Doing Business in the Kingdom of Saudi Arabia 2025

A Tax and Legal Guide

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Welcome to this guide

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Your journey begins, location, presence, objectives and operations.

The Kingdom of Saudi Arabia (KSA) is the largest economy in the Middle East with an economy historically driven by oil production. In April 2016, the KSA Government introduced the Vision 2030 plan which included a number of new initiatives aimed at diversifying the KSA economy.

The plan for Vision 2030 is to reduce KSA's dependence on oil, and develop service sectors, such as health, education, infrastructure, recreation, and tourism. The sweeping reforms outlined in Vision 2030 and the National Transformation Plan affect vast areas of the government, the economy and foreign investors. The reforms' tax and legal policies will play a significant role as part of the government's efforts to diversify revenues away from oil and address the broader social and economic objectives.

To help achieve Vision 2030, the Public Investment Fund, a sovereign wealth fund in KSA, was tasked with developing the "giga Projects". The biggest Giga Projects to date are Qiddiya Entertainment City, NEOM, the Red Sea Project and Amaala resort. These projects are intended to shape the future of tourism and meet the social and cultural needs of Saudi Arabian citizens.

The implementation of Vision 2030 as well as the recent amendments to the KSA Companies Law, the new Bankruptcy Law and the new Professional Companies Law makes this guide timely.

This guide is intended to provide an introduction to the legal and taxation aspects of doing business in KSA, particularly items that an inbound investor may typically have in mind.

We hope you find this guide useful.

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Introduction

02

KSA is located in the Middle East between the Arabian Gulf and the Red Sea and is home to Islam's two holiest sites, Makkah and Madinah. KSA was founded in 1932 and is divided into 13 provinces, with Riyadh being the capital. The official language is Arabic, with English widely spoken and heavily used in business and the Saudi Riyal (SAR) being the currency. Roughly ten (10) million foreign workers play an important role in the KSA economy, particularly in the oil and service sectors.

The country is a leading producer of oil and natural gas and possesses about twenty per cent (20%) of the world's proven petroleum reserves. KSA is the largest exporter of petroleum, and plays a leading role in the Organisation of Petroleum Exporting Countries (OPEC). However, the government continues to pursue economic reform, diversification and growth within the private sectors. Diversification efforts are focused on power generation, telecommunications, tourism, natural gas exploration, and petrochemical sectors. Those efforts also include a number of “giga” projects including Neom, the Red Sea Development, Amaala, Qiddiya Entertainment City, Al Ula, and others.

KSA is an absolute monarchy and does not have a written constitution. However, in 1992, the Basic Law of Governance (the Basic Law) was adopted by royal decree. The Basic Law is a constitution-like document that contains provisions similar to those found in other countries’ written constitutions.

The legal system is based on civil law and relies on Shari’ah doctrines and Islamic teachings. KSA does not acknowledge the doctrine of precedent, and in the event that various sources of law do not provide an answer, judges will apply their discretionary authority to render a decision. The lack of precedent has resulted in different judgments being awarded in similar cases. In 2010, the KSA Government announced its intention to codify Shari’ah to decrease the divergence in judgements, but this is yet to be implemented.

Shari’ah has also been supplemented by regulations issued by royal decree. Nevertheless, Shari’ah remains the primary source of law, especially in areas such as criminal and family law.

Legislative updates

KSA continues to announce significant legislative reforms to enhance the legal and judicial system. Set out below are brief details of some of the key recent new laws, including the recently enacted Civil Transactions Law (see below).

New Companies Law & Noteworthy Changes

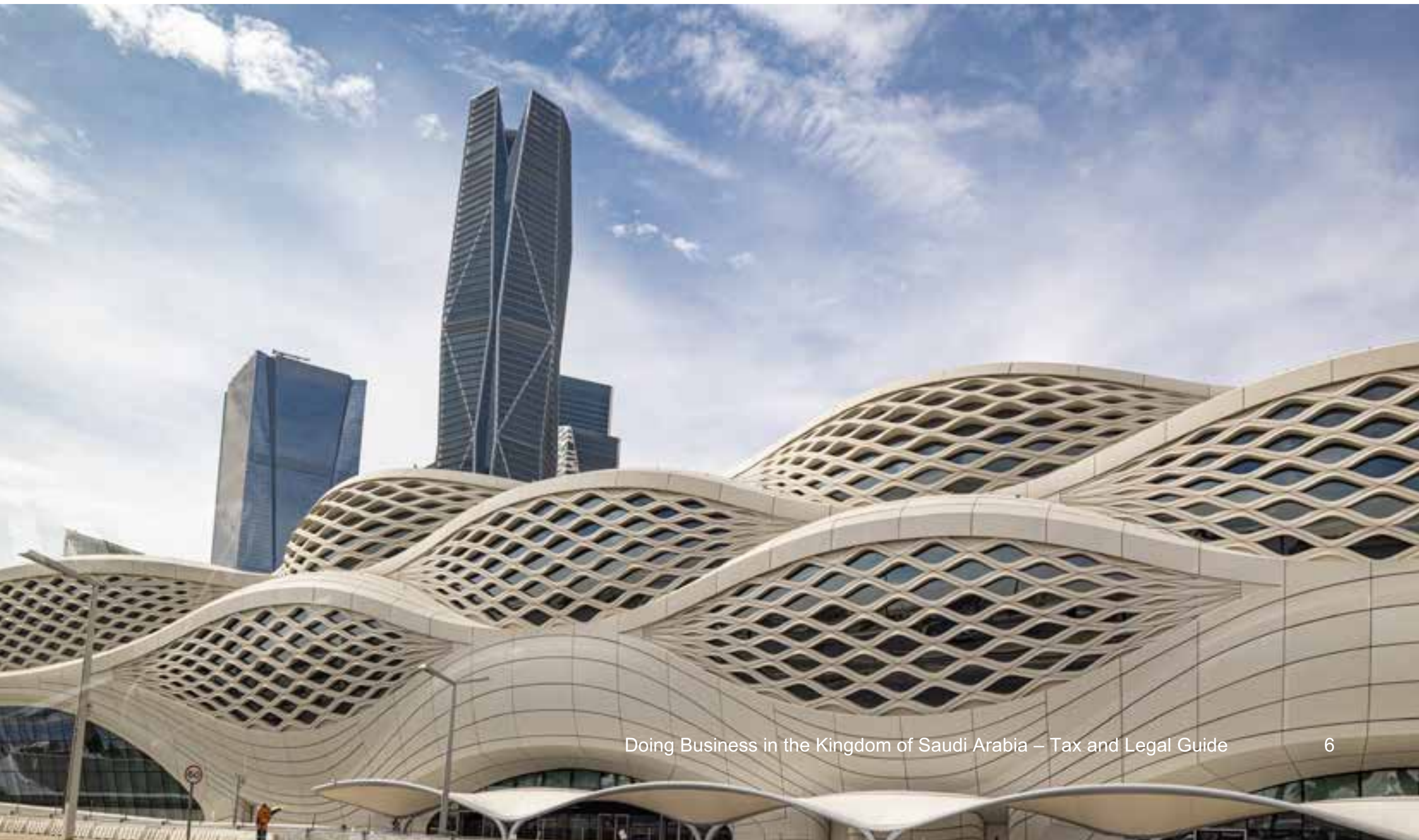
The KSA Cabinet approved a new Companies Law in June 2022 which came into force in January 2023. The new Companies Law reflects Vision 2030 and introduces a range of new provisions designed to further encourage foreign investment and support the private sector. The new Companies Law also includes additional provisions governing Professional Companies.

The previous mandatory statutory reserve of 30% of a company's capital has now been made optional subject to companies including the provision in their respective articles of association/company statutes.

Additional changes include the ability for joint stock companies to issue different classes of shares, and the removal of the maximum number of board members

The new Companies Law also introduces changes to regulations that apply if a company's losses exceed 50% of its share capital.

Tag-Along & Drag-Along Rights have now been introduced.



Professional Companies

In addition to the provisions dealing with corporate forms, shareholding and ownership, rights and responsibilities of the shareholders and management, the new Companies Law also includes provisions dealing with professional companies.

These provisions include the additional restrictions and requirements applicable to professional companies in terms of ownership and management including the following:

A cap of

30%

on the percentage of ownership of non-professional investors.

A requirement for a minimum

25%

KSA ownership.

Eligibility criteria for the Manager.

The Ministry of Investment of Saudi Arabia

Since becoming an independent ministry in 2020 the Ministry of Investment of Saudi Arabia (MISA) continues to provide an increasing range of services to assist foreign investors looking to invest in the KSA economy.

Regional HQ Initiative

In February 2021 the KSA government announced an initiative to encourage multinational companies to locate their regional HQ in the KSA. The initiative is being led by MISA and the Royal Commission for Riyadh City and offers a variety of incentives to support the initiative.

The KSA government announced that, with effect from January 2024, it intends to cease contracting with companies and commercial institutions with regional headquarters not located in KSA.

The regional HQ should support, manage and provide strategic direction to its branches, subsidiaries and affiliates operating in the MENA region.

The Regional Headquarters guidance stipulates that it must undertake certain mandatory activities, they also allow the RHQ to undertake various optional activities.

Anti-Concealment Law

After a delay in its implementation, the new Anti-Concealment Law has now come into force.

The Anti-Concealment Law applies to KSA nationals, non-KSA nationals and accomplices who engage in any arrangement which enables a non-KSA party to carry out economic activities in KSA without being duly licensed by the respective authorities.

The Anti-Concealment Law has introduced strict additional penalties which are determined on a case-by-case basis and which include fines, imprisonment, deportation, prohibition from entering the KSA market in the future and/or payment of all Zakat, taxes and fees associated with the concealment act.

E-Commerce Law

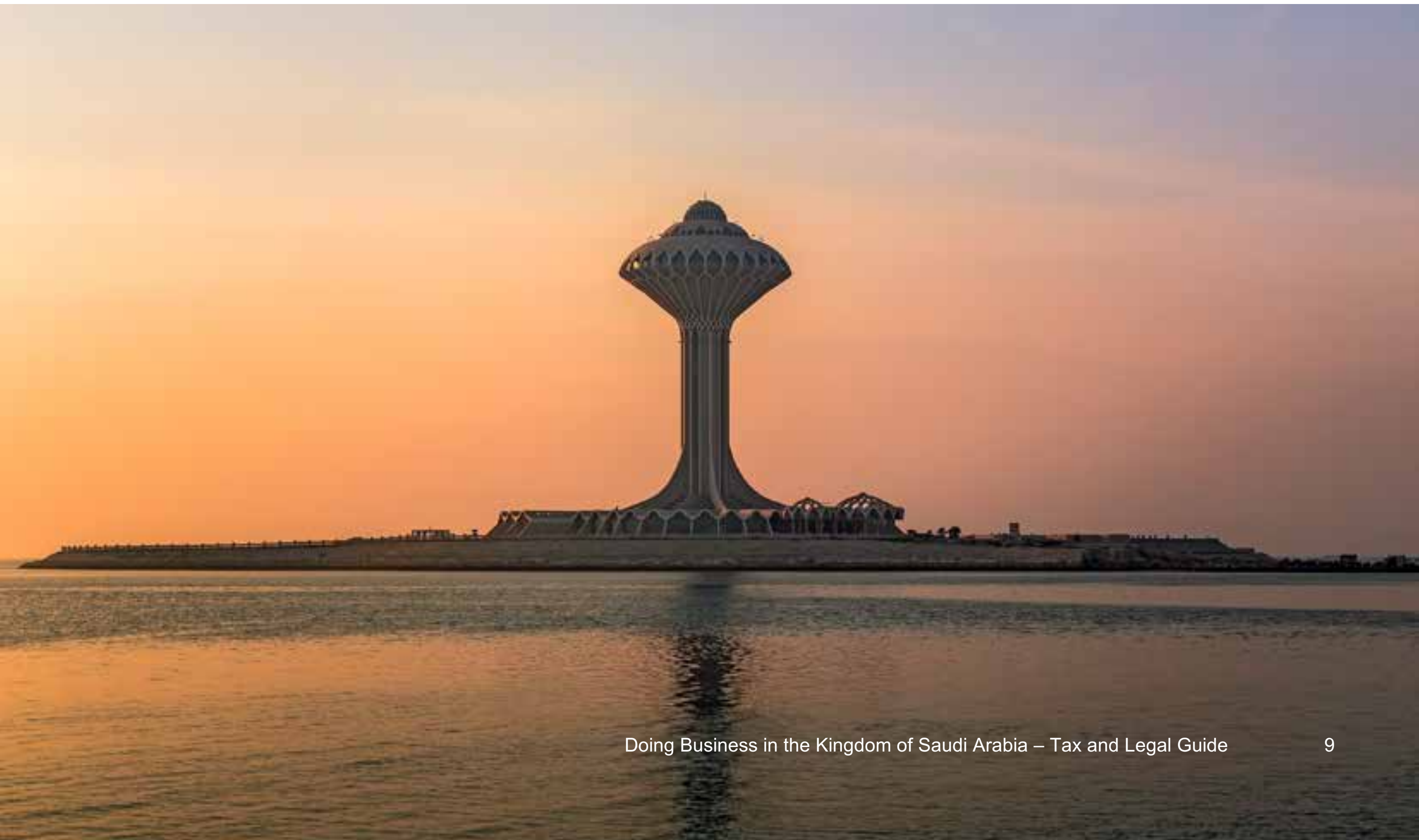
The E-Commerce Law provides a standalone framework which regulates e-commerce activities in KSA. It applies to both consumers and e-commerce service providers (whether inside or outside KSA). The E-Commerce Law imposes various obligations on service providers to protect consumers' personal data, to include specific provisions in their terms of business and a requirement to register their E-store on the Ministry of Commerce’s register.

