in Article (201), which is (30) days from the date of knowledge of the justifications relied upon in the petition submitted before the Circuit. Whereas the Circuit concluded in its decision subject to the petition to annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam City No. (VD-2023-97991), and ruled the lawsuit inadmissible for being submitted by a party lacking standing; and whereas it is established that the Appeal Circuit's decision subject to the petition was issued on 30/09/2024 AD, and the Petitioner submitted the petition on 30/10/2024 AD, the petition is accepted procedurally.

On merits, the decision subject to the petition concluded to annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam, relying on Article (100) of the Bankruptcy Law, as the decision related to the company's financial reorganization was issued on 18/02/2019 AD, a date preceding the filing of the lawsuit. Whereas Article (69) of the Bankruptcy Law provides: "1- Without prejudice to the powers and duties of the Trustee, the Debtor shall continue to manage its business and activity during the Financial Reorganization procedure under the supervision of the Trustee. 2- If the Debtor or any official in its management commits an act during the procedure involving negligence, mismanagement, non-cooperation with the Trustee, or commits any of the acts criminalized under the Law, the Trustee may request the court to divest the Debtor of management authority." Whereas it was established to the Circuit that the reliance in the decision subject to the petition on Article (100) of the Bankruptcy Law issued by Royal Decree No. (M/50) dated 28/05/1439 AH was incorrect; because the referenced statutory provision relates to liquidation procedures and not the company's financial reorganization



procedures. The Petitioner filed the first resolution lawsuit No. (V-2020-31375) on 09/12/2020 AD, while the judgment initiating liquidation procedures was issued on 29/07/1443 AH, corresponding to 02/03/2022 AD; i.e., after the Petitioner filed its lawsuit with the Resolution Circuits. Since Financial Reorganization procedures do not result in the invalidity of the Debtor's acts after the appointment of the Trustee, it was not proven that the company was divested of management authority during the period the lawsuit was filed. Accordingly, the representation of the company in filing the resolution lawsuit registered under No. (V-31375-2020) was valid, as the Liquidation Trustee was appointed on 02/03/2022 AD and the representative of the Respondent in the resolution lawsuit is the agent of the Liquidation Trustee. Consequently, the Respondent possessed standing in this lawsuit. The Circuit therefore concludes to accept the petition on merits and overturn decision No. (VA-2024-225286).

Regarding the subject of the appeal, it is established that the tax imposed by the Authority was a result of the sale of goods belonging to the Respondent on a compulsory basis in execution of a court ruling; a matter to which Paragraph (2/c) of Article (Five) (Supply of Goods) of the Unified VAT Agreement for the Cooperation Council for the Arab States of the Gulf applies, which states: "2- The supply of goods includes the following transactions: ... c- The transfer of ownership of goods for consideration on a compulsory basis pursuant to a decision issued by public authorities or by any applicable law." Whereas it is established that the dispute consists of collecting tax amounts resulting from the sale of goods on a compulsory basis, jurisdiction vests in the Tax Circuits pursuant to Article (67) of the Income Tax Law, as amended by Royal Decree No. (M/113) dated 02/11/1438 AH. The Circuit therefore concludes to accept the appeal on merits.

For these reasons and after deliberation, the Circuit unanimously rendered the following decision:

Decision

First: To accept the petition for reconsideration procedurally.

Second: To accept the petition for reconsideration on merits, and overturn the decision of the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes No. (VA-2024-225286).

Third: To accept the appeal submitted by/ the Zakat, Tax and Customs Authority procedurally.

Fourth: To accept the appeal submitted by the Zakat, Tax and Customs Authority on merits, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam City No. (VD-2023-97991), and ruling to uphold the decision of the Zakat, Tax and Customs Authority.

May Allah's peace and blessings be upon our Prophet Muhammad, his family, and all his companions



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-117

Case No.

V-2024-245723

Principle No. 52

- The limitation period for hearing a lawsuit shall be interrupted by a judicial claim regarding the same right, even if filed before a non-competent authority, and a new period shall commence from the date the effect resulting from the cause of interruption ends.

Facts



This is to consider the appeal submitted on 04/11/2024 AD by (...), ID No. (...), in his capacity as agent for the Appellant/ (...), National ID No. (...), pursuant to Power of Attorney No. (...) dated 25/09/2024 AD, and Law Practice License No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024238884) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the decision subject to the appeal, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

To dismiss the lawsuit due to the statute of limitations.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision ruling the dismissal of the lawsuit due to the statute of limitations. The Appellant argued that his client had sold the real estate property in dispute on 28/02/1440 AH. The Appellant stated that the judicial claim regarding the sale incident had commenced some time ago, as the first claim was filed before the General Court in Riyadh City on 18/11/1442 AH, attaching proof thereof to the case file. The Court ruled lack of territorial jurisdiction, which resulted in the paper-based referral of the case to the General Court in Medina on 28/03/1443 AH, which in turn ruled lack of the jurisdictional competence, as set forth in the judgment instrument. The Appellant indicated that this sequence of filing the lawsuit proves that his client did not delay in claiming his right, but was following the litigation procedures in a statutory and continuous manner, and that the delay in ruling on the merits was due to procedural reasons beyond his control. The Appellant also relied on Article (67) Paragraph (8) of the amended Income Tax Law, which states: "A lawsuit shall not be heard in tax disputes after the lapse of five years from the date of maturity of the amount subject to the claim or from the date of knowledge of the incident subject to the dispute, unless there is an excuse accepted by the Circuit." Consequently, the Appellant views that continuous legal pursuit in the courts during the statutory period constitutes an accepted excuse that



requires taking its circumstances into consideration, and constitutes a justification for not strictly adhering to the period stipulated. The Appellant also relied on Paragraph (2) of Article (302) of the Civil Transactions Law, which states: "The limitation period for hearing a lawsuit shall be interrupted in the following cases: b- A judicial claim, even if before a non-competent court." The Appellant asserts that the litigation procedures it undertook before various judicial authorities constitute a fundamental reason for upholding his right to the claim and constitute a statutorily accepted excuse for reconsidering the decision issued by the First Instance Circuit. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Monday, 30/10/1446 AH, corresponding to 28/04/2025 AD, at 01:46 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Whereas by reviewing the lawsuit documents and the submitted appeal brief, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period for its submission.

On the merits, upon the Appeal Circuit's review of the lawsuit papers and examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by the parties, it became evident to the Appeal Circuit that the appealed decision issued by the Resolution Circuit concluded with the non-hearing of the lawsuit due to the statute of limitations. The Appellant argued in his appeal brief that his client had sold the disputed real estate on 28/02/1440 AH. He clarified that the judicial claim related to the sale incident had begun some time ago, as the first claim was submitted before the General Court in Riyadh on 18/11/1442 AH, and he attached proof of this in the case file. The court ruled lack of spatial jurisdiction, which resulted in referring the transaction on paper to the General Court in Madinah on 28/03/1443 AH, which in turn ruled lack of subject-matter jurisdiction, according to what was stated in the judgment deed. The Appellant pointed out that these sequences in filing the lawsuit prove that his client did not delay in claiming his right, but rather was pursuing the litigation procedures in a regular and continuous manner, and that the delay in deciding on the matter is due to procedural reasons beyond his control. The Appellant also relied on Article (67), Paragraph (8) of the amended Income Tax Law, which stipulated that: "The lawsuit in tax disputes shall not be heard after the lapse of five years from the due date of the claimed amount or from the date of knowledge of the disputed incident, except in the case of an excuse accepted by the Committee." Consequently, he considers that the continuous legal pursuit in the courts during the



