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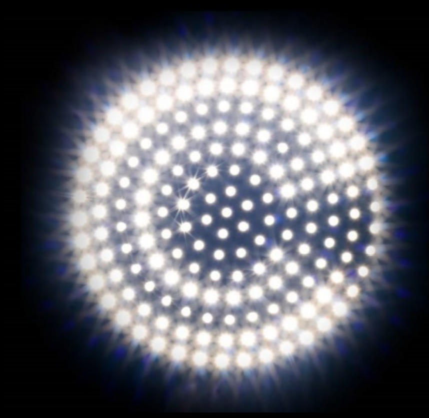
International Tax
Saudi Arabia Highlights 2017



Investment basics:

Currency – Saudi Riyal (SAR)

Foreign exchange control – No

Accounting principles/financial statements – Saudi Organization of Certified Public Accountants (SOCPA) standards are used. If an issue is not covered by SOCPA standards, IFRS is the standard (and is used by banks). Saudi Arabia is transitioning to IFRS. Listed companies (other than banks and insurance companies) are required to adopt IFRS as from 31 December 2017, with 1 January 2016 being the transition date for IFRS convergence (the beginning of the earliest comparative year); other entities are required to adopt IFRS as from 31 December 2018, with 1 January 2017 being the transition date for IFRS convergence.

Principal business entities – These are the limited liability company (LLC), joint stock company and branch of a foreign entity.

A new company law introduced on 2 May 2016 made a number of changes to Saudi rules, including reducing the number of shareholders required to form an LLC from two to one and reducing the number of shareholders to form a joint stock company from five to two. The minimum share capital for a joint stock company also was reduced from SAR 2 million to SAR 500,000.

Corporate taxation:

Residence – A corporation is resident in Saudi Arabia if it is registered in accordance with the regulations for companies in Saudi Arabia or if it is headquartered in the kingdom.

Basis – A resident corporation is taxed on income arising in the kingdom. A nonresident carrying out activities in the kingdom through a permanent establishment (PE) is taxed on income arising from or related to the PE.

Taxable income – Income tax is levied on a non-Saudi's share in a resident corporation; zakat is levied on a Saudi's share. Citizens of Gulf Cooperation Council countries are treated as Saudis.

The tax base for a resident corporation is the non-Saudi's share of income subject to tax from any activity in Saudi Arabia, less allowable expenses. The tax base for a nonresident carrying out activities in Saudi Arabia through a PE is the income arising from the activities of the PE, less allowable expenses.

Taxation of dividends – Dividends received are taxed as income.

Capital gains – A 20% capital gains tax is imposed on the disposal of shares in a resident company. Capital gains on the disposal of shares traded on the Saudi stock exchange are tax exempt if the shares were acquired after 2004.

Losses – Tax losses may be carried forward indefinitely, provided the maximum amount deducted in each tax year does not exceed 25% of the annual profits, as per the tax return. The carryforward of losses is not allowed for companies that had a change in ownership or control of 50% or more, except for losses arising following the change in ownership that meet the criteria for loss carryforwards. The carryback of losses is not permitted.

Rate – The corporate income tax rate is 20% on a non-Saudi's share in a resident corporation and on income derived by a nonresident from a PE in Saudi Arabia. The rate on taxpayers working in the exploitation of natural gas sector is 30%, and the rate on taxpayers engaged in the production of oil and hydrocarbons is 85%.

Zakat is assessed at 2.5% on the higher of the zakat base and the net adjusted profit of a Saudi shareholder.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – No

Participation exemption – No

Holding company regime – The profits of a Saudi resident subsidiary remitted to its Saudi resident holding company will not be taxed, provided (i) there is a minimum holding of 10%; (ii) the investment is held for no less than one year; and (iii) the income of the subsidiary was subject to tax in Saudi Arabia. Limited rules also exist for groups wholly subject to zakat.

Incentives – The government grants 10-year tax incentives on investments in the following six underdeveloped provinces in Saudi Arabia: Hail, Jizan, Abha, Northern Border, Najran and Al-jouf. Investors will be granted a tax credit against the annual tax payable in respect of certain costs incurred on Saudi employees.

Withholding tax:

Dividends – A 5% withholding tax is levied on dividends paid to a nonresident, unless the rate is reduced under a tax treaty.

Interest – A 5% withholding tax is levied on interest paid to a nonresident, unless the rate is reduced under a tax treaty.

Royalties – A 15% withholding tax is levied on royalties paid to a nonresident, unless the rate is reduced under a tax treaty.

Technical service fees – A 5% withholding tax is levied on technical service fees paid to a nonresident third party, unless the rate is reduced under a tax treaty; a 15% withholding rate applies to technical service fees paid to related parties.

Branch remittance tax – A 5% withholding tax is imposed on the remittance of profits abroad.

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – No, but a 2.5% land tax applies on all undeveloped land within urban boundaries.

Social security – For Saudi employees, the employer must contribute 10% of the employee's salary to the General Organization for Social Insurance (GOSI), and the employee contributes 10%. The employer also pays accident insurance equal to 2% of the salaries paid for both Saudi and non-Saudi employees. Additionally a 2% unemployment insurance contribution, shared equally between the employer and Saudi employees, is required.

