

Spring 2012

# MSME News - Talking Tax

Tax

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## Updated Tax on Saudi Arabia

### TAXATION SYSTEM IN THE KINGDOM OF SAUDI ARABIA

#### Income Tax

The levy of income tax in the Kingdom of Saudi Arabia based on the Residency status, ownership and source of income tax is levied at a fixed rate of 20% on foreign companies in proportion to their equity interest in the business.

#### Persons Subject to Taxation

- . A resident capital company with respect to shares of non-Saudi partners.
- . A resident non-Saudi natural person who conducts business in the Kingdom.
- . A nonresident who conducts business in the Kingdom through a permanent establishment.
- . A nonresident with other taxable income from sources within the Kingdom.
- . A person engaged in the field of natural gas investment.
- . A person engaged in the field of oil and hydrocarbons production.

The income tax in the Kingdom of Saudi Arabia is imposed on the basis of Residency status, ownership and source of income, we hereunder reproduce the articles of regulations concerning the concept of residency and permanent establishment and source of income.

#### Concept of Residency

Article 3 of the Law defines residency as follows:

- "A company is a resident company if it meets any of the following conditions:
1. It is formed under the Companies Regulations.
  2. Its place of central control and management is situated within the kingdom."

#### Permanent Establishment

A Permanent establishment of a non-resident in the kingdom, unless otherwise provided by this article, consists of the permanent place of activity of the non-resident through which it carries out business, in full or in part, including business carried out through an agent.

The following are considered a permanent establishment

1. Construction sites, assembly facilities, and the exercise of supervisory activities connected with them.
2. Installations or sites used for surveying for natural resources, drilling equipment, or ships used for surveying for natural resources, as well as the exercise of supervisory activities connected with them
3. A fixed base where a non-resident natural person carries out business;
4. A branch of a non-resident company which is licensed to carry on business in the kingdom.

#### Source of Income

Income is considered accrued in the Kingdom in any of the following cases:

1. If it is derived from an activity which occurs in the Kingdom.
2. If it is derived from immovable property located in the Kingdom, including gains from the disposal of a share in such immovable properties and from the disposal of shares, stocks or partnership in a company the property of which consists mainly, directly or indirectly of shares in immovable properties in the Kingdom.

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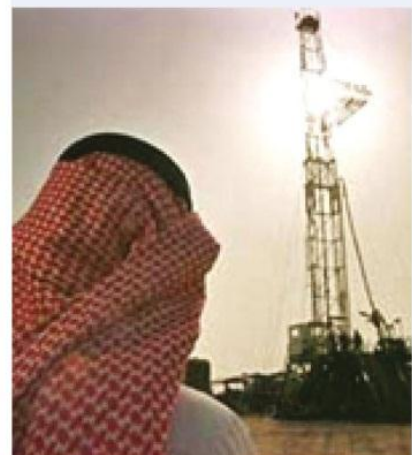
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## (TAXATION SYSTEM IN THE KINGDOM OF SAUDI ARABIA)

3. If it is derived from the disposal of shares or a partnership in a resident company.
4. If it is derived from lease of movable properties used in the Kingdom.
5. If it is derived from the sale or license for use of industrial or intellectual properties used in the Kingdom.
6. Dividends, management or directors' fees paid by a resident company.
7. Amounts paid against services rendered by a resident company to the company's head office or to an affiliated company.
8. Amounts paid by a resident against services performed in whole or in part in the Kingdom.
9. Amounts for exploitation of a natural resource in the Kingdom.
10. If the income is attributable to a permanent establishment of a nonresident located in the Kingdom, including income from sales in the Kingdom of goods of the same or similar kind as those sold through such a permanent establishment, and income from rendering services or carrying out another activity in the Kingdom of the same or similar nature as an activity performed by a non-resident through a permanent establishment.
- 10.a Place of payment of the income shall not be taken into account in determining its source.
- 10.b For purposes of this Article, a payment

made by a permanent establishment of a nonresident in the Kingdom is considered as if paid by a resident company.