Government Tenders and Procurement Law

The law sets out a comprehensive framework for the process to be followed in respect of tendering of contracts by government bodies. The law includes provisions that regulate the proportion of a relevant contract that can be subcontracted and dovetails with other laws in relation to Local Content.

New Personal Data Protection Law

A new unified Personal Data Protection Law was issued in September 2021, and has been supplemented with the Executive Regulations in September 2023. The Personal Data Protection Law applies to any processing of personal data relating to individuals residing within the KSA, and generally prohibits the transfer of any personal data outside the KSA, except in very limited cases and subject to certain conditions.



New Cloud Regulations

The Cloud Computing Regulatory Framework (CCRF) is wide-reaching in scope - it applies not only to cloud computing services provided to residents of Saudi Arabia, but also to any security breaches of data processed or stored within KSA.

Civil Transactions Law

Further to its intention to undertake substantial legislative reforms to increase the efficiency of its judicial institutions including Saudi Arabia issued a Civil Transactions Law which was approved by the KSA Council of Ministers and was published in July 2023.

Advance Pricing Agreement

To boost investor confidence and provide certainty, the Advance Pricing Agreement regime has been introduced in Saudi Arabia for financial years beginning on or after 1 January 2024.

An Advance Pricing Agreement aims to agree at the price of related party transactions in advance with the tax authorities,

i.e.
prospective in nature, thereby, avoiding the litigation which could be faced later during the audits.

Corporate Governance in the Kingdom of Saudi Arabia

There are a number of rules and regulations that set out corporate governance requirements in the KSA. The key corporate governance rules are set out in the new Companies Law and the CMA Corporate Governance Regulations (CMA Rules) in the case of joint stock companies. The CMA Rules provide provisions related to a number of corporate governance matters including shareholder rights, director duties, the formation of company committees and disclosure and transparency standards.

It is important to note that each company type will have different requirements. Whilst there are different authorities regulating and supervising corporate governance across different sectors in KSA, the key authorities are the CMA, the Saudi Central Bank, MOC and MISA.

Professional companies are subject to the Professional Companies Law (which became effective in March 2020) and the new Companies Law. Professional companies are now allowed to be established as an LLC, joint stock company or partnerships limited by shares, rather than only as partnerships.

Corporate Governance in the Kingdom of Saudi Arabia

01

Available on the website of the Tadawul Stock Exchange

02

The report must be made available to all shareholders before the general assembly

03

Should include a statement outlining key information about

Directors, Sub-committees

and disclose compensation granted to members of the Board and the sub-committees to include bonuses.

Directors Duties

The new Companies Law sets out in-depth new responsibilities for directors, namely the duties of care to the company and provisions related to conflicts of interest, asset exploitation and competition, among others.
The CMA Rules set out additional guidance on the duties of the board of directors.

Independence of Directors

The CMA states that the number of independent directors in a company shall not be less than two members or one-third of the board, whichever is greater. The CMA requires an independence annual review to be carried out by the board in consultation with the nominations committee.

Permanent Committees

The CMA Rules state that nomination, remuneration, audit and risk committees shall be formed by resolution of the board or the ordinary general assembly, in the case of the audit committee. The board's chairperson shall not be a member of the audit committee.

Board Meetings

Under the new Companies Law, the board meets as determined by the chairperson (at least once a year to approve accounts). The CMA requires joint stock companies to have not less than four board meetings per year. Joint stock companies are required to appoint a board secretary.

General Assembly

The new Companies Law and the CMA Rules focus on a number of areas, including appointing board and audit committee members and approving buyback transactions.

Data Privacy

The primary regulatory authority is the Saudi Data and Artificial Intelligence Authority (SADAIA).

The Personal Data Protection Law (PDPL) was introduced in September 2021 and is now in force (and being enforced).The PDPL is the first dedicated data protection legislation in KSA and is a significant development in KSA's legislative landscape that has implications for all entities operating in the market or who offer their services to KSA customers.

Cloud Computing Framework

The CCRF was issued by the Communications and Information Technology Commission to regulate the provision of cloud computing services (which include storage) to subscribers who are KSA residents. The CCRF prohibits the storage of government agency information on cloud computing systems outside of the KSA, or on any system belonging to a cloud service provider that is not registered with the CITC unless permitted by another law or regulation.

The CCRF is based on international best practice and public consultation analysis and governs the rights and obligations of cloud service providers (CSPs), individual customers, government entities and businesses.

From a data protection perspective, among the most important features of the CCRF is the cloud security requirements CSPs must adhere to.

Cloud service providers may be required to register with the Communication and Information Technology Commission, the telecommunications regulator in KSA.

Electronic Transactions Law

The Electronic Transactions Law imposes certain obligations on internet service providers (ISPs) stating that ISPs and their staff must maintain the confidentiality of information obtained in the course of business. This presumably includes all personal data collected. The law also states that personal data must only be obtained, whether directly or indirectly, with the individual's written consent.

Real estate

KSA law provides for land ownership and leasing. There are restrictions, however, on non-Saudi nationals owning land in Madinah and Makkah.

Historically, title deeds in KSA were handwritten. However, the Ministry of Justice ratified the Realty In Kind Registration Law (RKR Law) which subsequently implemented an initiative to convert all handwritten title deeds into an electronic format. The aim of the RKR Law is to create a land identification, ownership and registration system for real estate in KSA in the designated areas, save for such real estate located in certain areas which are equivalent to having the UNESCO World Heritage status.

Although a new version of the RKR Law became effective in April 2022, the predominant practice of conveyancing is still carried out by executing a sale and purchase agreement in front of a notary public with the ownership traced and registered in the real estate registry through the various contractual agreements between the buyer and seller registered with the Ministry of Justice-notary publics.

Pursuant to the RKR Law, any transaction concerning a handwritten title deed must be converted into the electronic format prior to finalising any transaction (or any dealings concerning the transfer of land).

Value Added Tax regime

The VAT regime was implemented in KSA effective 1 January 2018 pursuant to the promulgation of the Common VAT Agreement of the States of the Gulf Cooperation Council.

Supplies of goods and services broadly (with few exceptions) are subject to a VAT rate of 15% (increased from 5% effective 1 July 2020).

VAT is payable to the tax authority on a net basis i.e. after deducting the VAT incurred on supplies received (to the extent allowed) from VAT collected on supplies made.

Real Estate Transaction Tax (RETT)

Effective 4 October 2020, the disposal of real estate located in Saudi Arabia became subject to a 5% RETT (with few exceptions).

The RETT is a non-refundable tax and is applicable to disposal of real estate, shares of real estate companies and various other transactions as mentioned in the respective regulations.

Although RETT took effect in 2020, the official law was only approved in September 2024 which will be effective from April 2025.

Corporate Tax regime

The Corporate Income Tax regulations were implemented in KSA on July 30, 2004 effective for fiscal years ended on or after 31 December 2004.

The corporate income tax rate on taxable net income allocated to foreign shareholders is generally a flat rate of 20%.

As a part of the Transfer Pricing regulations, various compliances have also been introduced for entities to undertake. The Zakat, Customs and Tax authorities also audit such related party transactions to verify their arm's length nature.

Transfer Pricing regime

The Transfer Pricing regulations were introduced in KSA on February 15, 2019 effective for fiscal years ended on or after 31 December 2018.

The Transfer Pricing regulations require the related party transactions to be undertaken on an arm's length basis.

i.e.
as if it were undertaken with third parties.

FinTech Experimental Permit Instructions

The Capital Market Authority (CMA) can now issue a limited number of FinTech permits (or "ExPermits"), enabling the holder to use the CMA FinTech Lab to test a proposed product or service. It is important to note that the ExPermits are not a substitute for the existing authorisation procedure for testing FinTech products in the wider market. As of August 2022, 27 FinTech businesses had been granted ExPermits.

SAMA Regulatory Sandbox

SAMA has already issued the Payment Services Provider Regulations, which apply to payment entities providing payment related services in the KSA. Additionally, in 2018 SAMA launched its regulatory sandbox which allows applicants seeking to carry on a FinTech business to do so by first testing their solutions in a controlled environment. If successful, applicants are permitted to roll out their FinTech business solution in the KSA, in accordance with the guidance issued by SAMA. As of August 2022, 38 FinTech businesses had been admitted to the sandbox.

The sandbox is of particular importance to industry participants seeking an avenue to deploy FinTech business solutions in the KSA in the future. The sandbox is suitable for FinTech startups as well as established financial services industry participants seeking clarity surrounding the applicable rules and regulations for innovative digital solutions that do not easily fit into KSA's existing legal framework.

03

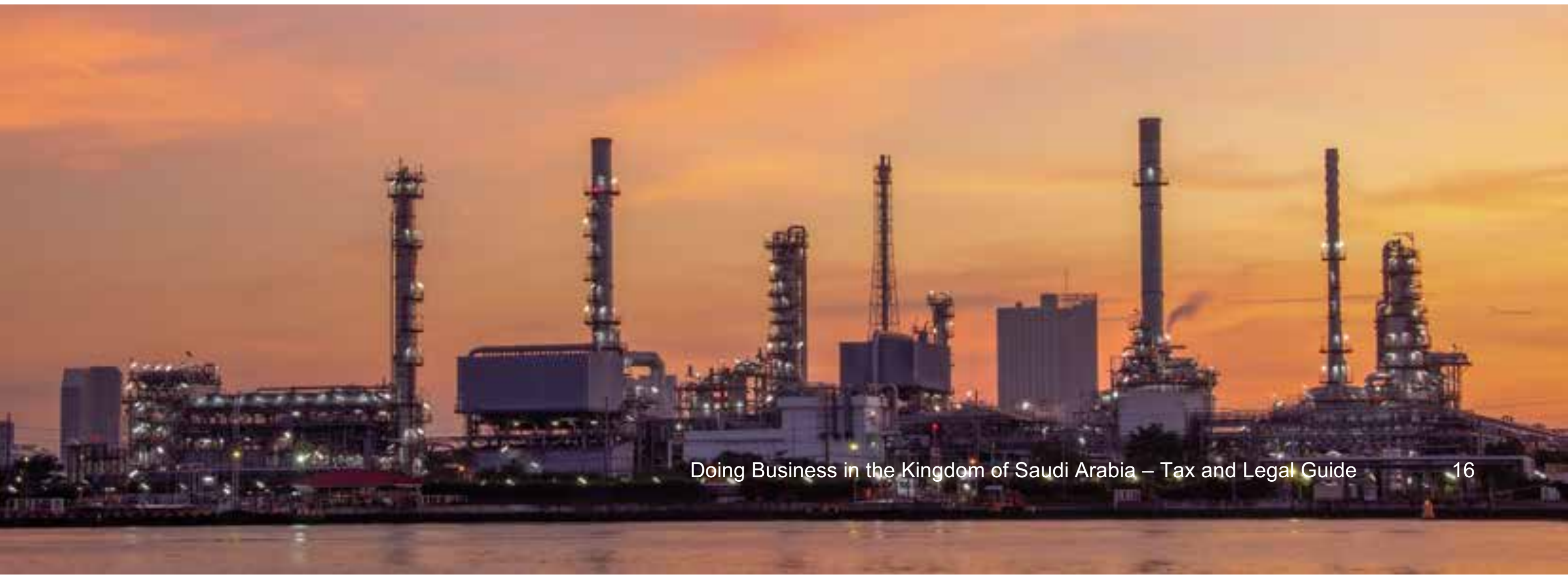
Establishing a business in the Kingdom of Saudi Arabia

There are five common strategies adopted by foreign investors looking to undertake business / commercial activities in KSA:

1. Fly-in-fly-out / operate from overseas;
2. Conduct business through a local agent / distributor;
3. Set up a local entity;
4. Establish a joint venture (JV);
5. Acquire an existing local entity.

Ongoing changes to ISIC4

MISA and the Ministry of Commerce adopted the International Standard Industrial Classification (ISIC4) of all economic activities for the issuance of new foreign investment licenses. ISIC4 is used for the purposes of obtaining the relevant license from MISA and to determine the specific activities to be included on the Commercial Registration Certificate. ISIC4 provides a comprehensive framework and a list of detailed activities to be chosen based on the proposed investment sector but foreign investors should be aware that the list is regularly updated, and so codes are liable to be removed.



3.1

Fly in fly out / trade from overseas:

This form of operating allows a foreign company to do business in KSA from their home country, thereby avoiding the need to physically establish a presence in KSA.

However, it is increasingly common for KSA based clients to require a registered physical presence in KSA (especially those in the public sector). Where operations in KSA, require an "on the ground" presence, this is unlikely to be a viable option.

There are also certain business activities that require special licences and consents to carry out business, further limiting the viability of this option.

More importantly, in the absence of a formal presence in KSA, such activities may be liable to challenge as being in violation of the KSA Anti-Concealment Law, unless a local agent/distributor is appointed.

Contravention of the Anti-Concealment Law carries serious penalties for those involved.

In view of the Anti-Concealment Law, foreign companies that wish to undertake business activities or otherwise invest in KSA are required to obtain an appropriate investment license or, where appropriate, appoint an agent/distributor.

3.2

Conduct business through an agent / distributor:

This option avoids the need for foreign companies to establish a legal entity or physical presence in KSA and provides foreign companies the opportunity to leverage the agent/distributor's existing infrastructure and local market connections.

The contractual agency/distribution is the most common type of agency/distribution and involves an agent/distributor representing the foreign principal in the distribution and sale of products or the provision of services. The KSA Commercial Agencies Law (the Agency Law) governs the arrangement and regulates how the arrangement is conducted, who can act as an agent/distributor and the licensing requirements.

