

# Saudi Arabia: Amendments to Zakat and Income Tax By-Laws

September 2023



## In brief

In line with Vision 2030 and the Kingdom's initiatives and legislations to develop the tax environment in Saudi as one of the G20 countries to create a more transparent and efficient tax landscape, His Excellency the Minister of Finance has approved the amendments to Zakat and Income Tax By-laws which have been published in the Official Gazette (Umm AlQura) on 27/2/1445 AH corresponding to September 12, 2023 and became in effect from that date.

The amendments cover the deductibility of expenses for Taxpayers, the procedures of the tax and Zakat litigation process, and the WHT rates on intercompany transactions among other amendments.

The importance of these amendments arises from their extended impact on non-resident taxpayers in Saudi with respect to their income derived from a source in Saudi, particularly through related parties and branches of foreign companies.

Below is a summary of these amendments and the anticipated impact on the non-residents deriving income from a source in Saudi Arabia, among other important implications as a result of these amendments.

## In detail

### Summary of the amendments to Income Tax by-law:

The amendments to income tax by-law could be summarised in the following main points:

- Interest charges associated with financing the capital assets and capitalised to the value of the asset during the creation period of that asset are excluded from the interest formula to calculate the net taxable profit. In other words, interest formula is not applicable to the interest charges capitalised in the value of the capital assets under construction.
- The deductible Corporations' contribution to the pension, social security or any other funds incorporated for the sake of securing the end of service benefits or to compensate for the medical expenditures of the users should meet certain criteria, which include the following among others:
  - The deductible amount should not exceed the **unfunded liabilities** of these funds, which have not been paid from the beginning of the fiscal year during which the amount is deductible.

The amended sub-paragraph (2) of Para. (8) Article (9) defines the **unfunded liabilities** as follows:

- The employer's liabilities against his contribution to these funds are due from the beginning of the year, during which the amount is deductible and has not been paid till the end of that fiscal year.
- Tax litigation process is governed by the provisions of the operating rules of Tax Violations and Dispute Resolution Committees.
- Articles (61 and 62) of the Income Tax By-law, which stated the provisions related to the tax litigation process and the formation of the tax committees have been removed in line with the amendment of Article (60) of the by-law which states the tax litigation process is governed by the provisions of the operating rules of the tax committees.
- Payments to non-residents for Technical and Consulting services and International Telecommunication services are subject to 5% WHT regardless they are paid to related or third parties.
- Payments to non-residents for Air Tickets that fall within the scope of the WHT are those payments for **International** flights **Departing** from Saudi.
- Payments to non-residents for Air or Maritime Freight that fall within the scope of the WHT are those payments for Air or Maritime Freight Companies (**regardless the payment is made inside or outside of the Kingdom**) for Air or Maritime Freight services; this does not include the freight services from abroad to the Kingdom.



The amendments to the tax and Zakat by-laws provided one of the long-awaited amendments with respect to the transactions with non-resident related parties, among other amendments, this definitely provides an additional enhancement to the tax landscape in Saudi to develop it even further in line with Vision 2030.





## Summary of the amendments to the Zakat by-law:

The amendments to the Zakat by-law has introduced a new Article to the Concluding Provisions; the new article has mainly introduced the following provisions:

- ZATCA should work to develop awareness and strengthen the voluntary compliance of the taxpayers and, therefore, issue the necessary guidelines and publications to help them fulfil their obligations.
- ZATCA - at its discretion- may issue an explanatory ruling to those who request that or to the Public, and the ruling should state the period it covers.
- ZATCA is committed to adhering to the content of the interpretation that came into the guidelines, publications or explanatory rulings to the subsequent periods to the issuance or amendment to those guidelines, publications or explanatory rulings and without spreading the impact to the period, periods to the issuance or amendment.
- ZATCA should consider adherence to the provisions of the law and by-law when issuing explanatory rulings.
- ZATCA's adherence to the content of the interpretation came into the guidelines, publications or explanatory rulings does not apply in the following cases:
  - Difference of the actual facts, activities and transactions.
  - Ignoring or manipulating material facts.
  - The transactions that do not fulfil the conditions or assumptions as per the guidelines, publications or explanatory rulings.
- The objective of any document issued by ZATCA, according to this article, to elaborate on how the provisions of the law and by-law apply to certain transactions with certain facts. This is not intended to give ZATCA the authority to:
  - Provide an exception, exemption, privilege, discount or any other advantage other than what is allowed as per the provisions of the law and by-law.

### Effective Date:

The amendments are effective from the date of publishing in the Official Gazette, which is 27/2/1445 AH corresponding to September 12, 2023.

### Key outcome:

Tax and Zakat payers should assess the implications of the above amendments on their transactions with non-resident parties and the overall implications on the cash outflows from Saudi, among other considerations.



# The takeaway

Tax and Zakat payers should assess the impact of these amendments on their overall tax and zakat burdens to understand the implications on their business in Saudi to ensure full compliance with the tax and zakat regulations.

If you wish to find out more about this and how this can impact your business, feel free to reach out to us for support.

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## Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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