statutory period is an acceptable excuse that necessitates taking its circumstances into consideration, and constitutes a justification for not strictly adhering to the stipulated period. He also relied on Paragraph (2) of Article (302) of the Civil Transactions Law, which stipulated that: "The period for non-hearing of the lawsuit is interrupted in the following cases: b- Judicial claim, even if before a non-competent court." The Appellant maintains that the litigation procedures he undertook before the various judicial entities are considered a fundamental reason for upholding his right to claim, and constitute an acceptable statutory excuse for reconsidering the decision issued by the First Instance Circuit. And since it is established that the Appellant registered his lawsuit before the General Court in Riyadh under No. (...) dated 28/03/1443 AH corresponding to 03/11/2021 AD, and by verifying the judgment deed issued by the General Court in Riyadh, we find that he is claiming the value-added tax for the sale of the real estate pursuant to deed No. (...). After considering the lawsuit before the General Court in Riyadh, the file was sent to the General Court in Madinah because the lawsuit was referred to the General Court in Riyadh by mistake, then it was registered before the General Court in Madinah under No. (...). And the Circuit decided in the session held on 07/07/1443 AH corresponding to 08/02/2022 AD to dismiss the case for lack of subject-matter jurisdiction, and the Circuit ordered the immediate issuance of the judgment, with the submission of the objection starting from the next day, and the appeal period ending on 10/03/2022 AD. This proves the interruption of the running of the period for non-hearing of the lawsuit. As this interruption results in restarting the calculation of the period for non-hearing of the lawsuit anew for a period of five years, this leads the Circuit to conclude the acceptance of the appeal procedurally, the annulment of the Resolution Circuit's decision, and the remanding of the lawsuit to it for consideration in accordance with what is clarified in the grounds.

Based on the foregoing grounds, the Circuit unanimously decided the following:

Decision

First: To accept the appeal procedurally.

Second: To accept the appeal, annul the Resolution Circuit's decision, and remand the case back to it for consideration in accordance with the reasons set forth.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-106
Case No. W-2024-245818

Principle No. 53

- A revaluation decision shall not be based on general operational considerations; rather, it must be founded upon clear bases and sufficient evidence proving the tax differences under claim.

Facts



This is to consider the appeal submitted on 05/11/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Excise Tax Violations and Disputes in Riyadh City No. (ER-2024-238964) in the lawsuit submitted by the Appellee against the Appellant.

Whereas the facts of this lawsuit were set forth in the decision subject to the appeal, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

First: To accept the lawsuit procedurally.

Second: On the Merits:

- 1- To annul the decision of the Defendant (the Authority) regarding the imposition of tax differences amounting to (115,477) SAR resulting from the revaluation for the tax period subject to the lawsuit.
- 2- To record the settlement of the dispute regarding the late payment penalty.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision revoking its decision regarding the revaluation of the tax period related to the second quarter of 2020 AD. This is based on the correctness of the Authority's decisions implemented in the revaluation, noting that the Resolution Circuit did not take into account the nature of port operations and global practices, where it is impossible to stop all shipments to verify the correctness of retail prices, as this would result in an accumulation of shipments and an increase in storage charges calculated on the taxpayers. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Monday, 30/10/1446 AH, corresponding to 28/04/2025 AD, at 02:58 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on



the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled to annul the decision regarding the revaluation of the tax period related to the second quarter of 2020 AD. Whereas the Appellant objects to the Resolution Circuit's decision based on the correctness of the Authority's decisions implemented in the revaluation and the failure of the Resolution Circuit to consider the nature of port operations and global practices. Whereas the decision appealed against regarding the dispute under consideration was consistent with the provisions of the Law and the sound grounds upon which it was based, which are sufficient to uphold its ruling, as the issuing Circuit scrutinized the core of the dispute and arrived at the conclusion stated in its operative part. Whereas the Appeal Circuit did not find anything necessitating correction or comment in light of the defenses raised before this Circuit, it concludes that such defenses do not affect the outcome of the decision. Accordingly, the Circuit concludes to dismiss the appeal and uphold the Resolution Circuit's decision on the grounds stated therein.

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

Decision

First: To accept the appeal submitted by/ the Zakat, Tax and Customs Authority procedurally.

Second: To reject the appeal submitted by/ the Zakat, Tax and Customs Authority on merits.



Appeal Committee for Tax Violations and Disputes

First Appeal Circuit for Value Added Tax and Excise

Tax Violations and Disputes

Decision No. VA-2025-128
Case No. V-2024-245962

Principle No. 54

- A statement or report issued by an official entity is relied upon to prove the fact subject to valuation, unless the taxpayer provides proof that its data is incorrect or refutes the information contained therein.

Facts



This is to consider the appeal submitted on 07/11/2024 AD by the Zakat, Tax and Customs Authority against the decision of the Second Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VSR-2024-232326) in the lawsuit submitted by the Appellee against the Appellant.

Whereas the facts of this lawsuit have been set forth in the appealed decision, the Appeal Circuit refers to it to avoid repetition. Whereas the Resolution Circuit's decision therein ruled the following:

First: Acceptance of the lawsuit procedurally.

Second: On the Merits:

- 1- Amending the Defendant's decision regarding the item of sales subject to tax at the standard rate for the first quarter of 2021 AD in the value of (353,750) three hundred fifty-three thousand seven hundred and fifty Riyals.
- 2- Confirming the end of the dispute regarding the two penalties for error in the return and delay in payment, which are the subject of the lawsuit.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision which ruled to amend its decision for the item of sales subject to the standard rate of 15% for the tax period of the first quarter of the year 2021 AD. This is due to the presence of revenues that the Appellee did not declare in the item of sales subject to tax at the standard rate. The Appellant maintains the validity of its decision based on Article (2) of the Value Added Tax Law which states: "Tax shall be imposed on the import and supply of goods and services, in accordance with the provisions stipulated in the Agreement, the Law, and the Regulations." It objects to what was stated in the operative part and reasoning of the Resolution Circuit's decision. It becomes evident that the Circuit overlooked that the Appellant relied in its procedure on the report received from the Transport General Authority, which is considered conclusive evidence



against everyone without additional evidence pursuant to Paragraph (1) of Article (26) of the Law of Evidence. The report submitted by the Appellant showed the number of devices that were subjected to tax based on the data and documents received from the Appellee; however, the Resolution Committee excluded a part of them without stating the reasons for exclusion or the nature of the cancellation. Furthermore, the Appellant considers that the mere appearance of the disputed devices in the Transport General Authority's report proves that they were actually supplied by the Appellee, and thus tax is due on them, contrary to what the Committee concluded without providing a statutory justification. And whereas the Appellee did not submit what proves that the Transport General Authority's report contains incorrect data, and did not support his objection with any evidence refuting the information contained therein, which proves the validity of the Appellant's procedure in applying Article (23) of the Agreement to him. It also becomes evident from the reassessment that the Appellee did not declare all taxable revenues in the domestic sales item, although his activity as a supplier of vehicle tracking services is approved by the Transport General Authority. The Appellant also analyzed his bank accounts, visited him on-site, and requested from him the documents which he later claimed were stolen by an employee of his, without submitting what proves that incident or justifies the deposit movement in his accounts. The Appellee stated that he offers two types of products at varying prices, and according to the field minutes, the tax was calculated based on the number of issued devices (16,399) since May 2018 AD, with an average selling price of 778.75 Riyals, plus 300 Riyals as an annual connection fee. The Appellant did not subject the additional internet subscriptions to tax due to the unavailability of documents proving them. Moreover, the Appellee's objection to the accuracy of the Transport General Authority's statement does not alter the authoritative weight of the statement, as it is an official document. The Appellee also provided the Authority with a number of invoices ranging in value between 500 and 900 Riyals, which reinforces the Authority's estimates regarding the average selling price of the disputed devices. It concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Tuesday, 01/11/1446 AH corresponding to 29/04/2025 AD, at 04:12 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote litigation procedures; pursuant to the provisions of Paragraph (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. After reviewing the appeal request, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for adjudication in its current state, the Circuit decides to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Whereas by reviewing the lawsuit documents and the submitted appeal brief, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period for its submission.