It is worth noting that the Agency Law is less onerous on foreign principles than its equivalents in some other GCC countries.

3.3

Establish a local entity:

The three most commonly used options available to a foreign investor involve the establishment of:

- a limited liability company (LLC) partially or wholly owned by the foreign company.
- a branch entity of a foreign company.
- a joint stock company.

The choice between establishing an LLC, a branch or a joint stock company partially depends on the nature of the business activity to be carried out in KSA.

MISA Investment Licence

To establish any type of entity structure, foreign companies are required to obtain an investment licence from MISA pursuant to the Foreign Investment Regulations. There are different types of investment licenses depending on the type of activity the foreign company intends to carry out in KSA. The most common types of investment licenses are Industrial, Service, Professional and Commercial (wholesale and retail trade).

The requirements, including the minimum share capital and minimum investment commitment over the first five years of the licence vary depending on the type of investment licence with the requirements for a Commercial License being the most significant.

The Supreme Economic Council publishes a "Negative List" restricting certain business activities to KSA nationals and/or Gulf Cooperation Council (GCC) nationals (or companies wholly owned by them) . The prohibited business activities listed on the Negative List generally fall within two sectors, industrial and services.

The industry sector list includes oil exploration, drilling and manufacturing equipment, while the service sector's list includes security and detective services and real estate investment in Makkah and Madinah.

However, to support Vision 2030, MISA has been updating its regulations and relaxing some of its restrictions in relation to direct foreign investment. As a result, foreign investment is now permitted in relation to various activities that were previously restricted.

Types of legal entities

Broadly speaking, the new KSA Companies Law allows for the following legal forms to carry out business in KSA:

- Limited Liability Companies
- Joint Stock Companies
- Simplified Joint Stock Companies
- General Partnerships;
- Limited Partnerships;

As mentioned earlier, another option to carry out business in KSA would be to setup a branch of a foreign company.

Technical and Scientific Office (TSO)

A foreign-owned entity may obtain a technical and scientific services office license from MISA. This office may provide technical and scientific support to the parent company's KSA distributor, conduct market surveys, and undertake product research. TSO's are, however, prohibited from directly or indirectly engaging in commercial activities in KSA.

Temporary Commercial Registration (TCR)

A foreign investor may establish a TCR to carry out and perform a government contract in KSA for a short period of time (temporary). The TCR is restricted to companies that have contracts with government or semi-government entities. The registration process is similar to that for a branch, although less documentation is required to support the foreign investment license application, and there is no capital requirement.

3.4 Establish a Joint Venture (JV)

Foreign companies wishing to enter the KSA market or develop their existing operation beyond an agency or distribution agreement often favour a JV. A JV enables the foreign investor to take an equity stake and a role in the operation and management of their KSA entity, whilst still benefiting from the participation of a local shareholder.

The local shareholder may contribute financially, by way of technical skills or local connections and reputation.

Shareholders' agreements are permitted and enforceable provided that their terms are in compliance with Shari'a and the KSA Companies Law.

3.5

Acquire an existing local entity

A final market entry strategy for foreign investors is to acquire or invest in an existing KSA company or business. In addition to typical considerations required for an acquisition of a company or business, the following considerations should be borne in mind:

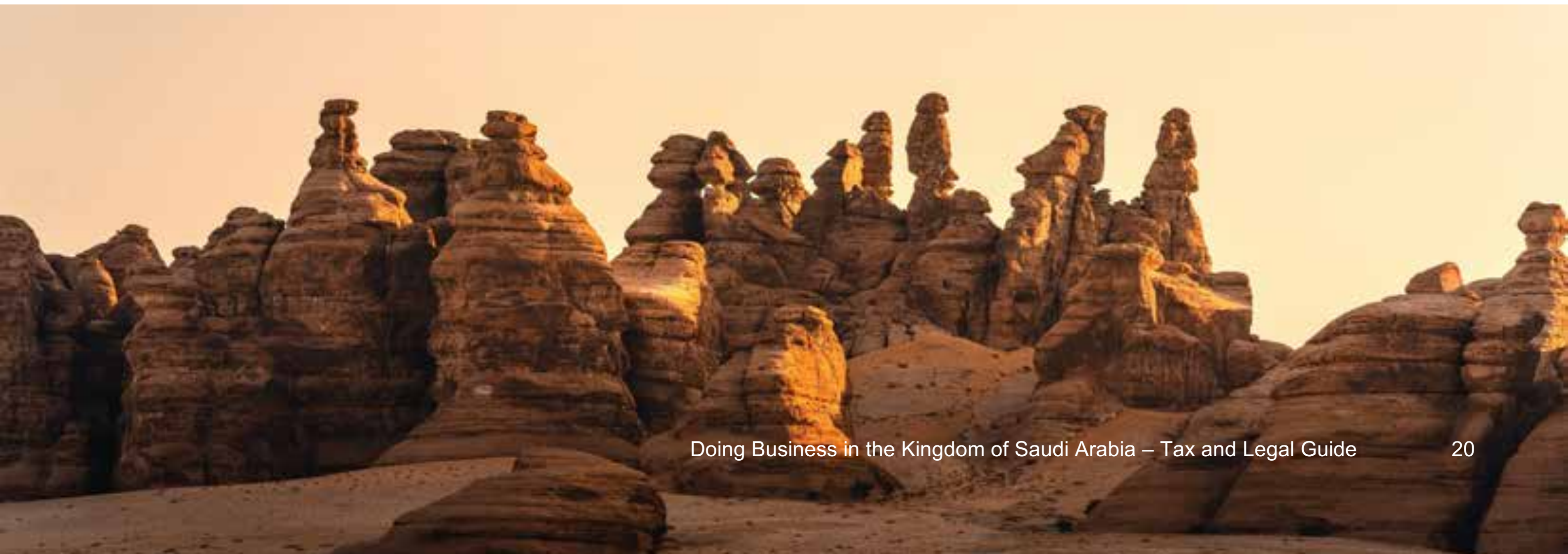
- The limited amount of publicly available information (and, as such, the need for thorough due diligence).
- The likelihood of regulatory consents or approvals being required (i.e. GAC, SAMA, MISA, etc.).
- The need to deal with the transfer of employee contracts and Iqamas as part of any asset sale and purchase.
- The impact on target's end of service benefits obligations in the case of a business transfer.

As discussed later in this guide, foreign investors considering either a joint venture or an acquisition need to be aware of the requirements of the KSA Competition Law and the likelihood that a formal approval will be required to be obtained from the General Authority of Competition before the arrangement is concluded.

3.6

Local Content:

In December 2018, a royal decree was issued to establish a local content authority (the Local Content and Government Procurement Authority) with the aim of developing KSA's local content and enhancing local capabilities and maximizing the benefit of the national purchasing power to build a strong and sustainable economy. The Local Content and Government Procurement Authority issued regulations and rules to apply minimum requirements of local content that apply on government authorities, ministries and institutions. The rules will also apply on government owned companies gradually.



Economic Cities and Special Economic Zones

In order to diversify the KSA economy, the Economic Cities and Special Economic Zones are investment opportunities for both national and international investors. On 14 April 2023, the Saudi government announced the establishment of four new Special Economic Zones (SEZs) across various regions of the country that aim to offer competitive incentives for businesses who will invest in such zones.

The newly established economic zones are as follows:

- King Abdullah Economic City (KAEC) SEZ
- Jazan SEZ
- Ras Al Khair SEZ
- Cloud Computing SEZ located in King Abdulaziz City for Science and Technology (KACST)

The new SEZs reinforce and further support the Kingdom's vision to be a global business hub and will contribute to achieving the Kingdom's economic development goals according to Vision 2030.

The King Abdullah Financial District (KAFD)

Originally conceived as a banking hub, this mixed-use development in Riyadh is one of several economic zones announced by the KSA government with the aim to attract foreign investors to the region. It is anticipated that KAFD will be open to all businesses and it is expected that incentives and a separate regulatory framework to be announced closer to the launch date of the KAFD to encourage foreign businesses to set up in the KAFD.

Special Integrated Logistics Zone (SILZ)

The first of its kind in KSA, the SILZ was first announced in 2018 and is located at the King Khalid International Airport. The SILZ is part of an initiative by government authorities to attract foreign investment to KSA and is to be regulated by the General Authority for Civil Aviation (GACA) with MISA overseeing attracting investment. The SILZ is intended to support a wide range of activities, including warehousing and fulfillment, inventory management and maintenance and repairs serving as a unified hub in which companies can engage in the above activities and access a network of transportation corridors in KSA and the broader GCC by air, land and sea.

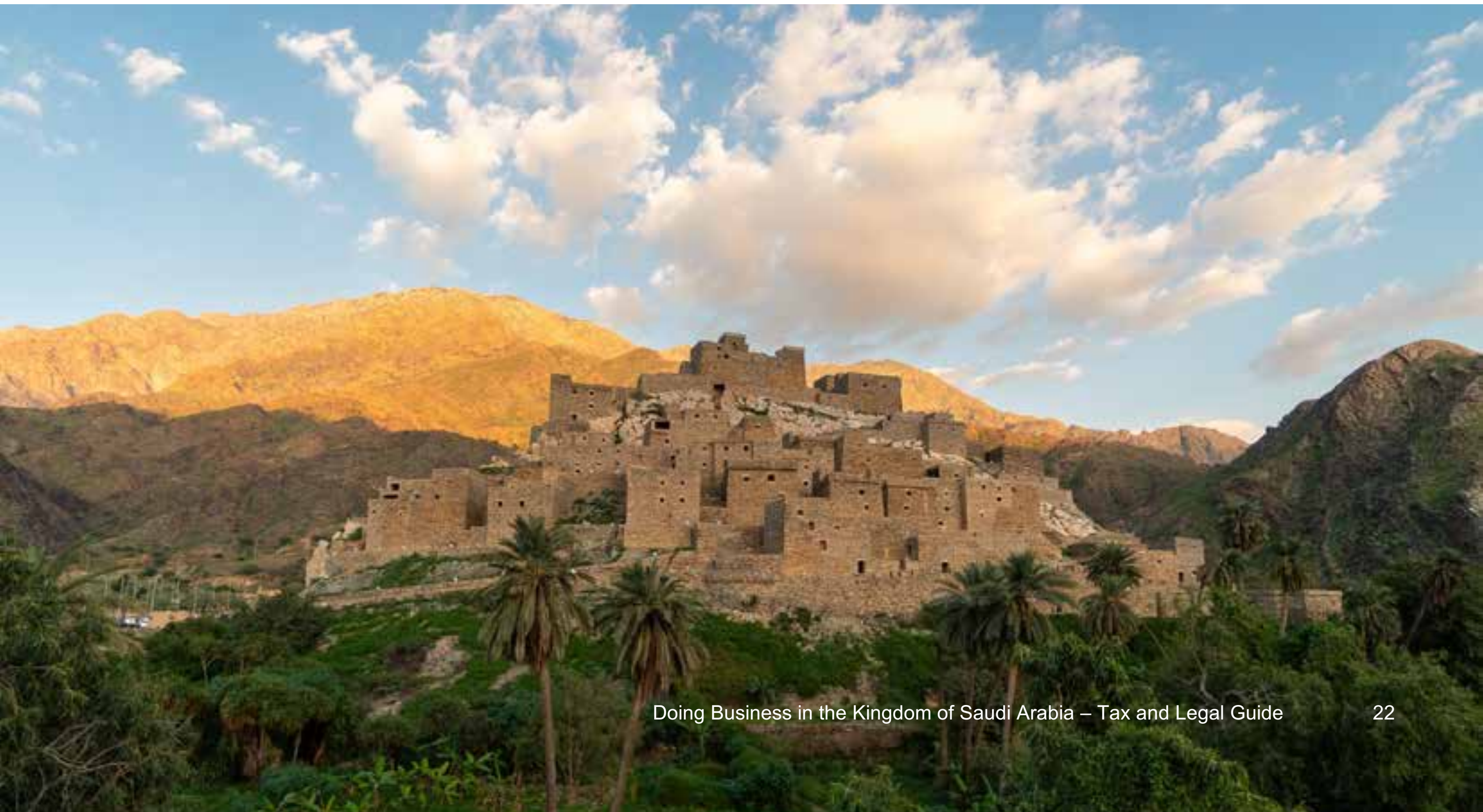
The SILZ currently offers a range of incentives to companies to establish operations within the zone including a tax holiday period and 100% foreign business ownership for companies undertaking 'Prescribed Activities'.

Process and Time for Establishment

For foreign investors to establish an entity in KSA, they are required to register with a number of KSA governmental authorities after obtaining the investment license from MISA, these authorities include:

- Ministry of Commerce (MOC) in order to obtain a CR;
- The Chamber of Commerce;
- The labour office;
- The Municipality;
- The General Organisation for Social Insurance (GOSI); and
- Zakat, Tax, and Customs Authority (ZATCA)

All documents to be presented to any governmental authority in KSA must be translated into Arabic. Our experience is that the time required for foreign companies to execute, notarise and legalise the required supporting documents varies on a case by case basis depending on the availability of signatories and the relevant home jurisdiction. We typically see that process taking approximately 4-6 weeks.



The process to establish a Saudi subsidiary or a branch of a foreign company typically involves three phases:

Phase 1

Obtaining the MISA investment license. This process typically takes 5-10 working days from the date of submission of the application to MISA, together with all supporting documents (notarise, legalise and translated, etc.)

Phase 2

Name Reservation and obtaining the Commercial Registration from the MoC. This process takes between 10-15 working days from the date of issuance of the MISA license.