**Withholding Tax**

Non residents who do not have a legal registration or a permanent establishment in Saudi Arabia are subject to withholding tax on their income derived from a source in Saudi Arabia . A Saudi resident entity must withhold tax from payment made to such non-residents with respect to income derived from Saudi Arabia. This rule applies regardless of whether the Saudi entity is a taxpayer . The following are the withholding tax rates .

The withholder of tax is required to register with the Department of Zakat and income Tax (DZIT) before the settlement of first tax payment. The withholder of tax withheld with the DZIT by the 10th day of the month following the month in which the taxable payment is made and issuing a certificate to the nonresident party. A delay fine of 1 % for each 30 days of delay is computed from the due date of tax until the tax is paid.

In addition to the above Article 1 (2) of the Saudi Arabian by-laws states that a non-

resident who does not have a permanent establishment in the kingdom will be subject to withholding taxes on his income realized from in-kingdom sources.

Payments	%
1. Management fees; Dividends, interest, rent , payments made for technical and consulting services, payments for air tickets, freight or marine, shipping, international phone calls, and insurance or reinsurance premiums.	20
2. Royalties, made to head office or an affiliated company.	5
3. For services and payments for other services.	15

**Tax rules on Individuals**

. Resident individual employees are not subject to income tax in Saudi Arabia. There is no personal income tax on salaries, wages and other emoluments payable to employees.

. Although residency is defined as staying in the country for 180 days or more in a tax year or for 30 days if the individual owns or leases a residence, yet in this case the individual must hold a work stay permit of his employer.

. Resident self employed individuals who are authorized to work in Saudi Arabia are subject to income tax at a flat rate of 20% on their net income for the tax year.

. A non-resident individuals who provide services to resident individuals or businesses in the Kingdom are subject to withholding tax at rates varying from 5% to 20% on gross income from services rendered depending on the nature of the service.

**Avoidance of double taxation treaties signed between the Kingdom and the following countries:**

- . Great Britain
- . France
- . Spain
- . Austria
- . Greece
- . Italy
- . Turkey
- . Russia
- . Belarus
- . Japan
- . China
- . India
- . Pakistan
- . Bangladesh
- . Uzbekistan
- . South Korea
- . Malaysia
- . Syria
- . South Africa

## Egypt Tax News

**Tax Law No. (51) of 2011 changes salary and corporate tax rates:**  
On June 28, the Supreme Council of the Armed Forces issued the Decree changing tax rates stipulated in the Income Tax Law No. 91 of 2005.

The Decree introduced the country's general budget for the financial year 2011/2012, fiscal policy, and increase in income tax rates. This Decree has the force of law and is applicable from the 1st of July 2011.

**Article No. (8) of income tax law No. (91) of 2005 relating to individuals net income and tax rates:**

- A. First, bracket More than 5,000 EGP up to 20,000 EGP (10%)
- B. Second bracket More than 20,000 EGP up to 40,000 EGP (15%)
- C. Third bracket More than 40,000 EGP up to 10,000,000 EGP (Ten Million EGP) (20%)
- D. Fourth bracket More than 10,000,000 EGP (Ten Million EGP) (25%)

**Article No. (49 Para. 1) of income tax law No. (91) of 2005 relating to corporate entities net income and tax rates:**

- A. First bracket UP to 10,000,000 EGP (Ten Million EGP) (20%)
- B. Second bracket More than 10,000,000 EGP (Ten Million EGP) (25%)

**No. (91) of 2005 relating to corporate entities net income and tax rates:**

- A. First bracket UP to 10,000,000 EGP (Ten Million EGP) (20%)
- B. Second bracket More than 10,000,000 EGP (Ten Million EGP) (25%)

This Decree has the force of law and is applicable from the 1st of July 2011.

### Currency

Recent (November 20, 2011) clashes between security forces and protesters in Cairo's iconic Tahrir Square, has pushed the index's year-to-date losses to almost 46%.

### Egypt Stock Exchange

The Egyptian pound flirted near the 6 pounds to the U.S. dollar mark, reaching levels largely unseen since the height of the January uprising that ousted former President Hosni Mubarak.

### Tourism

Several travel agencies in four major markets (Russia, Japan, Italy and Britain) for tourists have stopped booking flights to Egypt after the recent events.

Egypt's revolution has cost its tourism industry an estimated US \$3.5 billion in lost revenue.