On the merits, upon the Appeal Circuit's review of the lawsuit papers and examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by the parties, it became evident to the Appeal Circuit that regarding the decision issued by the Resolution Circuit ruling to amend its decision for the item of sales subject to the standard rate of 15% for the tax period of the first quarter of the year 2021 AD—due to the presence of revenues that the Appellee did not declare in the item of sales subject to tax at the standard rate—the Appellant maintains the validity of its decision based on Article (2) of the Value Added Tax Law which states: "Tax shall be imposed on the import and supply of goods and services, in accordance with the provisions stipulated in the Agreement, the Law, and the Regulations." It objects to what was stated in the operative part and reasoning of the Resolution Circuit's decision. It becomes evident that the Circuit overlooked that the Appellant relied in its procedure on the report received from the Transport General Authority, which is considered conclusive evidence against everyone without additional evidence pursuant to Paragraph (1) of Article (26) of the Law of Evidence. The report submitted by the Appellant showed the number of devices that were subjected to tax based on the data and documents received from the Appellee; however, the Resolution Committee excluded a part of them without stating the reasons for exclusion or the nature of the cancellation. Furthermore, the Appellant considers that the mere appearance of the disputed devices in the Transport General Authority's report proves that they were actually supplied by the Appellee, and thus tax is due on them, contrary to what the Committee concluded without providing a statutory justification. And whereas the Appellee did not submit what proves that the Transport General Authority's report contains incorrect data, and did not support his objection with any evidence refuting the information contained therein, which proves the validity of the Appellant's procedure in applying Article (23) of the Agreement to him. It also becomes evident from the reassessment that the Appellee did not declare all taxable revenues in the domestic sales item, although his activity as a supplier of vehicle tracking services is approved by the Transport General Authority. The Appellant also analyzed his bank accounts, visited him on-site, and requested from him the documents which he later claimed were stolen by an employee of his, without submitting what proves that incident or justifies the deposit movement in his accounts. The Appellee stated that he offers two types of products at varying prices, and according to the field minutes, the tax was calculated based on the number of issued devices (16,399) since May 2018 AD, with an average selling price of 778.75 Riyals, plus 300 Riyals as an annual connection fee. The Appellant did not subject the additional internet subscriptions to tax due to the unavailability of documents proving them. Moreover, the Appellee's objection to the accuracy of the Transport General Authority's statement does not alter the authoritative weight of the statement, as it is an official document. The Appellee also provided the Authority with a number of invoices ranging in value between 500 and 900 Riyals, which reinforces the Authority's estimates regarding the average selling price of the disputed devices. And whereas the Appellant objects to the Resolution Circuit's decision due to the presence of revenues that the Appellee did not declare in the item of sales subject to tax at the standard rate, after reviewing the case file and the defenses contained therein, it becomes evident that the Appellant issued an adjustment to the item of sales subject to tax on the Appellee for the return of the disputed period to become an amount of (772,277) Riyals instead of an amount of (0) Riyals, which results in the existence of tax differences in the amount of (115,842) Riyals, based on the data submitted by the Transport



General Authority, the analysis of bank accounts, and the field visits, in addition to the statements of the Appellee himself during the audit stages. Moreover, the nature of the Appellee's activity consists of providing truck management, tracking, and weight monitoring services, represented in installing vehicle tracking devices approved by the Transport General Authority, where the Appellee sells the tracking device in addition to installing the data SIM card in the vehicle and linking it with the Transport General Authority. And whereas it becomes evident through the assessment notice for the disputed period that the Appellant's procedure was based on an official statement and document submitted by a third party (the Transport General Authority) which clarifies the number of tracking devices issued by the Appellee during the disputed period, which is considered conclusive evidence against everyone. Furthermore, the calculation mechanism for the sales value was as follows: (value of devices sold during the period based on the statement $\times$ average price) + the renewal value of active devices for each device from the beginning of its issuance date in the amount of 300 Riyals. The renewal price was determined according to the Appellee's statement in the field inspection minutes. The Appellant also did not subject the subscription renewal amounts for customers, which were done through the Appellee, to tax because renewal is not a procedure that can be determined through the documents available to it. It becomes evident that it calculated the sales by subjecting the number of (16,399) devices at an average selling price of (778.75) Riyals, resulting in sales amounting to (12,770,721.25) Riyals, while the assessment notices issued to the Appellee contained sales amounting to (14,989,033.84) Riyals, meaning a difference of (2,218,312.59) Riyals which represents the renewal value for the active devices. Since calculating the average selling price at the amount of (778.75) Riyals, and the annual renewal price of active tracking devices, was based on the Appellee's statement about the prices in the field inspection minutes, in addition to an internal document extracted from the accounting system illustrating the average selling price and a sample of the submitted invoices. Accordingly, the reassessment and tax imposition carried out by the Appellant came in alignment with the provisions of the Value Added Tax Law and its Implementing Regulations, and was based on official evidence, financial data, and bank account analysis, legally sufficient to impose the tax on the Appellee, as it is proven that he carried out the taxable supply. This leads the Circuit to conclude the acceptance of the appeal regarding the item "domestic sales subject to tax at the standard rate in the amount of (353,750) three hundred fifty-three thousand seven hundred and fifty Riyals" and the annulment of the Resolution Circuit's decision.

For these reasons and after statutory deliberation, the Circuit unanimously decided the following

Decision

First: Acceptance of the appeal procedurally.

Second: On the merits: Acceptance of the appeal regarding the item "domestic sales subject to tax at the standard rate in the amount of (353,750) three hundred fifty-three thousand seven hundred and fifty Riyals" and annulment of the Resolution Circuit's decision.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No.

VA-2025-131

Case No.

V-2024-246108

Principle No. 55

- The lapse of the statutory period shall not be taken into account when it is proven that the inability to file the lawsuit was due to a technical failure beyond the Plaintiff's control, provided that the Plaintiff is proven to have commenced the filing procedures before the expiration of the deadline.

Facts



This is to consider the appeal submitted on 12/11/2024 AD by (...), ID No. (...), in his capacity as the Manager of (...) Trading Company, pursuant to Commercial Registration No. (...) and the Articles of Association, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Riyadh City No. (VR-2024-239128) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the decision subject to the appeal, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

Non acceptance of the lawsuit procedurally due to the lapse of the statutory period.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision ruling non acceptance of the lawsuit procedurally. The Appellant argued that it had provided proof of a technical failure on the Secretariat's website that prevented it from filing its lawsuit on the site. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 02/11/1446 AH, corresponding to 30/04/2025 AD, at 02:32 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.



Grounds of the Decision



Upon reviewing the case documents and the submitted appeal brief, it became evident to the Circuit that the requirements for the admissibility of the appeal procedurally are met in accordance with the conditions stipulated in the relevant regulations, rules, and decisions. Accordingly, the appeal is accepted procedurally as it was submitted by a party with legal standing and within the statutory period prescribed for its procedure.

On merits, upon the Appeal Circuit's review of the case documents and examination of the enclosed papers and evidence, and after reviewing the memoranda and responses submitted by both parties, the Appeal Circuit noted that the decision issued by the Resolution Circuit ruled for non-acceptance of the lawsuit procedurally due to the lapse of the statutory period, based on Article (Six) of the Rules of Operation for Zakat, Tax, and Customs Circuits. However, the Appellant submitted evidence of a technical failure on the General Secretariat's platform that prevented it from filing the lawsuit within the specified statutory period. Upon reviewing the documents submitted by the Appellant, the screenshot attached to the case file proves the inability to complete the filing process as a result of a technical failure on the website, despite the Appellant having commenced the filing procedures and corresponded with the General Secretariat before the expiration of the statutory due date. Since this constitutes evidence of the Appellant's seriousness in filing the lawsuit within the statutory timeframe, and the absence of any negligence or omission on its part, the Circuit concludes to accept the appeal procedurally, annul the Resolution Circuit's decision, and remand the case for consideration on the merits.