Phase 3

Post Establishment Registrations and Approvals. The majority of the standard registrations and approvals (GOSI, MHRSD, ZATCA, etc.) can typically be obtained within 10-15 working days of receipt of the commercial registration. Other elements, such as the Municipality license for premises or sector specific registrations and approvals may take longer.

A brief overview of establishing an entity in KSA is as follows:

- Prepare the necessary documents to apply for a MISA investment license
- Apply for and obtain the commercial registration of the KSA entity at the Ministry of Commerce
- Register the KSA entity at the Saudi Chamber of Commerce
- Open a file for the KSA entity with the General Organisation for Social Insurance (GOSI), the Ministry of Human Resources and Social Development; and Zakat, Tax and Customs Authority (ZATCA)

The estimated time to complete the entire process of applying and registering with the relevant authorities is between 12 to 15 weeks.

Key Considerations

By way of summary, investors in KSA may choose to invest through various different types of entities. Legal structures commonly used by foreign businesses to conduct business in KSA are joint-stock companies (JSC), limited liability companies (LLC) and branch offices of foreign companies. It is worth noting that JSC have higher capital and governance requirements than LLCs. With only limited exceptions, (please refer above to the Negative List), foreign investors are able to own shares in a KSA company without limitation although, for those undertaking Trading activities, 100% foreign ownership will impact the share capital and investment required. Investors may acquire shares of existing local companies, joint venture with a KSA partner or establish their own companies in KSA, although we note the impact of the KSA Competition Law on acquisitions and joint ventures.

Taxation

04

01. Tax Overview

The government authority that administers and collects Zakat and Tax liabilities is the Zakat, Tax and Customs Authority ("ZATCA", formally known as "GAZT") which is a separate authority under the Saudi Ministry of Finance.

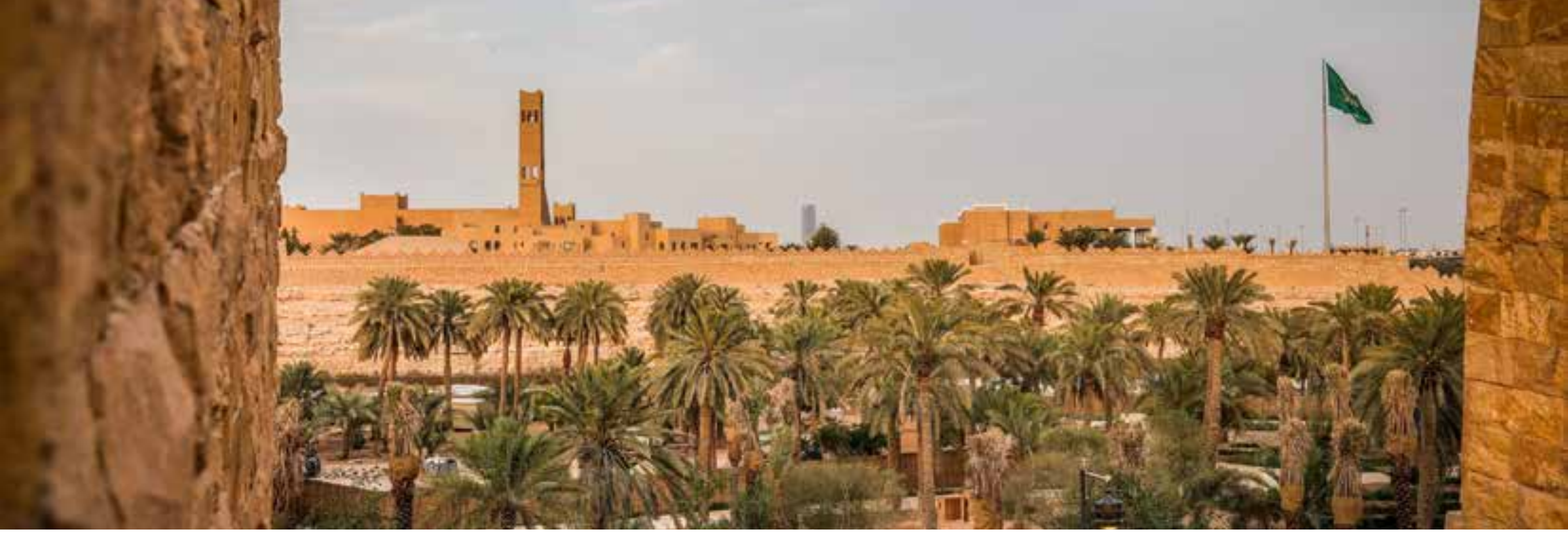
KSA has two main direct taxation regimes: corporate income tax and Zakat (a form of a religious levy imposed on KSA legal / commercial entities to the extent they are owned by Saudi / GCC nationals).

In essence, the tax profile of taxpayers in KSA is determined by the profile of their owners, including whether the relevant taxpayer is subject to corporate income tax, Zakat or a combination of both (in case ownership comprises both Saudi / GCC and non-Saudi / non-GCC shareholders).

For corporate income tax, KSA adopts a worldwide principal of taxation whereby all income of KSA tax resident entities generated within or outside of KSA should be subject to taxation in KSA after deducting certain expenses.

Whereas Zakat is calculated by identifying Zakatable sources of funds, which include adjustments to net profit (loss), non-current liabilities within deductible limits and equity and equivalent items and certain deductions are then applied, primarily consisting of long-term deductible assets. Further considerations should be taken after deducing the Zakat base where 2 alternative Zakat bases were introduced within the new Zakat bylaw. Hence, if the calculated Zakat base is lower than the adjusted net profit, the minimum Zakat base will be the lower of either the sum of non-deductible assets plus the net profit (loss) adjustments or the adjusted net profit itself. While, the upper limit of the Zakat base is set as the total equity and equivalent items from the financial statements' Balance Sheet at the end of the fiscal year, plus net profit (loss) adjustments.

In addition, under KSA tax legislation, taxes should be withheld from certain payments (or deemed payments) made to non-resident parties by Saudi-resident entities / permanent establishments. WHT rates vary between 5% and 20% depending on the nature of the payment.



Who is subject to income tax in KSA?

Persons subject to tax in KSA are as follows:

1. A resident capital company to the extent of its shares owned directly or indirectly by non-GCC shareholding;

2. A resident capital company for shares owned directly or indirectly by non-GCC person as well as for the shares owned directly or indirectly by persons engaged in oil and hydrocarbons production;

3. A resident non-GCC natural person who conducts business activities in KSA;

4. A non-resident person who carries out activities in KSA through a PE;

5. A non-resident person who has other income subject to tax derived from sources within KSA;

6. A person engaged in natural gas investment fields;

7. A person engaged in oil and other hydrocarbon production.

02. Tax rates and fiscal years

The corporate income tax rate on taxable net income allocated to foreign shareholders is generally a flat rate of 20%. The corporate income tax rate would differ for companies involved in the production of oil and hydrocarbons business. The corporate income tax rate for companies engaged in the exploitation of natural gas sector is 20%.

The corporate income tax rate for companies engaged in the production of oil and hydrocarbons is determined on the basis of the company's capital investment. These rates are as follows:

85%

for capital investment of USD 60 billion or less

75%

for capital investment between USD 60 billion and USD 80 billion

65%

for capital investment between 80 billion and USD 100 billion

50%

for capital investment exceeding USD 100 billion

As of 1 January 2020, a tax rate of 20% applies for five years on the tax base from oil and hydrocarbon downstream activities; however, the taxpayer must separate its downstream activities during the five-year period or otherwise will be subject to tax based on capital investment amounts as outlined above.

The taxable year of a taxpayer for all activities is the state's fiscal year.

A taxpayer's first fiscal year shall start as of the date of its commercial registration or license unless evidence proves otherwise.

A taxpayer may use a different fiscal year under the following conditions:

- The taxpayer has been using a different fiscal year approved by the ZATCA prior to the enactment of the Law;
- The taxpayer is using a Gregorian fiscal year;
- A company is a member in a group of companies or is a subsidiary of a foreign company using a different fiscal year.

03. Tax holidays and incentives

The KSA government is in the process of developing a number of economic cities in several areas around KSA. Investments made in the below listed economic cities (located in underdeveloped areas of KSA) may be able to benefit from certain tax incentives.

Ha'il;	Jazan;	Najran;
Al-Baha;	Al-Jouf;	Northern territory.

Among the incentives offered to certain qualifying companies is allowing tax deductibility for additional training and salary costs. More deductions are granted if investment capital for any project exceeds certain amounts stipulated by the government.

Furthermore, an exemption from customs duties is available on machinery and raw materials that are required for approved projects, provided that they are not available in the local market. Such exemptions should be applied for prior to their importation and are subject to certain terms.

KSA has also announced the establishment of a Special Logistic Zone, located at King Khalid International Airport in Riyadh, which focuses on integrated logistics and enjoys special rules and regulations aimed at attracting more multinational companies to the country, such as providing tax exemption for companies registered and operating in the special logistic zone. The zone is governed by the General Authority for Civil Aviation (GACA) while MISA oversees attracting investment.

This economic zone will support a wide range of activities, including warehousing and fulfillment, inventory management, maintenance and repairs, staging, testing, and assembly. It will also serve as a unified hub in which companies can engage in these activities and access a vast network of transportation corridors by air, land and sea.

04. Permanent Establishment

A permanent establishment of a nonresident in the Kingdom, unless otherwise stated in the Tax Regulations, consists of the permanent place of the non-resident's activity through which it carries out business, in full or in part, including business carried out through its agent.

Permanent establishment should fulfill the tax compliance requirements similar to resident corporate taxpayers.

05. Tax Administration / Tax Return Filing

Tax filings are based on the company's fiscal year. Returns are due to be filed with the ZATCA and any Zakat / corporate income tax due must be paid within 120 days after the taxpayer's year-end. The system is one of self-assessment.

06. Applicable tax penalties

Tax filings are based on the company's fiscal year. Returns are due to be filed with the ZATCA and any Zakat / corporate income tax due must be paid within 120 days after the taxpayer's year-end. The system is one of self-assessment.

Item	Penalty as per Tax Law
Non-registration	From SAR 5,000 to SAR 10,000
Failure to file the tax return	The higher penalty of the following two penalties shall apply: **a.** An amount equal to 1 percent of the taxpayer's gross revenue not exceeding SAR 20,000. **b.** From 5% to 25% of the unpaid tax depending on the period of delay.
Delay payment	1% of the unpaid tax for each complete 30 days of delay
Evasion	25% of the unpaid tax

07. Advance tax payments

Advance tax payments are required to be made for a current tax year under the following conditions:

- The taxpayer has earned income during the year;
- An advance payment is 25% of the amount resulting from the taxpayer's tax liability based on the previous year's return (in case the tax liability exceeds SAR 2,000,000);
- The computed payment is at least SAR 500,000;
- Three equal advance payments of tax on the last day of the sixth, ninth and twelfth months of the tax year; and
- Late payment of an advance payment is subject to a delay penalty of 1% of the amount due for every 30 days of delay.

08. Capital gains tax

According to the Saudi Income Tax Regulations, the gain or loss from the disposal of an asset is calculated as the difference between the compensation received for the asset and its cost base. No gain or loss on disposal of a depreciable asset is taken into account other than what is treated according to the provisions of tax depreciation calculation.

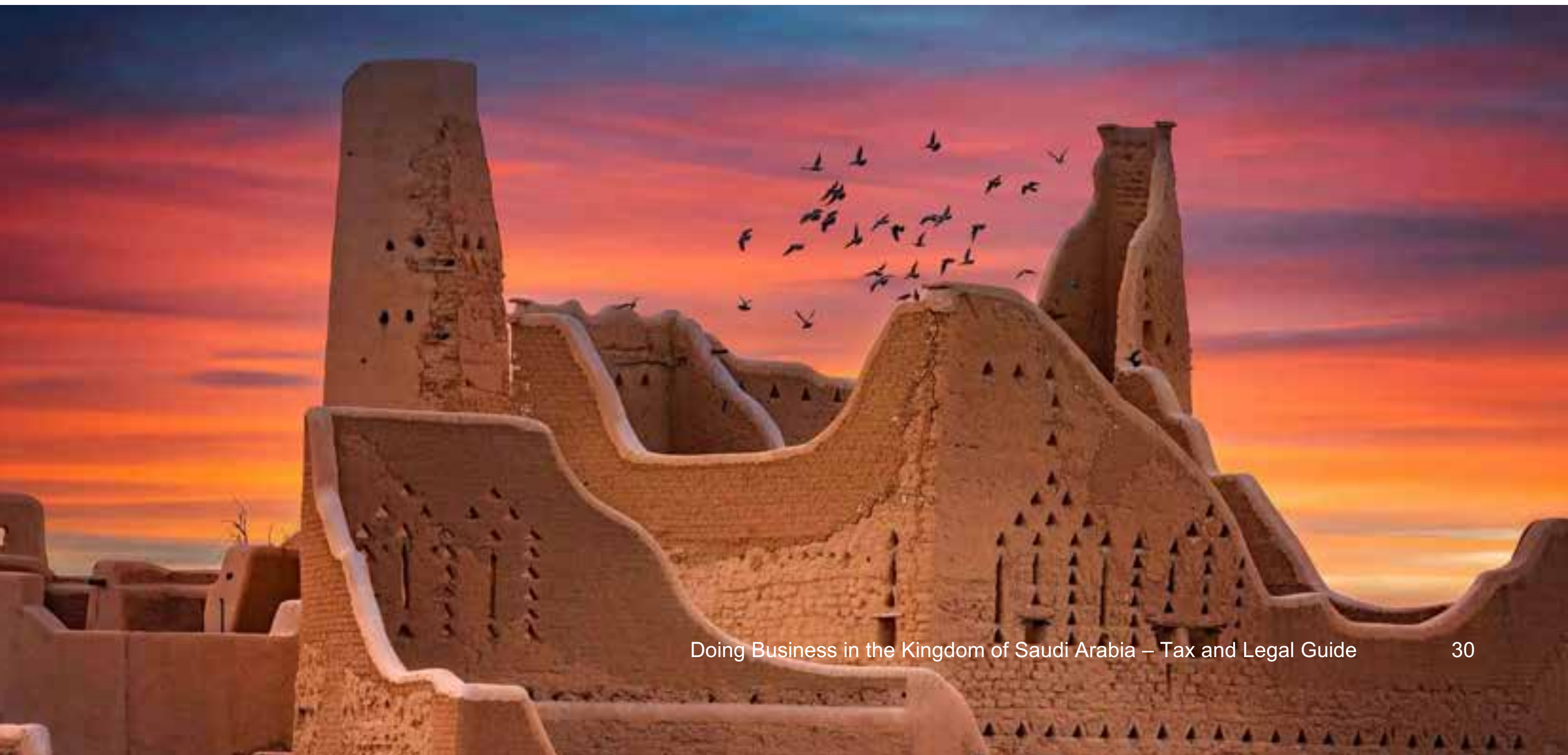
Capital gains are taxable at 20% according to the Saudi Income Tax Regulations in the absence of a treaty relief.