Stamp duty – No

Transfer tax – No

Anti-avoidance rules:

Transfer pricing – Saudi tax law does not contain any detailed transfer pricing regulations or guidelines. However, related party transactions and the arm's length principle are covered under certain general anti-avoidance provisions. The general anti-avoidance measures provide for the following:

- Transactions between related parties must be conducted on arm's length terms;
- The excess of the cost of materials supplied or services provided by related parties over the prices used by independent parties will be disallowed; and
- Taxpayers should maintain documentation to support the precise determination of tax payable.

The Saudi tax authorities may challenge any transaction as follows:

- Disregard a transaction that has no economic effect;
- Reclassify a transaction whose form does not reflect its substance;
- Reallocate income and expenses between related parties or parties under common control to reflect the income that would have resulted from a transaction between independent and unrelated parties; and
- Estimate the appropriate tax base and impose penalties.

Taken together, the above provisions empower the Saudi tax authorities to examine related party transactions, request relevant documentation and adjust income or expenses based on the arm's length standard which, at times, may differ from the OECD standards, depending on the local practices. Although the OECD transfer pricing guidelines generally are taken into account in examining the arm's length nature of related party transactions, they are not binding on the Saudi tax authorities.

Thin capitalization – Saudi Arabia does not have specific thin capitalization rules, but there is a rule limiting the deductibility of interest expense to the lesser of (i) the actual interest expense, or (ii) interest income, plus 50% of taxable income (excluding interest income and interest expense).

Controlled foreign companies – No

Disclosure requirements – No

Other – There are general anti-avoidance provisions in the tax law; see above under "Transfer pricing."

Compliance for corporations:

Tax year – The tax year is the state's fiscal year. The taxable year of a taxpayer starts from the date it obtains a commercial registration or license, unless other documents support a different date.

A taxpayer may use a different tax year in the following circumstances: (i) the different year was approved by the Directorate before the effective date of the income tax regulations; (ii) the taxpayer uses a Gregorian financial year; or (iii) the taxpayer is a member of a group of companies or a branch of a foreign company that uses a different financial year.

Consolidated returns – Consolidated returns may be filed only for zakat and only in the case of wholly owned subsidiaries. However, zakat returns of the subsidiaries are filed for information purposes. Consolidated returns are not permitted for income tax purposes.

Filing requirements – Tax returns for a corporation must be filed online with the tax authorities within 120 days from the fiscal year-end. A taxpayer whose taxable income exceeds SAR 1 million before the deduction of expenses must have the accuracy of the return certified by a licensed certified accountant. Additionally, audited financial statements must be filed with the Ministry of Commerce within 120 days of the year-end.

Penalties – The penalties for failure to file a tax return are the higher of 1% of revenue (up to a maximum of SAR 20,000), or between 5% and 25% of the unsettled tax, depending on the length of the delay. In addition, there is a fine of 1% of the unsettled tax for every 30 days' delay in settlement.

Rulings – No

Personal taxation:

Basis – There is no personal income tax (employment tax) in Saudi Arabia; however, nonresidents conducting business in the kingdom or deriving income from a PE in Saudi Arabia are taxed as described above under "Corporate taxation."

Residence – An individual is resident in Saudi Arabia for a tax year if he/she has a permanent residence in the kingdom and is present in the kingdom for a period that, in total, is not less than 30 days in the tax year, or is present in the kingdom for a period that is not less than 183 days in the tax year.

Filing status – Only individuals that carry on a business or profession are required to file a tax return.

Taxable income – No, except for individuals that carry on a business or profession, who are subject to the same rules as companies.

Capital gains – A 20% capital gains tax is imposed on the disposal of shares in a resident company. Capital gains on the disposal of shares traded on the Saudi stock exchange are tax exempt if the shares were acquired after 2004.

Deductions and allowances – No, except for individuals that carry on a business or profession.

Rates – Individuals carrying on a business or profession are taxed at the same rate as companies, i.e. 20%.

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – No

Inheritance/estate tax – No

Net wealth/net worth tax – Zakat is levied on the registered businesses of Saudis.

Social security – Saudi employees must contribute 10% of salary to the GOSI; the employer also contributes 10%. Additionally, a 2% unemployment insurance contribution, shared equally between the employer and Saudi employees, is required.

Compliance for individuals:

Tax year – No

Filing and payment – No

Penalties – No

Value added tax:

Taxable transactions – Saudi Arabia has announced its intention to introduce a VAT across all sectors from 1 January 2018. Although the domestic legislation has not yet been released, it is expected that the VAT rate will be 5%; there will be close alignment to the international VAT models used in many OECD countries; and VAT will cover a broad base of taxable transactions, with limited exemptions.

Rates – N/A

Registration – N/A

Filing and payment – N/A

Source of tax law: Income Tax Regulations (Muharram 1425 H March 2004)

Tax treaties: Saudi Arabia has signed more than 34 tax treaties.

Tax authorities: Government Authority of Zakat and Tax (GAZT)

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