## U.A.E News

### Moore Stephens placed 3rd at the Icaew Middle East Golf Challenge

The second edition of the ICAEW Middle East Golf Challenge Cup was held on November 30, 2011 at the spectacular Al Badia Golf Club, Festival City, Dubai.

The Al Badia Golf course is an oasis themed 18-hole Par 72 championship course which can challenge even the most experienced golfers.

The tournament was conducted in the Texas Scramble format with each participating team consisting of 4 players. There was a full field comprising 16 teams representing accounting firms (including some Big 4 firms), law firms and educational institutions.

Moore Stephens participated in this event with a 4-man squad led by Dubai partner, Farad Lakdawala.

The weather and course conditions were excellent on the day of the competition.

The event was very closely contested with the Moore Stephens team finishing in 3rd place, missing out on the 1st place by 1 shot, and 2nd place by just 0.3.

The prize presentation was made by Mr. Vernon Soare, Executive Director of the Institute of Chartered Accountants in England and Wales.

Moore Stephens team from left to right:

Dileep Kumar, Farad Lakdawala, Ashok Nair and Bayhaan Lakdawala.



## Tax in Lebanon

Lebanon enjoys a liberal free system in respect of currency and exchange control. No restrictions of any kind are imposed on the transfer of any currency into or out of Lebanon. Lebanon has flourishing sectors in industry, agriculture and commerce. Despite this Lebanon is considered as a country of services. The services that are well recognised are banking, insurance, shipping industries, tourism, import and export, publicity and public relations.

Foreign countries desiring to do business in Lebanon have the option to choose between setting up a local company or establishing a branch office of a foreign incorporated company. The advantage of the local company is that the laws and regulations applied are the same of the local Lebanese organisations.

### Tax on Business

The main taxing statute in Lebanon is the Income Tax Act. The Act defines the *inter alia* which is the core for the taxation on the income of the enterprise. Taxation of income in Lebanon is based on the territoriality principle.

Foreign countries are regarded as liable to the Lebanese income tax if one of the below conditions are met:

1. Permanent establishment (permanent independent office in Lebanon)
2. Realises profits in Lebanon through a dependent representative
3. Realises a complete commercial cycle in Lebanon, even in the absence of a permanent establishment or dependent representative.

Branches established in Lebanon are subject to the Lebanese Corporate Tax. They are also subject to 10% withholding tax on their Lebanese Profits after Tax, which is deemed to be distributed.



An entity is classified as a Taxable Entity if it is covered by any of the below:

- a. Companies (whatever the nature and object)
- b. All persons (Natural or Legal)
- c. Broker, agents (commission or middle man), or any mediator in the purchase or sale of any fund or property.
- d. Every person that derives a profit from any remunerative process or any act not otherwise subject to tax.

### Tax Rates and Incentives

Companies are liable to a flat tax rate of 15% on their taxable income.

Branches making profit are deemed to distribute dividends and are subject to 10% distribution tax on the amount of profit after the tax (15%).

The enterprises that are exempt from income tax are education institutions, co-operative associations, trade unions, Lebanese maritime and airline companies, public institutions who do not compete with private sector, holding companies and offshore companies. Medium and long-term credit banks are also exempt for corporate tax for the first seven years of operation.

Offshore companies are those who operate outside Lebanon. Offshore companies receive special tax treatment due to their limited status. They remain subject to the Fixed Annual Tax of 1,000,000 LBP paid to the tax department and a Capital Gains.

### Double Taxation Agreements

Double taxation agreements are those in which a mutual arrangement is made between two countries not to re-tax income that a firm or person domiciled in one country earned in (paid tax on) the other.

Lebanon had made double taxation agreements on income and capital in force with the below countries and treaties:

Algeria, Armenia, Bahrain, Belarus, Bulgaria, Cyprus, Czech Republic, Egypt, France, Jordan, Kuwait, Malaysia, Malta, Morocco, Oman, Poland, Romania, Russia, Senegal, Syria, Tunisia, Ukraine, United Arab Emirates and Yemen.

Recently there has become a social security agreement with France but only in relation to students. The France treaty also includes inheritance taxes.