Capital gains realized from disposal of securities traded in the stock market in the Kingdom are exempt from tax in KSA, also capital gains realized from disposal of securities traded outside the Kingdom are exempt from tax in KSA provided that such securities are also traded in the stock market in the Kingdom regardless of whether such disposal has been carried out through a stock market inside or outside the Kingdom or through any other expedient in accordance with restrictions specified in the Regulations.

No capital gain or loss is calculated in case of transferring an asset from a corporation to another within the same corporation group, or in case of transferring the asset between corporations within the same corporation group, and no capital gain or loss to be calculated for the corporation that received the asset subject to the following conditions:

The corporations have to be within a wholly owned corporations group (either directly or indirectly) by one corporation.

These assets should not be transferred outside the group before two years from the transfer date.



09. Tax calculation

To determine the taxable income for any business, the net income (accounting profit / loss) should be adjusted by adding non-deductible expenses. Non-deductible expenses include, but are not limited to, salaries paid to owners, partners or shareholders, social security contributions paid abroad, all kinds of provisions (e.g. end of service, provision for bad debt, etc.), fines and penalties “other than fines or penalties paid for breach of contractual obligations”, payment by branches to their head offices for royalty, loan charges indirect administrative and general expenses allocated on estimated basis.

Non-deductible expense also include depreciation in excess of the depreciation expenses according to ZATCA’s allowed depreciation rates.

Deductible expenses are those relating to the operation of the taxpayer’s activities and are not of a capital Nature.

If a taxpayer realizes losses in a year of operation, he may carry forward these losses to the following years until the cumulative loss is fully utilized. The tax loss utilization is limited to 25% of the year’s taxable profits as reported in the taxpayer’s return.

The rate of income tax is 20% of the net adjusted profits as per Saudi Tax Laws and Bylaws.

There is currently no concept of taxation on a consolidated basis for related companies in KSA. However, Zakatable companies and their fully owned subsidiaries either directly or indirectly by the same owners may pay Zakat on a consolidation basis based on a consolidated Zakat return, noting that each subsidiary should submit an informative return. However, an entity operating in KSA that has undertaken more than one project under the same commercial registration is required to consolidate the results of such projects into the financial statements of that entity and subject them to taxation as a single operation.

10. Withholding tax

Services, interest, royalty and dividends payments / deemed payments made from a resident party or a PE of a non-resident party to a non-resident are subject to withholding tax (WHT) at rates varying from 5% to 20% according Saudi tax regulation based on the payment nature, noting that the WHT may be eliminated or the WHT rate may be reduced in case there is an effective DTT providing a relief / reduced rate.

The withholding tax should be paid within the first 10 days of the month following the month during which the payment was made.

According to Ministerial Resolution No. 25 published in the Official Gazette (Umm AlQura) on 27/2/1445 AH, His Excellency the Minister of Finance has approved amendments to Zakat and Income Tax By-laws which includes the elimination of considering the relationship with the beneficiary for WHT purposes, therefore, payments made to non-resident related parties (or head office) for Technical and Consulting services and International Telecommunication services are subject to 5% WHT same as payments to third parties.

11. Zakat computation

The Zakat base for an entity maintaining accounting records is calculated according to the regulations based on the indirect method, which determines the Zakat base by adding the elements of addition, represented by Zakatable sources of funds (Adjustments to net profit, non-current liabilities and equivalent items within deductible limits, as well as equity and equivalent items). After that, the deductible elements are subtracted, which include deductible assets.

We have listed below key additions and deductions to / from the Zakat base:

1 Examples of additions to the Zakat base (ending balances as per the financial statements)

- The difference between book net income and adjusted net income long-term adjustments.
- Share capital, and additional contributions
- For Zakat purposes, the profits under distribution that are classified as a liability would be treated as equity.
- Provisions
- Retained earnings/accumulated losses
- Treasury stocks and Employee Stock Option Plane (“ESOP”, under certain conditions); a reduction of equity.
- Long term loans (e.g. advance payments, Sukuk and bonds)
- Provisions that represents loans for other than shareholders (e.g. end of service, vacation balance, etc.)
- Deferred tax liabilities
- Contractual obligations recorded in accordance with approved accounting standards.
- Lease contract obligations.

2 Examples of deductions from the Zakat base (ending balances as per the financial statements)

- Net book value of tangible long-term assets.
- Net book value of intangible long-term assets.
- Investments in entities inside and outside the Kingdom under certain conditions.
- Investments in funds under certain conditions.
- Government debts under certain conditions.
- Spare parts inventory not held for sale.

3 Examples for non- Deductible assets

- Cash and receivables (even long-term receivables).
- Inventory (other than spare parts not held for sale).
- Advance payments to suppliers for purchase of non-deductible assets (e.g. inventory).
- Short term investments and investments in foreign subsidiaries (unless certain criteria are met).

The Zakat regulations provide that in case a Zakat payer is using a Gregorian fiscal year (e.g. 31 December year-end), then the Zakat rate applicable would increase to factor the difference between Hijri year (354 days) and Gregorian year (365 days). This is applicable to all elements of the Zakat base.

ZATCA has introduced the allocation concept requires that if a non-current asset is not deducted, a proportional amount must be excluded from the non-current liabilities added to the Zakat base, while for deducted current assets, a proportional share of current liabilities is added. The capping rule ensures that total added liabilities do not exceed total deductions from the Zakat base. The minimum Zakat base cannot be lower than the adjusted net income, with adjustments based on non-deductible assets and the difference between adjusted and book net profit. The maximum Zakat base is limited to the total equity accounts plus the difference between book and adjusted net income.

12. Double tax treaties

Saudi Arabia has entered into tax treaties with more than 50 countries. Certain other treaties are at various stages of negotiation. Treaties generally follow the Organisation for Economic Co-operation and Development (OECD) Model Treaty and provide certain relief, including withholding tax on dividends, interest, capital gains tax and royalties.

Moreover, Saudi Arabia has signed the Multilateral Convention (MLI) to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) issued by OECD on 18 September 2018. The MLI allows countries to implement the anti-tax treaty abuse BEPS measures and other aspects of the OECD BEPS program into existing double tax treaties (DTTs). The MLI does not directly amend the underlying text of DTT, but will instead be applied alongside existing DTTs, modifying their application.

13. Transfer pricing

On February 15, 2019, ZATCA in KSA published the Transfer Pricing By-Laws (the Bylaws), as well as an accompanying FAQs document (the FAQs). This was followed by the publication of the detailed transfer pricing guidelines (the KSA TP Guidelines). As per the FAQs, the Bylaws are applicable for all taxpayers (including Permanent Establishments) for Fiscal Years ended on or after 31 December 2018.

On September 12, 2023, ZATCA updated the transfer pricing Bylaws to include Zakat payers in KSA. Based on the revised TP Bylaws, Zakat payers are now subject to the same transfer pricing requirements as taxpayers but with different financial thresholds. This update was followed by the release of the revised KSA TP Guidelines in July 2024, which reflect these changes to the bylaws.

The Bylaws and KSA TP Guidelines are specify Transfer Pricing compliances to be undertaken

- Controlled Transaction Disclosure Form - No threshold
- Transfer Pricing Affidavit from an independent accountant - No threshold
- Local File - Related Party Transactions of SAR 6 million for taxpayer and SAR 100/48 million for Zakat payer
- Master File - Related Party Transactions of SAR 6 million for taxpayer and SAR 48 million for Zakat payer
- Country-by-Country Reporting - Consolidated Group Revenue of SAR 3.2 billion for both taxpayer and Zakat payer

The requirements in the Bylaws and KSA TP Guidelines are largely aligned with the Transfer Pricing Guidelines published by the Organisation of Economic Development (OECD TP Guidelines) including the requirements to prepare the master file, local file and country-by-country report (CbCR). However, there are certain nuances which have been applied differently, specifically for the Local File

Further, as part of the updates, ZATCA has also announced the introduction of the Advance Pricing Agreement ("APA") program for both Taxpayers and Zakat payers for financial years beginning on or after 1 January 2024 for transactions that equal to or exceed SAR 100 million. The APA will allow companies to obtain certainty on their transfer price for a period of three years, i.e., provide audit protection till the terms of the APA are followed.

Additionally, the RHQ guidelines issued by ZATCA on 15 April 2024 clarify that RHQs are also required to comply with the KSA TP requirements. The guidelines makes reference to the Bylaws and the KSA TP Guidelines for more information related to the compliance requirements, thereby, inferring that the applicability of KSA TP requirements on RHQs would be like any other entity in KSA.

Notes:

01

For zakat payers, the threshold is SAR 100m for FY24 to FY27 and SAR 48m for FY28 onwards.

02

Even in cases where the aggregate value of controlled transaction does not exceed the thresholds, the taxpayer or zakat payer would need to maintain sufficient documentation to demonstrate that the transactions meet the arm's length principle.

03

CbCR is to be filed by the Ultimate Parent Entity (UPE) or the Surrogate Parent Entity (SPE) in its home country. Additionally, a constituent entity (i.e. local entity) that is not a UPE / SPE may also need to file the CbCR with the Tax Authorities in KSA, under the following situations:

UPE / SPE is not obligated to file CbCR in the country of its residence;

UPE / SPE is resident of a country with which KSA does not have an agreement providing for exchange of CbCR;

UPE / SPE is a resident of a country which systematically fails to provide CbCR to KSA.

14. Value Added Tax

The Common VAT Agreement of the States of the Gulf Cooperation Council (GCC) established the legal framework for introducing VAT in the GCC States. In Saudi Arabia, VAT was introduced on 1 January 2018, at a rate of 5%, which was later increased to 15% effective from 1 July 2020.

VAT is a consumption tax that is paid and collected at every stage of the supply chain, from the purchase of raw materials by manufacturers to the sale of end-products to consumers by retailers. Unlike other taxes, persons registered for VAT will both:

01

Collect VAT from their customers

02

Pay VAT to their suppliers from whom they have received goods or services.

VAT is payable to the tax authority on a net basis, i.e., after deducting the VAT incurred on supplies received (to the extent allowed) from VAT collected on supplies made.

Businesses and individuals must register for VAT if their annual turnover exceeds the mandatory registration threshold. This requirement applies to any entity or individual performing an economic activity with certain conditions met. Once registered, they are considered taxable persons and must comply with compliance requirements.

Upon applying VAT at the standard rate or zero rate, businesses are obligated to issue valid tax invoices. This includes the requirement for e-invoicing, ensuring that all invoices are electronically generated and stored as per the manner laid down in the respective regulations.

Registered businesses must submit VAT returns either monthly or quarterly, depending on their turnover. It is crucial to pay VAT liability in a timely manner to avoid penalties.

Taxpayers may deduct input VAT on expenses incurred related to business related economic activities, however, they must avoid deducting blocked Input VAT on expenses such as e,g restricted vehicles, personal enjoyment etc.

Any VAT incurred on the import of goods into KSA and due at customs is recoverable, provided the taxpayer is the importer of record and holds valid customs documents stating their name. However, currently such input VAT collection at customs is suspended and the importer of record needs to report such transactions under Reverse Charge Mechanism in the VAT returns.

i.e.
after deducting the VAT incurred on supplies received (to the extent allowed) from VAT collected on supplies made.

15. Real Estate Transaction Tax (RETT)

Effective from 4 October 2020, a 5% RETT is applied to all real estate disposal transactions (with certain exceptions) in Saudi Arabia, including sale of shares in real estate companies. RETT is imposed on the total disposal value of the real estate property as agreed upon by the respective parties, provided that it is not less than the fair market value on the date of disposal.

Both the disposer and the purchaser share joint responsibility for the obligations to pay RETT under the prevailing regulations. RETT paid cannot be recovered by either party and is considered a business cost.

16. Custom duties

KSA is part of the GCC Customs Union, which was established in 2003 to remove customs and trade barriers among the GCC member states. KSA is a member of the WTO since 2005 and a member of the WCO since 1973.

The GCC member states apply a Common Customs Law and a Unified Customs Tariff with a standard customs duty rate of 5% of goods' Cost, Insurance and Freight value. Additionally, KSA levies higher duties on a number of tariff lines, according to the Integrated Tariff System, a 12-digit based system. While the rates range from 5% to 25%, most of these tariff lines are subject to the 5%-15% range.