Based on the foregoing, and adopting the aforementioned grounds, the Circuit unanimously rendered the following decision:

Decision

First: To accept the appeal procedurally.

Second: To accept the appeal, annul the Resolution Circuit's decision, and remand the case back to it for consideration in accordance with the reasons set forth.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-246332
Case No. E-2024-246332

Principle No. 56

- In matters of jurisdiction, the focus shall be on the true nature and subject matter of the lawsuit; the petitioner shall not be prejudiced by an error in classification when such classification falls within the jurisdiction of the competent authority.

Facts



This is to consider the appeal submitted on 24/11/2024 AD by the Zakat, Tax and Customs Authority against the decision of the First Circuit for the Resolution of Excise Tax Violations and Disputes in Riyadh City No. (ER-2024-242229) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the decision subject to the appeal, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

To dismiss of this lawsuit for lack of the jurisdictional competence.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision ruling for lack of the jurisdictional competence. This concerned the Appellant's claim to compel the Appellee to pay tax dues represented by a field inspection fine of (10,000) SAR. The Appellant asserted its claim and emphasized that the responsibility for classifying the lawsuit lies with the Secretariat; the lawsuit is submitted by the Appellant, who does not have an option to classify the type, as classification is performed by the General Secretariat. The classification of the lawsuit as an excise tax case resulted in the present decision of lack of jurisdiction. The Appellant indicated that the circuit hearing the lawsuit should have directed the Secretariat to refer the lawsuit to the competent circuit to be included by the Secretariat in the schedule of the circuit with jurisdiction, pursuant to Article Forty-Nine of the Rules, or to include in its decision the referral of the lawsuit to the circuit holding jurisdiction to hear the lawsuit. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Sunday, 06/11/1446 AH, corresponding to 04/05/2025 AD, at 05:03 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits



issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision

Whereas by reviewing the lawsuit documents and the submitted appeal brief, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period for its submission.

On merits, upon the Appeal Circuit's review of the lawsuit papers and examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by the parties, it became evident to the Appeal Circuit that regarding the decision issued by the Resolution Circuit ruling the Circuit's lack of subject-matter jurisdiction, which relates to the Appellant's claim to compel the Appellee to pay the tax dues represented in the field control penalty amount of (10,000) Riyals. And whereas the Appellant objects to the Resolution Circuit's decision because the responsibility for classifying the lawsuit falls upon the Secretariat, as the lawsuit is submitted by the Appellant and there is no option to classify the type, and it is classified by the General Secretariat. And whereas classifying the lawsuit as a lawsuit related to excise tax resulted in the issuance of the present decision of lack of jurisdiction, and it pointed out that it would have been more appropriate for the Circuit considering the lawsuit to direct the Secretariat to refer the lawsuit to the competent Circuit to be listed by the Secretariat within the docket of the Circuit competent to consider it, based on Article Forty-Nine of the Rules, or to include in its decision the referral of the lawsuit to the Circuit vested with the jurisdiction to consider the lawsuit. After reviewing the submitted defenses, it becomes evident to the Circuit that the Appellant has no connection to the classification of the lawsuit at the General Secretariat, and the Appellee did not submit a responsive memorandum to the appeal brief submitted by the Authority. And whereas classifying the type of the lawsuit in terms of being an excise tax lawsuit indicated by the letter (E) within the lawsuit number, or a value-added tax lawsuit indicated by the letter (V), is a procedure within the jurisdiction of the General Secretariat, and is considered among its statutory responsibilities after the lawsuit is registered by the plaintiff; accordingly, the error in classification is not attributed to the Appellant, but rather is considered a technical malfunction in the Secretariat's system. Based on the foregoing, the Circuit concludes the acceptance of the appeal.

For these reasons and after statutory deliberation, the Circuit unanimously decided the following:

Decision

First: To accept the appeal procedurally.

Second: To accept the appeal on merits, annul the Resolution Circuit's decision, and remand the case for consideration by the competent circuit in accordance with the reasons set forth.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-171
Case No. V-2024-246533

Principle No. 57

- If the subject of the lawsuit is the inability to amend tax declarations rather than an objection to a final assessment, the circuit must investigate the reason for the inability and whether it was due to a cause beyond the taxpayer's control.

Facts



This is to consider the appeal submitted on 10/12/2024 AD by (...), National ID No. (...), in his capacity as the owner of (...) establishment, pursuant to Commercial Registration No. (...), against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-238594) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the decision subject to the appeal, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows:

To deem the lawsuit as if it never existed.

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision. The Appellant argued that the Resolution Circuit failed to consider essential defenses in its lawsuit, which justified his failure to object before the Authority regarding the tax periods in dispute. The Appellant explained that a final judicial ruling had canceled his commercial registration and ceased his business activities, forcing the establishment to annul contracts related to event planning. The Appellant stated that the tax amounts declared for the first and second quarters of 2019 were not collected because the contracts were concluded before the judgment and the events were not executed. The Appellant asserted that it filed the declarations believing in the soundness of its legal position at that time, but the issuance of the final judgment led to financial difficulties that the Appellant could not meet. Regarding filing declarations despite the cessation of activity, the Appellant clarified that he did so in anticipation of a favorable judgment and a hope to continue operations. the Appellant indicated that he did not file an objection before the Authority due to the exceptional circumstances the establishment went through, forcing the Appellant to approach the Tax Circuits directly. The Appellant concluded by requesting the acceptance of the appeal and the annulment of the Resolution Circuit's decision.



On Monday, 07/11/1446 AH, corresponding to 05/05/2025 AD, at 03:00 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Whereas by reviewing the lawsuit documents and the submitted appeal brief, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period for its submission.

On the merits, upon the Appeal Circuit's review of the lawsuit papers and examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by the parties, it became evident to the Appeal Circuit that the appealed decision issued by the Resolution Circuit concluded with considering the lawsuit as if it had not been filed. And whereas the Appellant objects to the Resolution Circuit's decision because what was stated in the Resolution Circuit's decision regarding his failure to respond to the sent requests is absolutely incorrect, as the Circuit did not consider the fundamental defenses in his statement of claim, which justify the reasons for his failure to object before the Authority regarding the disputed tax periods, as the reason goes back to the issuance of a final judicial ruling ordering the cancellation of the commercial register and the non-practice of the activity, which resulted in the establishment's obligation to cancel the contracts related to its activity in preparing parties and events. He clarified that the tax amounts declared during the first and second quarters of the year 2019 AD were not collected, since the contracts were concluded before the issuance of the judgment, and the agreed-upon events were not executed. He confirmed that the returns were submitted due to his belief in the soundness of his legal position at that stage; however, the issuance of the final judgment led to confusion resulting in financial obligations he could not fulfill. As for submitting the returns despite the suspension of the activity, the Appellant explained that he submitted them anticipating the issuance of a judgment in his favor, and hoping for the continuation of the activity. And whereas it is established to the Circuit that the Resolution Circuit's decision was not based on the Appellant's failure to attach certain documents (including the final assessment, the objection receipt notice, and its result), and whereas the Appellant did not dispute the issuance of a final assessment from the Appellee, and since the basis of the Plaintiff's lawsuit is not an objection to a decision issued by the Authority which can thus be objected to, but rather his inability to amend his tax returns; consequently, the Resolution Circuit should have asked him about what is necessary to articulate his lawsuit, for example; the reason for not amending his return through the Authority's website without resorting to filing a lawsuit before the tax committees, and whether there



was a reason beyond his control that prevented him from amending his tax return. This leads the Appeal Circuit to conclude the acceptance of the appeal.