## New Omanisation Rules

IN JUNE 2011 THE TAXATION AUTHORITIES CLARIFIED WHAT TOURISM REVENUES WOULD BE EXEMPT FROM CORPORATE TAX UNDER ARTICLE 118 OF THE INCOME TAX LAW.

The income exempt would be those relating to operating hotels and tourism villages and not income arising from other real estate or other related transactions, even if that is part of an integrated project that includes operating hotel activities or touristic village projects. That would mean that the income from activities such as golf courses would be subject to taxation.

Therefore the projects that have a mix of exempt and non-exempt activities would need to ensure that there are adequate processes in place to correctly report the distinction.

### Oman implements stricter omanisation rules and clarifies employment arrangements

In October 2011, a Royal Decree was issued giving changes and clarifications to the 2003 Labour Law.

The main changes:

#### Omanisation

Employees not meeting the established Omanisation percentage (OP) will be subject to a fine of at least RO 250 and not more than RO 500 for each employee that is required to meet the OP. The employee will be given 6 months to remedy the situation, and if not the fine will be doubled

#### Salary payments

a. All salaries are to be paid within 7 days of the due date and to the employees accounts in a locally registered bank

b. If wages are paid other than weekly, permission needs to be taken from the Ministry of Labour

#### Annual leave

Annual leave will be not less than 30 days (plus 6 days emergency leave), employees will be paid the gross salary (basic wage plus all allowances) during that period, and leave pay is not payable unless employees have reached 6 months of employment

#### Working hours

a. Employees should not work for more than 9 hours a day (or 45 hours a week) including a minimum 30 minute rest period. In Ramadan it reduces to 6 hours a day (or 30 hours a week)

b. If it is necessary to work more than 9 hours (6 hours in Ramadan), it should not exceed 12 hours and will be subject to a 25% on the basic salary in the daytime and 50% for night work (or time off in lieu should the employee agree and in the case of transport companies if the Ministry of Labour agrees).

c. Employees are to be given 2 consecutive days off after 5 consecutive days of work. In businesses specified by the Ministry of Labour, working weekends can be accumulated for a maximum of 8 weeks so long as the employee agrees and is paid for that weekend work time at double basic rate.

#### Women

Women should not work between 9 pm and 6 am unless specific Ministry of Labour approval is given, and are entitled to 50 days pre and post natal leave (with gross salary), but only for 3 births.

#### Unfair dismissal

- If the Labour Court decides a dismissal was unfair it may either
- Re-instate the employee

or

- Enforce compensation of at least 3 months gross salary (as per law or in the employment contract) plus gross salary for notice period and any termination benefits due.



#### General

it is mandatory for businesses with more than 15 employees to compile and place in a prominent location the Company's by laws that are agreed by the Ministry and which will include all significant aspects of the employees rights and duties.

## Sindh Sales Tax in Pakistan

Amendments in the Sindh Sales Tax on Services Rules 2011 SRB-3-4/12/2011 dated 24 November 2011. The salient features of such amendments are as follows the Terminal Operator, Club, Inadmissible Input Tax, Refunds, tax Invoice, Banking Companies, Financial Institution and Non-Banking Finance Companies, Quarterly Statement, Telecommunication services, Services provided by airports operators and Airport Terminal Operators and finally the Airport Ground Service Providers and Airport Service Providers.

The Sindh Revenue Board (SRB) has amended the Sindh Sales Tax Special Procedure (Withholding) Rules, 2011 (the rules), whereby certain changes have been brought into the withholding tax regime vis.a.vis claim of associated input sales tax incurred on taxable services.

### Withholding of Advertisement Services under Sindh Sales Tax on Services Act 2011

'Advertisement Services' specified under the 2nd Schedule of Sindh Sales Tax on Services Act 2011 (SSTSA) as rendered in the Province of Sindh are taxable at 16% of the value of service. In terms of SRO S.R.B. 3-4/1/2011 dated 24 August 2011, the recipient of such services (advertiser) is liable to withhold related sales tax and deposit the same under Sindh Revenue Board's Account instead of paying to the service provider.