KSA applies the GCC Common Customs Law as the legal framework for customs operations, which generally aligns with the global customs principles established by the WTO and WCO, including customs duty reliefs and exemptions such as temporary admission, bonded zones/warehouses, and other customs procedures.

KSA does not levy export customs duties, but levies anti-dumping duties on a number of commodities.

KSA grants duty free imports to most national goods originating in other GCC member states, member countries of the Greater Arab Free Trade Agreement (GAFTA), Singapore, and member countries of the European Free Trade Association (EFTA) if certain conditions are met.

The Saudi Standards, Metrology and Quality Organisation (SASO) has implemented a Conformity Assessment Program (CAP) covering goods destined for KSA. CAP requires quality checks and inspections on companies looking to export to KSA. Proof should be provided in the form of a Certificate of Conformity. MOC provides details of these import procedures, which are broadly available online through the SABER portal.

On 21 September, 2023, ZATCA released a public consultation paper proposing the Bonded Zones Rules, which aim to define the tasks and responsibilities between ZATCA and all external parties (both in private and public sector) and organize the customs aspects in the bonded zones, and provide it with a framework in accordance with the GCC Common Customs Law.

The announced Bonded Zones Rules will enter into effect upon publication in Saudi Official Gazette, and be accessed through this link (only the Arabic version is currently available), Bonded Zones Rules.

Additionally, on 28 September, 2023, ZATCA released a public consultation paper the Rules of Customs Procedures, which aim to regulate in KSA the customs procedures described in the GCC Common Customs Law. Persons involved in the import, export and transit of goods are subject to the provisions of these rules.

The announced Rules of Customs Procedures will enter into effect publication in Saudi Official Gazette, and can be accessed through this link (only the Arabic version is currently available), The Rules of Customs Procedures.

With particular relevance within the region's customs landscape, the Secretariat General of the Gulf Cooperation Council ("GCC") has recently released 'The Unified Guide for the Gulf Cooperation Council Authorized Economic Operator Program (GCC AEO)' ("Unified Guide"), which provides a framework that underpins the AEO application process in the GCC region. The Unified Guide provides a baseline under which the AEO application process and monitoring of AEO compliance in each GCC country must broadly follow. While the Unified Guide specifies that AEO status cannot be obtained for multiple entities / countries in one application, it does provide common framework amongst the GCC countries in terms of AEO to facilitate the certification of groups operating across the region.

It is worth mentioning that the GCC AEO started its pilot phase from August 1st, 2022 to December 31st, 2022, and it was officially effective from January 1st, 2023.

GCC established businesses who obtain the GCC AEO certificate can secure significant customs benefits, which are available at two levels:

GCC-wide benefits:

Once the GCC AEO status is granted by the customs administration in the relevant GCC country, the entity will gain access to the vast number of benefits in all GCC countries.

National benefits:

the competent customs authorities within the country where the GCC AEO certification has been granted, may provide additional local advantages and benefits, including facilitating customs transactions for the operator in the same country (provided that each country publishes this on its domestic websites).

17. Excise Tax

Excise Tax is an indirect tax levied on selected goods that are deemed to pose a health risk in accordance with the law and the Implementing Regulations. The tax is collected from the Taxable Person, which could be the producer of the excise good, the importer or a tax warehouse keeper. Consequently any person intending to import, produce and/or hold excise goods in a tax warehouse under a tax suspension arrangement is required to register for Excise Tax with the ZATCA within 30 days from the date of the corresponding Excise Tax activity. The tax is levied on the retail sales price (RSP) of the excise goods and is typically included within the price of subsequent sales, including the sale to end customers.

The Excise Tax is applicable to the following goods at their respective rates:

Tobacco 100%	Energy Drinks 100%	Carbonated Drinks 50%
Sugar Sweetened Beverages 50%	Electronic Devices and Equipment used for smoking and their equivalents 100%	Liquids used in electronic devices and equipment used for smoking and their equivalents 100%

Recently, ZATCA approved amendments to the Implementing Regulations of the Excise tax Law, which have been issued after a public consultation procedure, where the feedback and comments received from the relevant stakeholders have been incorporated into the final version.

The amendments aim at allowing the refund of Excise tax on returned and damaged goods, in order to mitigate the financial effects related to cash flow on Excise taxpayers.

The amendments also clarify the procedures related to the return and destruction of goods by taxpayers who are obligated to pay the Excise tax in accordance with the provisions of the Excise tax Law, including:

- The addition of new clause to article 18, allowing taxpayers to defer the tax due upon importation, within a period not exceeding 45 days.
- Adding a new article (37 bis) to introduce new provisions in relation to granting a destruction facility license to any person after meeting certain conditions and measurements.
- Adding a new article (52 bis) for recovery of the tax related to non - consumable excise commodities.
- Change to article 54, regarding the tax refund requests, regarding the mechanism used by ZATCA to accept or reject the refund decision, and the mechanism used to refund the tax.

18. E-invoicing

ZATCA has introduced an E-invoicing regime for the taxpayers operating in KSA. The E-Invoicing regime is a by-product and example of the economic renaissance and digital transformation that KSA is witnessing and is a continuation of a success story that began with the first phase of the application of E-Invoicing.

The E-invoicing regime entails a comprehensive review of ERP/Billing systems to ensure generation of E-invoices and a smooth integration with the ZATCA system.

This regime has been implemented in two phases:

Generation phase

The generation phase of the e-invoicing regulation went live on December 4, 2021. It is mandatory for all taxpayers, excluding non-residents, and requires the generation of electronic invoices in a standardized format.

Integration phase

The integration phase of e-invoicing has been announced in 15 waves as of now based on the annual taxable revenue of the taxpayers. It began on January 1,2023, with the first wave targeting taxpayers with a taxable revenue of SAR 3 Billion or more for the financial year 2021. The last announced wave as of today, 20th wave, for the taxpayers with revenue exceeding SAR 1.5 million is scheduled to start its integration period on August 1, 2025. Additional waves will be announced in the upcoming months based on the taxpayers annual taxable revenue for the years 2022 or 2023 or 2024.

19. PwC E-invoicing Solution

To support the e-invoicing journey in KSA, PwC have developed an inhouse e-invoicing solution for the taxpayer which can connect with your ERP or billing system to generate e-invoices and notes as per ZATCA e-invoicing requirements.

PwC E-invoicing solution is a robust tool that possesses the capability with the stringent requirements specified by ZATCA. Our tool carried out all security requirements includes :

- Universally Unique Identifier (UUID)
- Invoice Counter Value (ICV)
- QR Code
- Invoice Hash
- Cryptographic stamp, etc.

20. Features of PwC E-Invoicing Solution

The key features and primary characteristics of PwC’s e-invoice generation solution (tool) but are not limited to the following:

Compatibility:

The PwC’s EGS tool seamlessly integrates with the taxpayer’s ERP platforms and other essential billing systems. By doing so, it enhances the accessibility, accuracy, and transparency of taxpayer’s data. This means that, PwC’s EGS not only works well alongside taxpayer’s existing infrastructure but also ensures the data is easily accessible, free from errors and readily available for interfacing the same with ZATCAfor clearance and reporting.

Compliance:

The PwC’s EGS tool is designed to ensure compliance with up to date e-invoicing implementation regulation released by ZATCA. The tool has capability to generate simplified tax invoices, standard tax invoices and associated credit / debit notes, advance invoices including all mandatory fields, by meeting all compliance requirements in the specific formats stated by ZATCA.

Authenticity:

The PwC’s EGS solution guarantees the security and integrity of taxpayer’s transactional data and related e-invoices.

The tool employs tamper proof mechanisms that protects taxpayers’ data from unauthorized alterations.

1. Seamless integration with ERP
2. Performing mandatory data validation checks
3. Enabling E-Invoice PDF A/3
4. Real time reporting to authority
5. E-invoice/notes archiving
6. E-mail alerts for relevant events
7. Dashboards for providing key management insights

21. Municipal or property tax

Currently, there are no municipal levied in KSA. However, the KSA tax authority recently introduced a new legislation imposing certain Zakat charges on KSA nationals owning land property that is not used (so called “white land”). It should be noted that the application of this new regime is not yet clear in practice.

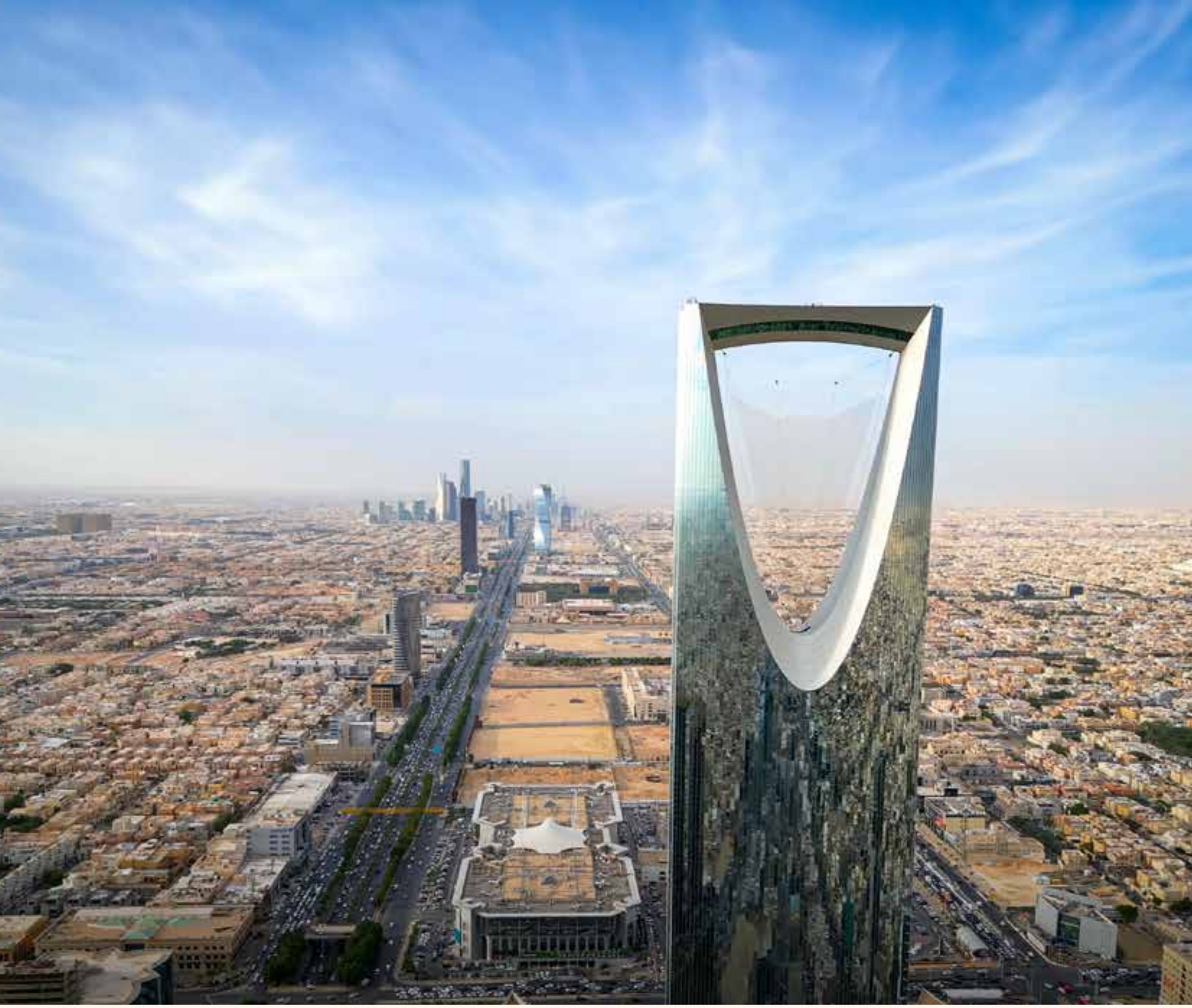
22. Stamp taxes

Currently, there are no separate stamp taxes/duties levied in KSA.

23. Personal income tax

KSA does not have a personal income tax regime.

However, social security contributions apply. This contribution is paid monthly based on the monthly basic salary plus housing with an upper limit of SAR 45,000 and is computed at 2% for non-Saudi employees and paid only by the employer. For Saudi employees, the rate is 21.5% and is paid by both the employees (9.75%) and the employer (11.75%).



Key Considerations

Foreign investors are subject to corporate income tax at the rate of 20% on their share of the net income of a capital company. KSA or GCC investor's share is subject to Zakat at the rate of 2.5%.

Non-resident foreign investors providing services to resident KSA companies are subject to WHT at rates of either 5%, 15%, or 20% (depending upon the nature of service and relationship with the KSA payor). Reduction of the WHT rate or total relief can be achieved under the provisions of certain double tax treaties, however certain conditions as well as administrative procedures apply.

A non-resident shareholder selling shares in a private KSA resident company will generally be subject to tax at the rate of 20% on the capital gains realised from the sale of shares. Noting that capital gains realised from sale of securities listed on the Saudi Stock Exchange (Tadawul) should be exempt from tax.

Pillar Two

05

Background

On 1 July 2021 and 8 October 2021, the Organisation for Economic Cooperation and Development (OECD) Inclusive Framework (IF) issued two 'Statements' focused on addressing the remaining key challenges of base erosion and profit shifting (BEPS) arising from the digitalization of the global economy.

The Statements proposed a 'Two Pillar' Solution, comprised of (i) Pillar One which aims to ensure a fairer distribution of taxing rights is established with respect to the profits of large multinational enterprises (MNEs); and (ii) Pillar Two which implements a new global minimum Effective Tax Rate (ETR) of 15% for MNEs.