Based on the foregoing and invoking the mentioned grounds, the Circuit unanimously decided the following:

Decision

First: To accept the appeal procedurally.

Second: To accept the appeal on merits, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate, and remand the case back to it for consideration in accordance with the reasons set forth.



Appeal Committee for Tax Violations and Disputes

First Appeal Circuit for Value Added Tax and Excise

Tax Violations and Disputes

Decision No. VA-2025-246619

Case No. V-2024-246619

Principle No. 58

- A petition for reconsideration applies to final, enforceable decisions and shall not be rejected merely because the decision has acquired its final status, provided the petition is submitted in accordance with the governing provisions.

Facts

This is to consider the appeal submitted on 16/12/2024 AD by (...), National ID No. (...), acting in his own capacity, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Dammam City No. (VD-2024-246207) in the lawsuit submitted by the Appellant against the Appellee.

Whereas the facts of this lawsuit were set forth in the decision subject to the appeal, the Appeal Circuit refers thereto to avoid repetition. Whereas the Resolution Circuit's decision ruled as follows: "Non acceptance of the petition for reconsideration."

Whereas this decision was not accepted by the Appellant, it submitted an appeal brief to the Appeal Circuit containing its objection to the Resolution Circuit's decision regarding the petition for reconsideration against Decision No. (VD-2022-60669) issued on 14/03/2023, which held: "Non acceptance of the lawsuit procedurally." The Appellant explained that the Resolution Circuit issued its decision based on the claim that he submitted his objection to the Authority on 26/08/2021 and his grievance to the Resolution Circuit on 26/03/2022, asserting that the decisions had become final due to the lapse of the statutory period. However, the Appellant argued that the Circuit overlooked the fact that the Authority did not notify him of the issuance of these decisions to enable him to object. The Appellant concluded by requesting acceptance of the appeal and the annulment of the Resolution Circuit's decision.

On Wednesday, 09/11/1446 AH, corresponding to 07/05/2025 AD, at 03:15 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda,



and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Whereas by reviewing the lawsuit documents and the submitted appeal brief, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period for its submission.

On the merits, upon the Appeal Circuit's review of the lawsuit papers and examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by the parties, it became evident to the Appeal Circuit that the appealed decision issued by the Resolution Circuit concluded with the non-acceptance of the petition for reconsideration of the Resolution Circuit's decision No. (VD -2022-60669), issued on 14/03/2023 AD, the operative part of which included: "Non-acceptance of considering the lawsuit procedurally." And whereas the Appellant objects to the Resolution Circuit's decision because the Resolution Circuit issued its decision based on the fact that he submitted the objection before the Authority on 26/08/2021 AD and submitted the grievance before the Resolution Committee on 26/03/2022 AD, and thus the decisions became immune due to the lapse of the statutory period. However, the Circuit overlooked that the Authority did not notify him of the issuance of the decisions so that he could object. After reviewing the defenses of the parties and by referring to the appealed decision, it became evident to the Appeal Circuit that the Resolution Circuit was incorrect in establishing its grounds that the Plaintiff was notified of the primary decision on 14/03/2024 AD; the truth is the Plaintiff was notified of the decision on 14/03/2023 AD, and then submitted the petition for reconsideration on 17/11/2024 AD, which proves that the primary decision acquired a final status. This is not affected by what the Resolution Circuit concluded that the petition was submitted against a non-final decision, because the primarily appealed decision was considered final and enforceable; consequently, it is permissible to consider the submitted petition then, because objecting through extraordinary methods is restricted to following final, enforceable decisions. This leads the Circuit to conclude the acceptance of the appeal on the merits.

Based on the foregoing and invoking the mentioned grounds, the Circuit unanimously decided the following.

Decision

First: To accept the appeal procedurally.

Second: To accept the appeal on merits, annul the Resolution Circuit's decision, and remand the case back to it for consideration in accordance with the reasons set forth.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. IR-2025-246726
Case No. I-2024-246726

Principle No. 59

- A lawsuit is considered filed from the date of its submission once it meets the required basic requirements and data. It cannot be closed for failure to complete documentation unless it is proven that the filer was notified of the specific deficiency and was enabled to rectify it within the statutory period.

Facts

This is to consider the appeal submitted on 24/12/2024 AD by the representative of (...) (National ID No. ...) against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-240710) issued in the lawsuit (I-2024-240710) regarding the objection to the income tax assessment for the year 2017 AD and the tax evasion penalty, in the lawsuit submitted by the Appellant against the Zakat, Tax and Customs Authority. The Resolution Circuit's decision ruled as follows:

Non Acceptance of the lawsuit procedurally.

Whereas this decision was not accepted by the Taxpayer, it submitted an appeal brief reviewed by the Circuit containing a summary that after the Authority rejected its objection, the Taxpayer submitted its grievance before the Committee for the Resolution of Tax Violations and Disputes, within the statutory period stipulated in Article (5) of the Rules of Operation for Zakat, Tax, and Customs Committees. The Taxpayer continued to follow up on the status of the lawsuit on the website of the General Secretariat of the Zakat, Tax, and Customs Committees, and was not notified of the existence of any deficiencies regarding the registration of the lawsuit. The Taxpayer communicated with the Secretariat via email for the purpose of verifying the status of the lawsuit and its registration, and the Secretariat's reply was received as clarified in attachment No. (4). Since the Taxpayer was not notified of the existence of the deficiencies, let alone being notified of the details of these deficiencies; the Taxpayer communicated with the Secretariat via email and confirmed not receiving any notification regarding the existence of deficiencies nor the details of these deficiencies. It also requested reopening the lawsuit and notifying it of any deficiencies for the purpose of completing the registration of the lawsuit. And whereas the Taxpayer did not receive any response from the Secretariat regarding its request to reopen the lawsuit and notify it of the deficiencies; it proceeded to register a new lawsuit. The Taxpayer confirmed to the Resolution Committee—during the consideration of the new lawsuit—not receiving any notification regarding any deficiencies in the previous lawsuit. Also, the Authority did



not submit, during the consideration of the new lawsuit, what proves the Taxpayer was notified of the deficiencies. Accordingly, the Taxpayer requests the annulment of the appealed Resolution Circuit's decision for the aforementioned reasons.

On Tuesday, 11/03/2025 AD, at 03:16 PM, the First Appeal Circuit for Income Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with the remote litigation procedures; pursuant to the provisions of Paragraph (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Committees issued by Royal Decree No. (25711) dated 08/04/1445 AH. Upon calling the litigants, / (...), National ID No. (...), attended in his capacity as the agent for the Appellant pursuant to the foreign power of attorney No. (...) certified by the Saudi Ministry of Justice under No. (...) dated 19/07/1446 AH, and law practice license No. (...). Also present was the representative of the Appellee, / ... (National ID No. ...), pursuant to an authorization issued by the Deputy Governor of the Zakat, Tax and Customs Authority for Legal Affairs and Compliance under No. (11093/4/353/1445) dated 19/03/1445 AH. Upon asking the Appellant's agent what he wishes to add, he stated that he maintains what was previously submitted in this lawsuit and affirms the decisions issued in favor of the Taxpayer from the First Appeal Circuit for Income Tax Violations and Disputes. Upon presenting this to the Appellee's representative, he answered maintaining what was previously submitted in this lawsuit. Upon asking the parties what they wish to add, they decided to suffice with what was previously submitted. After closing the pleadings and deliberation.

Grounds of the Decision

Whereas by reviewing the case documents and the appeal brief submitted by the Taxpayer, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period for its submission.