On the other hand, Rule 1(2)(f) read with Rule 3(4) of SRO 660(I)/2007 dated 30 June 2007 issued by Federal Government also places identical condition upon recipient of advertisement services registered for sales tax purposes with FBR. This notification requires the recipient to deposit such withheld tax with FBR. In this way, the legal provisions of SRO 660(I)/2007 and SRO S.R.B. 3-4/1/2011 appear to be overlapping with each other when it comes to withholding of sales tax relating to advertisement services.

Recently, the Sindh Revenue Board (SRB) has started monitoring of withholding tax relating to advertisement services.

Consequently, notices have been issued in case the taxpayer (registrant for 'goods' with FBR and not otherwise falling within the jurisdiction of SSTSA) for not depositing sales tax which such taxpayer had withheld from vendors who had reported corresponding output tax in their sales tax return filed with SRB. Accordingly, the SRB has asked all such taxpayers to deposit such withheld sales tax with SRB, despite the fact that the same has already been deposited with FBR. In short, this calls for a double taxation in the hands of the recipient of service.

The SRB also insists that the applicable date for its withholding tax rules would be 01 July 2011 notwithstanding the fact that such rules only came into existence on 24 August 2011. In other words, the SRB calls for a retrospective application of its withholding tax rules.

On the other hand, the registrants for 'goods' with FBR face the following issues:

a. Legality of application of SRO. S.R.B. 3-4/1/2011 dated 24 August 2011 upon themselves



b. Retrospective application of aforesaid SRO w.e.f. 01 July 2011

c. Inability of taxpayers to classify whether services received by them relate to Sindh or rest of Pakistan. Also whether the relevant service provider would deposit the related sales tax with SRB or FBR.

Potential penal action by SRB against the recipient of service for non compliance of its withholding tax rules.

In the wake of aforesaid practical and legal issues, we made series of representations with SRB. However, the SRB defends the aforesaid notices on the basis of 18th amendment of the Constitution of Pakistan. SRB also reiterates its stance upon retrospective application of withholding tax rules w.e.f. 01 July 2011.

Without prejudice our difference of opinion over the interpretation vetted by SRB in the instant matter and to avoid legal disputes with both FBR and SRB, we would recommend following course of action to our clients:

### Hold Back Payments

To the extent possible, all pending payments of advertisement services may be held back for the time being. Simultaneously, the associated service provider / channel may be asked to advise the tax return (SRB or FBR) in which he would report the related invoice. For this purpose, an undertaking may also be obtained from the vendor. This mechanism is expected to eliminate problems in cross verification of channel's tax returns with that of corresponding withholding tax challans paid by the recipient of such services.

### Invoicing between 01 July 2011 - 23 November 2011

For those businesses who had reported and paid withholding of advertisement related sales tax (pertaining to Sindh based vendors / channels) to the credit of FBR, the suggested mechanism could be revision of all such returns under Section 26 of Sales Tax Act 1990.

The reason to be offered for such revision could be rectification of an inadvertent payment pertaining to SRB which was erroneously paid to FBR.

The SRB has asked us to mark a copy of such revision application to his office as well. On this basis, it has assured us to hold back any penal action on this account till the FBR grants the approval for revision of return. SRB also contends that, in case the FBR authorities reject such a request, it would formally take up the matter with FBR instead of issuing notices to clients.

Once approval for revision of returns is granted by FBR, the sum earlier withheld and deposited by the taxpayer would emerge as 'refund', which may be claimed under the relevant provisions of Sales Tax Act 1990. On the other hand, the withholding agent may make payment of such sum into the SRB Account.

### Invoicing w.e.f. 24 November 2011

Vide amending SRO S.R.B-3-4/13/2011 dated 24 November 2011, the SRB has amended Rule 29 of Sindh Sales Tax on Services Rules 2011 (the rules) whereby invoice particulars have been prescribed for service providers falling under the ambit of SSTSA.

The above invoice particulars require the service provider to mention his Sindh Sales Tax Registration No. (SSTN) upon the face of his invoice. This disclosure may help the corresponding recipient of service to determine that the associated sales tax is to be withheld and deposited to the credit of SRB. Alternatively, if the invoice issued by service provider does not contain reference of SSTN, this would mean that he would report such invoice in his FBR tax return and consequently the service provider may deposit withheld tax with FBR.