Pillar Two

Pillar Two aims to ensure an appropriate level of tax is paid by MNEs through a series of measures aimed at modernising the international tax system for modern businesses. The Subject to Tax Rule (STTR) and the Global Anti-Base Erosion (GloBE) are the two components of Pillar Two.

STTR

The STTR is a treaty based rule that applicable to intra-group payments from source countries that are subject to low nominal tax rates in the country of the payee. The STTR focuses on where a source country has given up taxing rights on certain outbound intra-group payments, and it should be able to recover some of those rights where the income in question is taxed in the state of the payee at a nominal rate below 9%. The STTR applies to interest, royalties and a defined set of other payments made between 'connected persons', including services.

The OECD IF members have committed to adopt the STTR when requested by other IF members that are developing countries, as well as developed countries. In October 2023, the OECD IF issued a multilateral instrument ("MLI") that brings into effect the STTR by allowing for multiple bilateral tax treaties to be amended at the same time. Signature of the MLI is underway and applicability of the STTR is expected to be commence in the near future.

GloBE

The GloBE Rules are designed to ensure that in-scope MNE Groups are subject to a minimum level of tax on the income arising in each jurisdiction where they operate.

Over 140 countries have committed to implementing the GloBE measures, and for the rules to have effect, individual jurisdictions must implement them into domestic law.

The rules came into effect on 1 January 2024, and over 30 countries have introduced tax rules that put into force a 15% effective tax rate on in scope entities, as well as over 100 being expected to also introduce rules that will come into effect in 2024 or 2025.
In brief, the GloBE Rules have been designed with an objective of accommodating a diverse range of tax systems, including different tax consolidation rules, income allocation and entity classification rules, as well as rules for specific business structures such as joint ventures and minority interests.

The GloBE Rules contemplate three different mechanisms for assessing tax on a MNE's income, and MNEs will have to comply with the filing requirements for each applicable rule. The first opportunity to collect the top up tax is the so called Qualified Domestic Minimum Top-up Tax (QDMTT) which gives the choice for the low tax jurisdiction itself to collect the tax (relating to this country). Second in line is the so called Income Inclusion Rule (IIR), which generally imposes tax on the parent entities within the MNE group to the extent that the foreign subsidiaries of the Group are taxed at a rate less than 15% (after the application of the QDMTT in their respective countries, if any).

These two mechanisms are accompanied by a 'backstop' rule, known as the Undertaxed Profits Rule (UTPR) which permits the collection of any remaining Top-up Tax (after QDMTT and IIR are applied) globally by any country where the MNE is active, meaning where there are people and/or tangible assets on the ground. Under certain conditions, the QDMTT could be elevated to a safe harbour that switches off the IIR and UTPR in other jurisdictions.

Status of Pillar Two in the Kingdom

KSA is a member of the OECD Inclusive Framework. However, no official announcement has yet been made on how and when the KSA will be implementing Pillar Two.

What to expect?

Whilst KSA levies corporate income tax at a rate of 20%, there is currently no visibility as to how the Pillar Two rules are expected to interact with the domestic tax rules (including the 2.5% Zakat regime) in KSA and further details should be expected in the near future once the KSA makes an official announcement on its implementation plan.

However, even if the rules are not implemented in KSA in 2024, KSA headquartered MNEs with taxable entities, like consolidated subsidiaries, branches, permanent establishments in at least one implementing jurisdiction, may still be required to undertake the GloBE calculations for all the jurisdictions and may have specific compliance requirements. Further guidance is expected from the OECD with respect to filing obligations / location of submission of the GloBE Information Return (GIR), in cases where the ultimate parent entity jurisdiction such as the KSA does not implement the rules in 2024.

As per the existing Pillar Two administrative guidance, where a MNE is headquartered in a location that has not implemented the rules, GIR filing would be made in a different location i.e. the location of a 'designated filing entity', where the MNE has operations and the respective location has implemented the rules earlier than the MNE's headquarter location.

06

Accounting and Statutory Financial Reporting

Audit requirements

Companies are required to have annual independent audits. Joint stock companies and limited liability partnerships must appoint at least one independent auditor, and banks are required to have two independent joint auditors. The appointed auditor must be a certified public accountant member of the Saudi Organization for Certified Public Accountants (SOCPA) and licensed within KSA from MOC. Such licences are only given to KSA nationals.

Accounts have to be prepared under IFRS Standards, that are endorsed in KSA and other standards and pronouncements issued by the SOCPA, in Arabic.

Pillar Two

MOC requires that all companies and establishments (with capital that exceeds SAR 100,000) keep the following books of account locally in Arabic, in KSA:

- Daily journal;
- General ledger; and
- Inventory book - this is a comprehensive trial balance of all assets, liabilities and results of the year, which should be comparable to a detailed balance sheet and income statement.

These requirements were enforced by Royal Decree in July 1989. Tax payers must maintain Arabic accounting records within KSA.

Computerised accounting systems are allowed, provided that they comply with the requirements of the MOC and that Arabic printouts of the accounts are generated on a regular basis.

There are tax implications if no Arabic books are properly maintained. The Ministry of Finance controls the enforcement of these requirements by having the ZATCA report to the MOC those cases where companies do not comply with Arabisation rules.

Accounting standards

the accounting standards issued by the SOCPA. All companies are required to use IFRS Standards, that are endorsed in KSA and other standards and pronouncements issued by the SOCPA. The 'endorsed' standards are IFRS Standards as issued by the International Accounting Standards Board (IASB) in addition to the accounting and disclosure requirements added to some standards by SOCPA. The 'other standards and pronouncements' are those standards and technical releases that are endorsed by SOCPA for matters not covered by IFRS Standards such as the subject of Zakat.

SAMA requires banks and insurance companies in Saudi Arabia to report under IFRS Standards.

The regulations require that financial statements should include the auditor's report, balance sheet, statements of income, cash flows, changes in the shareholder's equity and notes to the financial statements.

Auditors are required to be licensed by SOCPA in KSA, which functions under the auspices of the MOC. It has been vested with the responsibility of monitoring and guiding the auditing profession, issuing auditing standards and accounting principles and enforcing the rules and regulations relating to the licensing of auditors and reporting violations.

Filing with Ministry of Commerce (MOC)

All publicly-held and limited liability companies are required, on an annual basis, to file copies of the board of directors' report and audited financial statements with the MOC within six months after their financial year-end. In addition, manufacturing entities are required to file a performance report including financial and operational ratios.

Only publicly held joint stock companies' accounts are for publicly available. Other companies' accounts are only disclosed to the authorities and other concerned parties.

There are no filing fees required by the authorities. Appointed CPA or lawyers, however, will have their own professional fees to assist with the filing process.

07

Additional legal considerations

Immigration and visas

Business visit visas (BVV) are generally granted to consultants and other white collar professionals who are required to be in KSA on a short term basis. Such visas are issued for a duration ranging between six to twelve months (depending on the duration sought) and do not allow working activities.

A business visit visa can be applied for by providing the following:

- Drafting the BVV application through Ministry of Foreign Affairs (MOFA);
- Attesting the draft BVV application through the Chamber of Commerce (CoC);
- File the attested application to secure the pre-approval from MOFA; and
- Consular filing of the application (home country).

Obtaining iqamas for expatriates can be a time consuming process which requires numerous documents and should be considered early in any business planning.

Saudisation

The KSA's Saudisation policy aims to encourage the employment of KSA nationals and limit the employment of foreign nationals. The policy is supported by the Nitaqat scheme, which applies to all private sector entities (including companies and branches) with nine or more employees. The scheme applies differing requirements depending on the size of the entity and the specific sector in which it operates.

Based on its size and activity, each entity is provided with a rating based on certain thresholds set by the Ministry of Human Resources and Social Development (MHRSD) and on the proportion of KSA nationals versus foreign employees that it employs. Each company is ranked according to a colour-coded system that rewards (or penalises) companies for meeting (or not meeting) the Saudisation/Nitaqat targets.

The MHRSD announced a Nitaqat 2.0 with the aim to further boost KSA employment in the private sector. Key features include: a three (3) year plan to allow all private companies to adjust their recruitment strategies, reduced business activity categories, retention of Nitaqat's colour-coded tier classification system as well as usage of a formula to determine the Saudisation value for each company for the first three years and the following years.

Employment considerations

Pursuant to the KSA Labour Law (the Labour Law), a foreign national may only be employed on a fixed-term employment contract. If the employment contract of a foreign national fails to mention the expiry date, the employment contract will be deemed to be a fixed-term contract which will terminate on the expiry of the foreign national's work permit. Additionally, foreign nationals can only work for one employer and employers cannot let their foreign employees work for another employer.

Saudi nationals may be employed on fixed-term or unlimited term employment contracts.

Under the Labour Law, the following are considered "valid reasons" for terminating an employment contract:

- By mutual consent, provided that the employee's consent is obtained in writing;
- Expiry of a fixed-term employment contract;
- By giving notice pursuant to the Labour Law (unlimited term employment contracts only);
- The employee attains the age of retirement, unless the two parties agree otherwise. If it is a fixed-term employment contract which extends beyond the retirement age, it shall terminate at the end of its term;
- Force majeure event;
- Closure of the business;
- The project that the employee has been working on has been completed; or
- Any other reason permitted by law.

Terminating a fixed-term employment contract prior to its expiry may result in compensating the employee for the remaining term of the contract. With certain restrictions however, the parties can agree to limit the compensation for early termination. Unlimited term employment contracts, on the other hand, may be terminated for a justified reason, which is generally considered to be poor performance or misconduct.

Competition law

The Competition Law and its Implementing Regulations regulate competition and prohibit anti-competitive practices in KSA. The relevant authority is the General Authority for Competition (GAC).

The Competition Law has a broad application and prohibits a range of anti-competitive practices including:

horizontal and vertical agreements between entities (such as agreements for the purposes of fixing or suggesting prices or terms of sale, obstructing entry for new competitors and allocation of geography or customers);

concerted conduct among competitors; and

dominant-firm conduct.

Furthermore, parties seeking to carry out a transaction leading to an "Economic Concentration" must consider whether they are required to obtain GAC's approval prior to completing the transaction. The definition of Economic Concentration is widely drafted under the Competition Law and includes mergers, acquisitions, and joint ventures (whether inside or outside of the KSA) that meet the conditions and thresholds set out in the Competition Law.

In the event of breaches of the Competition Law, GAC have broad investigative powers and the ability to initiate criminal proceedings against individuals and issue large fines against corporations operating in the KSA

NewLaw: Legal department transformation

With the backdrop of Vision 2030, it is now more important than ever for legal teams to rethink their workflows, use of technology and construct a legal department that is strategically aligned to the business they support. Building a fit for future legal function involves optimising ways of working and adopting new or existing technology. Getting this right results in legal functions being able to do more with less, a reduction in time spent on redundant tasks and the opportunity to focus on the intuitive and high-value matters driving the business.

There's no "one size fits all" approach to legal department transformation but, working alongside their CEOs and CFOs, today's GCs are looking towards cost-based transformation of their function by harnessing enterprise change programs and focusing on the right level of business partnering, improving how the function operates, introducing legal technology and leveraging managed legal services, in addition to targeted use of outside counsel. Deployment of specific solutions for key costs areas, such as contract review, preparation and execution, external counsel spend management and legal automation, remain vital in delivering this transformation.

Anti-Bribery & Corruption

Anti-Bribery and Corruption (ABC) is actively enforced through legislation and other initiatives in KSA. Examples of KSA's commitment to international best practice include signing up to the UN Convention Against Corruption (UNCAC) and creating an anti-corruption commission (the National Anti-Corruption Commission or 'Nazaha') to combat administrative and financial corruption. The KSA Anti-Money Laundering Law requires companies to implement internal controls, systems and policies.

Energy

KSA is an oil-based economy that is primarily dependent on revenues from the oil and gas sector. It is the world's largest oil exporter and possesses around twenty per cent (20%) of the world's total petroleum reserves. The KSA energy sector involves petroleum, natural gas, refining petrochemicals and electricity. Oil and Gas operations are controlled by Saudi Aramco, the world's largest integrated oil and gas company.

Previously, the Ministry of Energy, Industry and Mineral Resources oversaw the energy sector in KSA. In August 2019, a royal decree was issued to divide the ministry into two ministries: the Ministry of Energy and Ministry of Industry and Mineral Resources. The Ministry of Energy is primarily responsible for overseeing and issuing regulations in relation to the oil and gas industry in KSA. The Ministry of Industry and Mineral Resources is responsible for industry and mineral resources operations in KSA and aims to diversify the economy of KSA away from the oil and gas.
Another major change to the energy sector in KSA is the Renewable Energy Project Development Office (REPDO) that was established in 2017 under the Ministry of Energy. It aims to deliver on the goals of the National Renewable Energy Program (introduced under Vision 2030) to maximise the potential of the renewable energy industry in KSA. It sets out a specific road map in order to diversify local energy sources as well as establishing a renewable energy industry.