On the merits, and after reviewing the appeal brief and what the parties submitted during the memorandum exchange phase. Whereas the Appellant stated that it submitted the lawsuit registered under No. (GSTC-2024-235384) within the statutory period and it was closed due to not completing the documents, while the Appellee argues the lapse of the statutory period for submitting the grievance lawsuit. By referring to the closed lawsuit, it became evident that it fulfills the required data for registering the lawsuit in accordance with the provisions of Article (Eleven) of the Rules of Operation of the Committees, which stipulated: "Mechanism for filing the lawsuit and its data: 1- The lawsuit shall be filed according to the requirements determined by the General Secretariat, fulfilling the following data: The Plaintiff's full name, and his ID number if he is a natural person; if a legal person, the articles of association and its commercial register number, and the address of its headquarters or branch if the lawsuit is related to this branch. b- Tax Identification Number (TIN) or unique number, if any. c- The objection number with the Authority, its date, its result, and a copy of the objected decision. d- The full name of the agent or statutory representative - as the case may be, his ID number, his place of residence, and his workplace, if any. e-



Specifying the means of communication of the Plaintiff through which he or his representative can be contacted, including the mobile number. f- The subject of the lawsuit, the Plaintiff's requests, and his grounds. g- The date of notification of the decision of the Authority or the concerned internal committee and its result, concerning the referred objection. More than one objection with the Authority shall not be combined in the statement of claim, and an independent lawsuit shall be registered for each objection. [...] if any. 2- The lawsuit associated with customs smuggling crimes and the like, and attempting any of them, which fall within the jurisdiction of the Customs Committees circuits, shall be filed from the competent authority through the electronic system and according to the requirements determined by the General Secretariat, fulfilling the data stated in the Law of Criminal Procedures and its Implementing Regulations. The lawsuit fulfilling the prescribed requirements and data is considered registered from its submission date. In the event of non-fulfillment of the requirements and data, the submitter must complete the missing parts within fifteen days from the date of being notified of such deficiency. If he does not complete what was requested of him within the mentioned period, the lawsuit shall be deemed as if it had not been filed. The Plaintiff may - without prejudice to the period stipulated in Article (Five) of the Rules - file a new lawsuit which will be registered with a new registration. The General Secretariat may request any statutory document supporting the validity of the data referred to in this Article. The General Secretariat shall not refer the lawsuit to the Circuits for consideration until after verifying its fulfillment of the prescribed requirements and data according to this Article." Based on the foregoing, and whereas the Taxpayer registered a lawsuit under request No. (235384-2024-GSTC), and whereas it was proven from the procedures log that it was requested on 28/04/2024 AD to submit - the articles of association. (Please complete the required within a period of (15) days, otherwise the lawsuit will be considered as if it had not been filed as stipulated in the Rules of Operation for Tax Committees in Article Eight). And whereas it was not completed within the period, and whereas the closed lawsuit file contained the commercial register certificate and the Appellant submitted a foreign power of attorney certified by the Saudi Ministry of Justice, and given that the closed lawsuit file contained the basic requirements, this leads the Circuit to conclude the acceptance of the Taxpayer's appeal, the annulment of the Resolution Circuit's decision, and the remanding of the lawsuit to it for consideration on the merits.

Based on the foregoing and invoking the mentioned grounds, the Circuit unanimously decided the following:

Decision

First: Acceptance of the appeal procedurally from its submitter, the Taxpayer/ (...) Company (TIN ...), against the decision of the First Circuit for the Resolution of Income Tax Violations and Disputes in Jeddah Governorate No. (IZJ-2024-240710) issued in Case No. (I-2024-240710) relating to the objection to the income tax assessment for the year 2017 AD and the tax evasion penalty.

Second: On the Merits:

Acceptance of the Taxpayer's appeal, annulment of the Resolution Circuit's decision, and remanding the lawsuit to it for consideration on the merits.



Appeal Committee for Tax Violations and Disputes First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes

Decision No. VA-2025-264935
Case No. VT-2025-264935

Principle No. 60

- The burden of proving the publication of regulatory decisions that affect the legal standing of taxpayers lies with the issuing authority; internal issuance alone is insufficient to produce effect against them.

Facts



This is to consider the appeal submitted on 27/05/2025 AD, by (...), National ID No. (...), acting in her own capacity, against the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2025-70) in the lawsuit submitted by the Appellant against the Appellee.

The facts of this lawsuit are set forth in the decision subject to the appeal; the Appeal Circuit refers thereto to avoid repetition. The decision of the Resolution Circuit No. (VJ-2024-230568) dated 06/06/2024 AD ruled as follows:

To prove the withdrawal of the lawsuit.

Subsequently, the Appeal Circuit decision No. (VA-2025-239357) dated 19/01/2025 AD ruled as follows:

First: To accept the appeal submitted by (...) (National ID No. ...) procedurally.

Second: To accept the appeal submitted by (...) (National ID No. ...) on merits, annul the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate No. (VJ-2024-230568), and remand the case for consideration on the merits.

Thereafter, the Resolution Circuit decision No. (VJ-2025-70) dated 21/04/2025 AD ruled as follows:

First: To accept the lawsuit procedurally.

Second: To dismiss the Plaintiff's lawsuit regarding the objection to the tax evasion penalty subject to the lawsuit.

Whereas this decision was not accepted by the Appellant, she submitted an appeal brief to the Appeal Circuit containing her objection to the Resolution Circuit's decision dismissing the lawsuit regarding the objection to the tax evasion penalty. This is due to the absence of criminal intent (lack of intention to evade), as the elements of the crime of tax evasion, pursuant to Article (39) of the Value Added Tax Law—which requires the existence of criminal intent—were not met. The Appellant indicated that what occurred was the result of incorrect guidance from the office of (...), which deceived her and misled her into believing she was entitled to refund amounts, and that the



responsible employee (...) has indeed been convicted by a judicial instrument. The Appellant also argued that it managed the refunded amounts pending confirmation of the legal position, which indicates caution and prudence, not evasion. The Appellant concluded by requesting the acceptance of the appeal.

On Wednesday, 04/03/1447 AH, corresponding to 27/08/2025 AD, at 02:31 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, the Circuit decided to adjourn the hearing of the lawsuit for further study. The session concluded at 02:56 PM.

On Monday, 14/04/1447 AH, corresponding to 06/10/2025 AD, at 01:18 PM, the First Appeal Circuit for Value Added Tax and Excise Tax Violations and Disputes held its session in the presence of its members whose names are recorded in the minutes, via video conferencing in accordance with remote visual litigation procedures; based on the provisions of Item No. (1) of Article (Fifteen) of the Rules of Operation for Zakat, Tax, and Customs Circuits issued by Royal Order No. (25711) dated 08/04/1445 AH. After reviewing the appeal, the submitted memoranda, and the papers and documents contained in the case file, and whereas the lawsuit is ready for a ruling in its current state, the Circuit decided to close the pleadings and reserve the case for adjudication.

Grounds of the Decision



Whereas by reviewing the lawsuit documents and the submitted appeal brief, it became evident to the Circuit that the conditions for considering the appeal procedurally have been met according to the conditions stipulated in the relevant laws, regulations, and decisions. This renders the appeal request acceptable procedurally for being submitted by a person with standing and within the prescribed statutory period for its submission.

On the merits, upon the Appellate Circuit's review of the lawsuit papers and examination of the documents and records contained therein, and after reviewing the memoranda and responses submitted by the parties, it became evident to the Appellate Circuit that the decision issued by the Resolution Circuit ruled to reject the lawsuit regarding the objection to the tax evasion penalty. And whereas the Appellant objects to the Resolution Circuit's decision because the criminal intent (absence of the intention to evade) was negated due to the non-fulfillment of the elements of the tax evasion crime in accordance with Article (39) of the Value Added Tax Law, which requires the availability of criminal intent. The Appellant pointed out that what happened was the result of incorrect guidance from the (...) office, which deceived it and falsely gave it the impression of its entitlement to refund amounts, and the responsible employee (...) has already been convicted pursuant to a Shari'a deed. The Appellant also argued that it retained the refunded amounts until the soundness of the legal position could be confirmed, which indicates precaution and caution, not evasion.