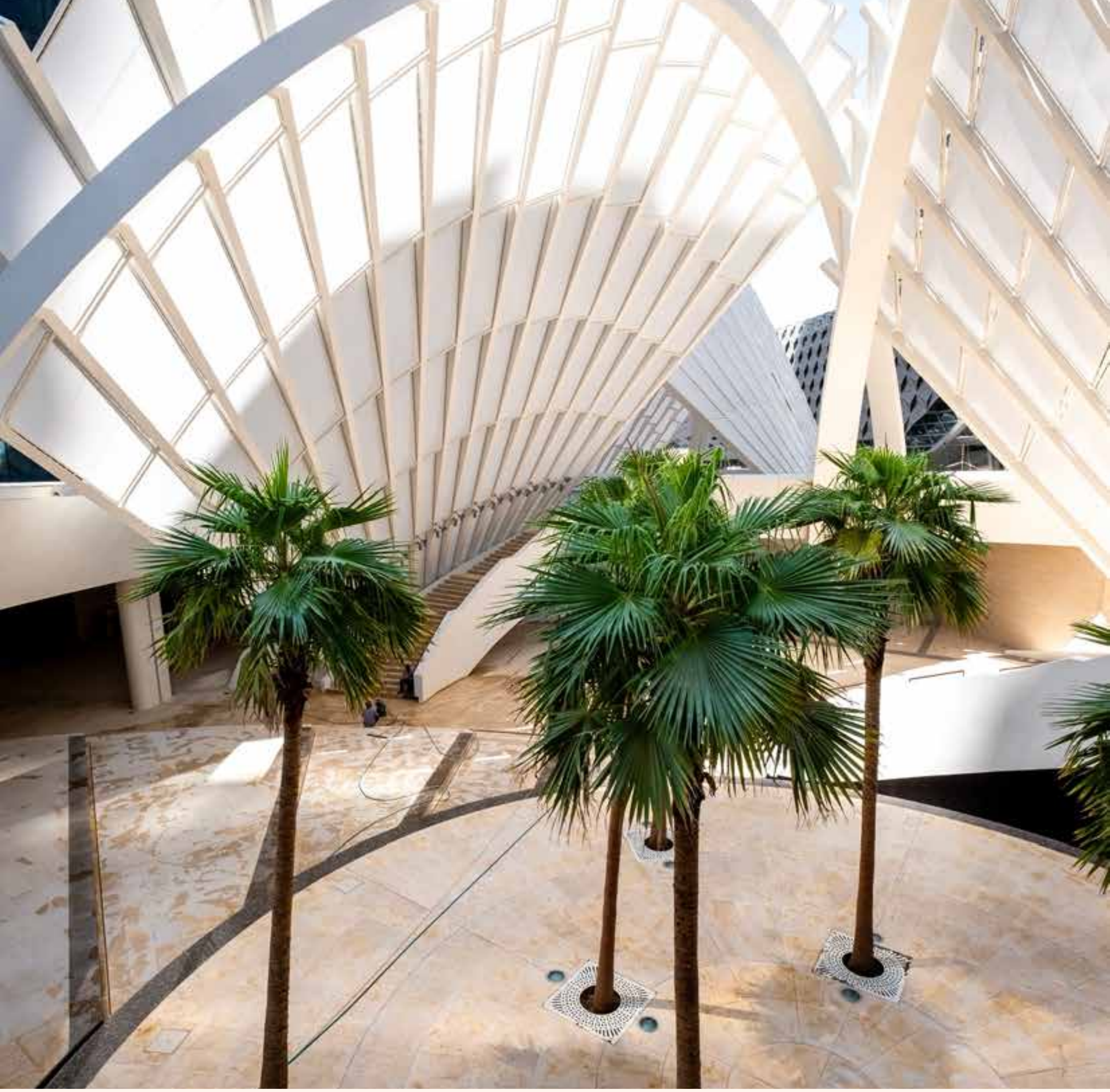
It should be noted that exploration, excavation and production of petroleum products activities (excluding mining-related services) are included in the Negative List and so are completely closed to foreign investment.

In Kingdom Total Value Add (IKTVA)

In 2015, Saudi Aramco implemented the IKTVA program which created a score for each contractor or supplier who submits a tender for a Saudi Aramco project to measure their local value creation.
The key objective of the program is to promote "localisation" within KSA, and it produces a calculation based on various factors including:

- The total amount of local products and/or services used;
- Salaries paid to KSA nationals;
- Use of local suppliers;
- Participation in RHQ program; and
- Total expenditure on the training and development of KSA nationals.

IKTVA scores are calculated on an annual basis and companies are required to obtain a survey covering all their KSA operations and revenue. Foreign companies with two or more subsidiaries in KSA can undertake a consolidated IKTVA survey.



Key Considerations

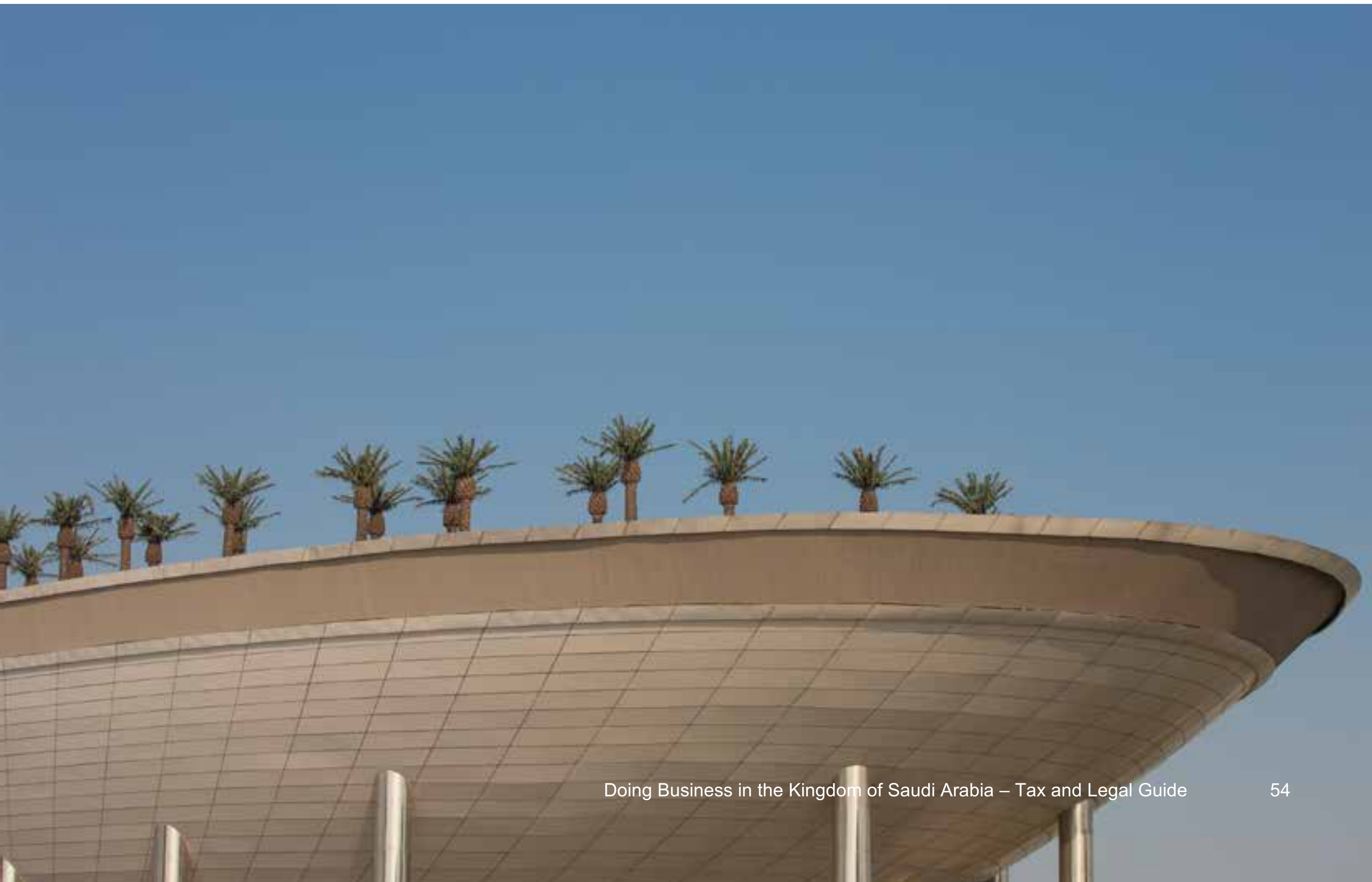
The registration process in KSA is still relatively lengthy, due in part to the need to notarise and legalise documents coming from overseas and translate them into Arabic. However, both MISA and MoC (as well as the relevant KSA government entities) have introduced online Portals that now expedite the licencing and registration processes.

08

Key Tax Indicators in the Kingdom of Saudi Arabia

Tax Indicators	Resident	Non-Resident *
Fiscal year end	Calendar year, unless approval for alternate year end is obtained.	N/A.
Companies		
Income Tax	20% corporate tax on profits attributable to the non-GCC shareholders in a Saudi company. Income from natural gas investments and from oil and hydrocarbon production is taxed at 30% - 85%. Zakat at 2.5% is levied on the higher of adjusted net profits or adjusted net asset value attributable to the company's Saudi or GCC shareholders.	Not applicable, unless the foreign company has a permanent establishment in Saudi (refer to comments opposite).
Tax on Capital Gains	Gains on non-listed shares are subject to Zakat or 20% corporate tax. Gains on listed shares are exempt from corporate tax but are subject to Zakat.	20%, unless the shares are traded on the Saudi stock exchange (subject to certain conditions).
General Sales Tax (GST)	Not applicable	Not applicable
Value-Added Tax (VAT)	Supply of goods and services in the KSA are subject to VAT at the standard rate of 15% unless it is specifically zero-rated or exempt for VAT purposes as per the local VAT legislation.	The VAT treatment will vary depending on the nature of supplies (goods/services) and VAT registration status of the recipient.
Real Estate Transaction Tax (RETT)	RETT at 5% is applicable on real estate disposal transactions (with few exceptions) including transfer of shares in real estate companies at Fair Market Value	Same implications like a resident person where real estate property/ shares of real estate companies are located in KSA.
Individuals		
Individual Marginal Tax Rate (Max)	No personal income tax. Saudi individuals pay Zakat in their personal capacity, at their own discretion.	Not applicable
Basis of Taxation	Not applicable	Not applicable
Withholding Tax		
Dividends	Not applicable	5%
Interest	Not applicable	5%
Royalties	Not applicable	15%
Management Service Fees	Not applicable	20%

Tax Indicators	Resident	Non-Resident *
Customs	Standard rate is 5%. Other rates (0%, 50%, and 100%) apply depending on the nature of the goods imported.	
Exchange Controls	No	No
Thin Capitalisation	There are no specific thin capitalisation rules. Arm's length interest is tax deductible, subject to the lower of (i) the actual interest expense or (ii) 50% of EBIT.	
Transfer Pricing	The By-Laws in KSA are largely aligned to the OECD TP Guidelines. In addition to the 3-tier documentation requirements, taxpayers (including Permanent Establishments) are also required to file an annual information return along with an Affidavit from a Licensed Accountant confirming whether the controlled (i.e Related Party) transactions undertaken by the taxpayer are in line with the Group's transfer pricing policy. Entities liable only for Zakat, are required to comply with the Country by Country Reporting requirements only.	
Double tax treaties	Austria, Albania, Algeria, Azerbaijan, Bangladesh, Belarus, Bulgaria, China, Cyprus, Czech Republic, Egypt, Ethiopia, France, Gabon, Georgia, Greece, Hong Kong, Hungary, India, Ireland, Italy, Japan, Jordan, Kazakhstan, Korea, Kosovo, Kyrgyzstan, Luxembourg, Macedonia (Republic of), Malaysia, Malta, Mexico, Netherlands, Pakistan, Poland, Portugal, Romania, Russia, Singapore, South Africa, Spain, Syria, Sweden, Switzerland, Tajikistan, Tunisia, Turkey, Turkmenistan, United Arab Emirates, Ukraine, United Kingdom, Uzbekistan, Venezuela, Vietnam	



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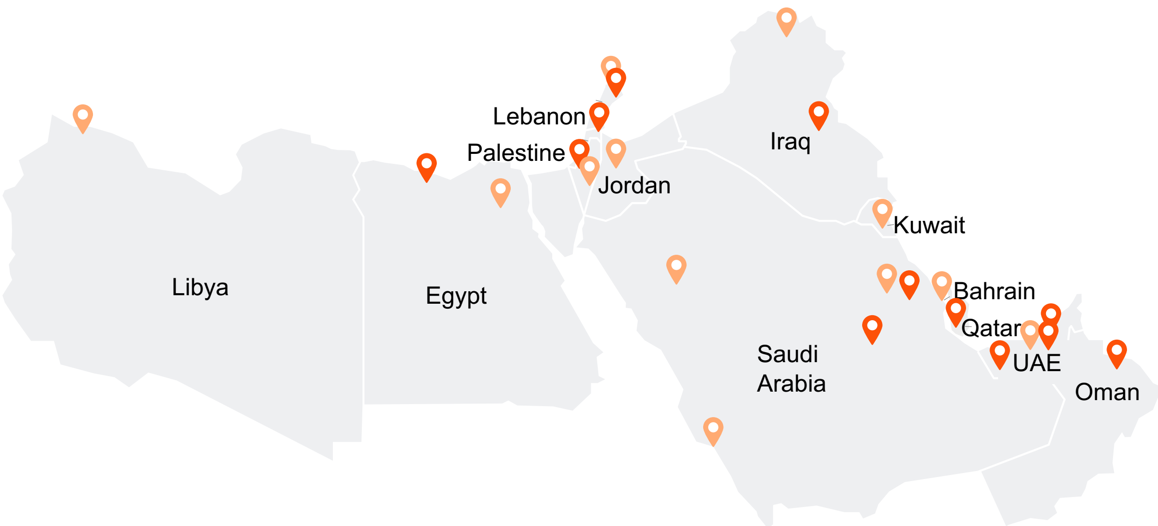

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