By the Appellate Circuit's review of the lawsuit documents, and whereas it is established that the Authority imposed the penalty based on the decision of the Board of Directors of the General Authority of Zakat and Tax No. (7-3-2017) dated 12/03/1439 AH, which ruled to approve the internal criteria for determining the value of the financial penalty pertaining to the tax evasion violation according to the Value Added Tax Law. And since the aforementioned decision of the Authority's Board of Directors was issued in implementation of Article (48) of the Value Added Tax Law, which stipulated that: "The Authority shall undertake the imposition of the penalties stipulated in the Law in accordance with a classification of violations and determination of penalties issued by a decision of the Board of Directors, taking into consideration the proportionality between the violation and the penalty." Therefore, this decision is considered a regulatory decision issued in accordance with the Value Added Tax Law. And since this type of decision having a regulatory nature contains abstract general rules that apply to all individuals to whom the conditions apply, and affects their legal positions, it requires the announcement and publication of those decisions to the public, and the burden of proving such falls upon the administration. This is consistent with established judicial principles. And whereas the publication of that decision has not been proven, the application of Article (40) of the Value Added Tax Law, the text of which is: "Tax evasion shall be punished with a penalty of not less than the value of the due tax, and not exceeding three times the value of the goods or services subject of the evasion," shall be applied by imposing the tax evasion penalty at its minimum limit, which is the value of the due tax. This leads the Appellate Circuit to conclude the rejection of the appeal while amending the amount of the tax evasion penalty by imposing it at its minimum limit, in the amount of (137,203.55) one hundred thirty-seven thousand two hundred and three Riyals and fifty-five Halalas.

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

Decision

First: Acceptance of the appeal procedurally.

Second: Rejection of the appeal on the merits, and upholding the decision of the First Circuit for the Resolution of Value Added Tax Violations and Disputes in Jeddah Governorate regarding the tax evasion penalty for the tax period of the first quarter of the year 2020 AD, while amending the penalty value to become at its minimum limit, in the amount of (137,203.55) one hundred thirty-seven thousand two hundred and three Riyals and fifty-five Halalas.



Detailed Principles Index

Principle No.	The subject	The principle
Income Tax		
1	Import Differences	The exclusion of import differences from the tax base is determined by proving their causes and justifications with supporting documents; merely stating the reasons for the differences without proof of their validity is insufficient.
2	Shipping Expenses	Shipping expenses and customs duties are accepted as deductible when proven to be related to internal activities associated with the supply of goods within the Kingdom.
3	Government Fees	Government fees paid for employees are accepted as a deductible expense when proven to be related to the activity and the generation of income; this does not extend to fees related to family members not associated with the activity.
4	Proxy Payments (Payments on Behalf of Others)	Payments made on behalf of third parties are treated according to their accounting reality when proven to be recorded as receivables or balances due from others, and shall not be charged to the income statement as an expense on the taxpayer.
5	Transfer Pricing	Comparable companies in transfer pricing analysis are not accepted unless their independence and the adequacy of their financial information are proven; the assessment and its consequent penalties shall be recalculated when their exclusion or acceptance results in amending the interquartile range.



6	Income-Generating Expenses	The fact that an expense does not appear under the taxpayer's name does not preclude its acceptance, provided it is proven that the taxpayer actually bore it pursuant to the contracts and the scope of work, and that it is related to generating taxable income.
7	Permanent Establishment Revenues	Undeclared revenues shall be added to the tax base of the permanent establishment when it is proven that the services were executed within the Kingdom by the local branch; this is not affected by the original contract being concluded with a foreign entity if the accounting is limited to the work executed locally.
Withholding Tax		
8	Fact of Payment	Withholding tax is due based on the actual payment event when proven by documents, and it shall not be re-imposed on the same payments merely because they were charged as an expense or due to a non-material error in the declaration data.
9	Proof of Payment	The imposition of withholding tax is linked to the occurrence of actual payment or its equivalent, such as settlement between accounts or set-off; to prove that the entitlement has not materialized, it is not sufficient to submit statements containing ending balances without detailing the financial movements that prove payment during the period under audit.
10	Subordination of Penalty to the Principal	The penalty associated with an assessment or tax is subordinate to its principal in existence and non-existence; thus, it lapses with the lapse of the principal obligation, is established with its establishment, and is not separated from it in the ruling unless there is an independent cause.



11	Deemed Profits	Withholding tax shall not be imposed on deemed or estimated profits unless a payment, settlement, or set-off in favor of the non-resident is proven, and the burden of proving such lies with the Authority.
12	Source of Income	Amounts transferred to a non-resident are not subject to withholding tax when it is proven that they do not represent consideration for a service provided by the non-resident to the resident, and did not result in a source of income generated within the Kingdom.
13	Subjection of Payments	The subjection of payments to withholding tax is determined by the true identity of the beneficiary, the nature of the consideration, and the place of service provision; the mere connection of the local entity with a non-resident entity is not sufficient to prove taxability when the taxpayer provides documents proving that payment was made to a local entity for a non-taxable service.
14	Beneficial Owner	The recipient of royalties does not benefit from the reduced rate under the Double Taxation Avoidance Agreement unless it is proven that they are the beneficial owner; being a resident of a contracting state or having invoices issued in their name is insufficient if their role is restricted or acts as an intermediary in passing on the rights.
15	Royalties	The determination of the beneficial owner of royalties is based on the reality of the contractual relationship and the restrictions imposed on the recipient of the amount, not merely on the statutory form of the entity, its place of residence, or the entity that issued the invoice.



Excise Tax

16	Excise Tax	The subsection of a product to excise tax is determined by its reality and ingredients as proven by technical documents, not merely by its classification or declaration upon importation, when it is proven to be free of sugar or sweeteners and the Authority has not provided evidence to invalidate this.
17	Due Tax Notice	A due tax notice does not produce its effect against the taxpayer unless it is proven to have been issued containing the tax amount and the bases for its calculation, in a manner that allows verification of the notice's date and its statutory effects.

Value Added Tax (VAT)

18	Inclusion of Tax in the Contract	Contractual consideration is not deemed inclusive of Value Added Tax merely due to the contract's silence on it, unless there is an explicit provision or clear document indicating the inclusion of the tax.
19	Bank Deposits	The subsection of bank deposits to Value Added Tax depends on proving their association with a supply of goods or services for consideration; their mere appearance in the bank account is insufficient if proven to be personal deposits or transfers between accounts with no connection to a taxable supply.
20	Accounting Ledgers	The existence of a balance or movement in an accounting ledger is not sufficient to prove the occurrence of a supply subject to Value Added Tax; rather, it serves as an indicator to expand the audit and verify the fulfillment of one of the statutory tax entitlement determinants.
21	Transfer of Establishment Ownership	The bearing of tax obligations upon the transfer of establishment ownership is determined by the period in which



		the obligation arose and the scope of the contractual undertaking; this is not precluded by the obligation appearing or being paid after the transfer of ownership.
22	Compensations	Amounts imposed as compensation for damage or loss are not considered consideration for a supply of goods or services when their compensatory nature is proven, and thus fall outside the scope of Value Added Tax.
23	Mandatory Registration	A person is considered subject to the provisions of Value Added Tax when statutorily obligated to register, even if actual registration is not proven to be completed, provided the supplies exceed the mandatory registration threshold.
24	Bearing Penalties	The lessee's delay in paying rent is not a statutory reason to obligate them with tax penalties resulting from the supplier's failure to remit the tax on time, due to the break in the causal link between the delay and the penalty. OR: The debtor's delay in paying rent is not a reason to burden them with tax penalties resulting from the failure to remit the tax, when such penalties arise from the supplier's breach of their independent statutory obligation to remit the tax to the Authority.
25	Charitable Activity	The association of an activity with charitable works or programs does not preclude it from being considered an economic activity subject to Value Added Tax when the existence of financial consideration for the supplies subject to the activity is proven.
26	Internal Entries	Internal entries between departments or branches of the taxpayer are not considered a supply subject to Value Added Tax, when proven that they do not represent consideration for the supply of goods or services to third parties.



27	Effective Date of Subjection	Subjection to Value Added Tax is based on the existence and enforcement of the statutory obligation to register, not on the date of actual registration; a person is considered subject to the tax provisions when obligated to register, even if not actually registered.
28	Claiming from Service Recipient	The supplier's right to claim Value Added Tax from the service recipient does not lapse merely due to their lack of actual registration at the time of supply, provided they were statutorily obligated to register and subject to the tax provisions.
29	Continuous Supply	The characterization of a supply as continuous is based on its repetition or periodic continuation over a specific period of time, not on the multiplicity of its execution phases or the fragmentation of its invoicing.
30	Government Contracts	Value Added Tax is not included within the value of a government contract merely based on the general provision in the Government Tenders and Procurement Law that the contract value includes fees and taxes, unless the contract explicitly states so; as such fees and taxes refer to what the contractor bears, whereas they are obligated to collect VAT and remit it to the Authority.
31	Point of Sale	The taxpayer's claim that point of sale (POS) sales belong to another establishment is insufficient to negate tax subjection, unless matching documents are provided that enable linking the sales to the declarations, invoices, and bank statements of the other establishment.
32	Formal Defects in Invoices	The omission of some invoice data or the existence of formal defects issued by the supplier is not sufficient to reject the



		deduction of input tax, when it is proven that the invoices were issued in the taxpayer's name and are linked to their activity and tax obligation.
33	Accounting Differences	Differences between accounting revenues and tax declarations are not sufficient in themselves to prove undeclared taxable supplies, when it is proven that the revenue is estimated and its final value was determined and declared for tax purposes in a subsequent period.
34	Suspense Accounts	Liquidation accounts or temporary suspense accounts are not considered a supply subject to Value Added Tax, when it is proven that they are an internal accounting tool for control and transaction settlement, and do not represent an actual supply of goods or services.
35	Registration Certificate	The inclusion of more than one activity or branch within a single tax registration certificate necessitates the disclosure of the sales of those activities under the same Tax Identification Number (TIN); claiming the existence of an independent number does not negate subjection unless proven by a statutory document.
36	Tax Invoice	Every supplier is obligated to issue a tax invoice fulfilling the statutory requirements within the limits of their share of the supply, and their obligation does not extend to shares or percentages they do not own in the subject of the supply.
37	Reassessment Decision	The validity of a tax reassessment decision requires stating the basis of tax calculation, the net due tax, and the due date for payment; a general statement or blanket reference that does not reveal the source of differences or the method of their calculation is insufficient.



Tax Refund

38	Bearing Input Tax	The taxpayer's right to deduct input tax is only established by submitting matching documents proving their actual bearing of the tax and the association of the purchases with them; the accounting entry alone is insufficient if it contradicts the financial statements or payment documents.
39	Association of Inputs with Activity	The deduction of input tax is based on the association of goods or services with the taxable economic activity, when proven to be necessary for practicing or continuing the activity, without requiring their association with a specific supply contract.
40	Deduction Documents	Proving the entitlement to deduct input tax depends on the availability of documents proving the taxpayer's bearing of the purchases and linking them to the related payments.
41	Change of Statutory Form	A change in the statutory form of an establishment does not preclude the acceptance of input tax deduction, when it is proven that the existing entity is a continuation of the previous entity and that the purchases subject to deduction relate to the same activity.
42	Prior Deduction of Inputs	The mere possibility of a prior deduction of input tax is insufficient to reject the deduction, unless the Authority proves with certainty that the taxpayer previously deducted the same purchases in a prior declaration.
43	Reverse Charge Mechanism	The taxpayer's right to deduct input tax associated with the reverse charge mechanism does not lapse merely because the due tax appeared through assessment, provided the conditions for deduction are met and the existence of exempt sales that limit this right is not proven.
44	Refund Request	The acceptance of the registration of a person eligible for a refund does not automatically entail the acceptance of the refund request, as the refund conditions for the period and the claimed amounts must be met according to statutory controls.



45	Off-Plan Sales	The off-plan sales license and the documents approved by the competent authority are relied upon to prove the fulfillment of the requirements for a project eligible for a refund, when proven to have been issued prior to the period subject to the claim.
Penalties		
46	Evasion Penalty	Proving the occurrence of the original violation is not sufficient to impose a tax evasion penalty without stating the decision subject to the penalty, the basis for its calculation, and notifying the taxpayer thereof.
47	Presumptive assessment Penalty	The delay penalty in a presumptive assessment is calculated from the date the taxpayer is notified of the assessment, when the due tax difference cannot be known or paid except after the issuance of such assessment.
Procedural Principles		
48	Capacity of Fund Manager	Legal capacity in a lawsuit is established for a real estate investment fund manager when proven to be the legal representative of the fund before judicial authorities, and that the transaction in dispute was concluded for the account of the fund or in its interest.
49	Appointment of Experts	Technical matters necessary for adjudicating the dispute must be investigated, including the appointment of experts when necessary; bypassing them is invalid when their omission affects the outcome and to ensure the parties' right to litigation at two levels.
50	Prior Adjudication	Prior adjudication (<i>Res judicata</i>) is determined by the true nature of the claims and the unity of their subject matter, not by the difference in the tax period or the procedural description of the lawsuit.
51	Financial Reorganization	Financial reorganization procedures do not strip the debtor of their capacity to manage their business or represent their



		establishment before judicial authorities, unless a decision restricting their management is proven to have been issued.
52	Non-admissibility of the Lawsuit	The limitation period for the non-admissibility of a lawsuit is interrupted by a judicial claim related to the same right, even if filed before an incompetent authority.
53	Reasoning of Reassessment	A reassessment decision is not based on general operational considerations, but must be based on a clear foundation and sufficient evidence proving the tax differences subject to the claim.
54	Probative Value of Official Documents	A statement or report issued by an official authority is relied upon in proving the fact subject to assessment, unless the taxpayer provides evidence proving the inaccuracy of its data or refutes the information contained therein.
55	Technical Malfunction	The lapse of the statutory period is not held against the plaintiff when it is proven that the failure to register the lawsuit was due to a technical malfunction beyond the plaintiff's control, with proof of initiating the submission procedures before the expiration of the deadline.
56	Case Classification	Jurisdiction is determined by the true nature and subject matter of the lawsuit, and the plaintiff is not prejudiced by an error in its classification, provided the classification falls under the jurisdiction of the competent authority.
57	Amendment of Declarations	If the subject of the lawsuit is the inability to amend tax declarations rather than objecting to a final assessment, the Circuit must examine the reason for the inability and whether it is attributable to a cause beyond the taxpayer's control.
58	Petition for Reconsideration	A petition for reconsideration applies to final, enforceable decisions, and is not rejected merely because the decision has acquired its final status, provided the petition is submitted in accordance with the provisions regulating it.



59	Registration of the Lawsuit	A lawsuit is considered registered from the date of its submission when it meets the prescribed basic requirements and data; closing it due to incomplete documents is invalid unless it is proven that the submitter was notified of the deficiency and enabled to complete it within the statutory period.
60	Publication of Regulatory Decisions	The burden of proving the publication of regulatory decisions affecting the legal positions of taxpayers lies with the entity issuing the decision; the mere internal issuance of the decision is insufficient to produce its effect against them.

