

Saudi Arabia

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Key facts

Main tax rates

- Corporate tax rate: 20 percent (for foreign entities only)
- VAT/GST: no VAT/GST
- Personal income tax top rate: 20 percent (on business income of foreigners)

Population/GDP

Population: 27.6 million
GDP: US\$ 600.4b (2008)

Currency

Saudi riyals (SAR); pegged at 3.75 SAR to US\$1

Membership of economic groups

Gulf Co-operation Council (GCC), Greater Arab Free Trade Area (GAFTA)

Major industries

Oil and gas, telecommunications, manufacturing

Website of tax/finance authority

www.zakat.gov.sa - Department of Zakat and Income Tax
www.mof.gov.sa - Ministry of Finance

Introduction

Saudi Arabia remains a leading producer of oil and natural gas; holding more than 24 percent of the world's proven oil reserves. The oil industry comprises about 45 percent of Saudi Arabia's gross domestic product. Oil accounts for more than 90 percent of exports and almost 75 percent of government revenue. The government continues to pursue economic reform and diversification, particularly since Saudi Arabia's accession to the WTO in December 2005, and promotes foreign investment in the kingdom. Telecommunications is one of the key industries being privatised. Its stock market has the highest market capitalisation in the Middle East. The key government concerns are to create employment opportunities for the burgeoning population, water depletion, and an economy largely dependent on petroleum output and prices.

The commercial and tax rules make several distinctions between Saudi nationals, GCC nationals and other foreigners. Under the Foreign Investment Act (the "Act"), foreign persons and entities are permitted to invest in industries and services other than those which are specifically excluded. The excluded industries include those relating to the manufacturing of military materials, equipment and explosives; oil exploration and production; services related to security, insurance and real estate brokerage; wholesale distribution and retail services; telecommunications services; and land, air, and space transport, among others. Foreigners wishing to conduct business in Saudi Arabia may do so by:

- Establishing an incorporated entity;
- Entering into a partnership;
- Establishing a branch office;
- Establishing a representative office; or
- Engaging a service agent.

Corporate taxes

General outline

Tax in Saudi Arabia consists primarily of corporate income tax and Zakat. Companies engaged in investment activities in natural gas, natural gas liquids and condensates are subject to Natural Gas Investment Tax (NGIT).

Corporate taxes and rates

Corporate income tax is effectively assessed only on foreign (non-GCC) companies with permanent establishments in Saudi Arabia and on the foreign shareholders' share of the profits in Saudi companies. As regards the latter, the tax is assessed on the resident company but the tax base is the foreign shareholder's share of the resident company's taxable profits. Any capital gains arising as a result of a sale or transfer of assets (including the entire business) would be treated as normal business income

and taxed at the normal corporate income tax rate. The corporate income tax rate is 20 percent. The Department may assess tax based on estimated profits depending on the facts and circumstances pertaining to the taxpayer if the taxpayer fails to file its declaration on time or to keep precise accounts, books and records, or to comply with the accounting methods or principles. Group tax consolidation is not permitted.

NGIT applies to both individuals and corporate entities (including GCC nationals). Profits are taxed at the base income tax at 30 percent and then progressively up to 85 percent depending on the internal rate of return of the investment.

Zakat is a religious levy. It is assessed on Saudi and Gulf Cooperation Council (GCC) nationals, on companies that are wholly owned by Saudi or GCC nationals and on the share of profits attributable to Saudi and GCC nationals in a company or partnership. The Zakat rate is 2.5 percent of the higher of the Saudi/GCC share of Zakat base or the Saudi/GCC share of profit.

Taxable presence

A permanent establishment of a non-resident in the Kingdom generally 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. The following are considered a permanent establishment:

- Construction sites, assembly facilities, and the exercise of supervisory activities connected therewith;
- Installations, sites used for surveying natural resources, drilling equipment, ships used for surveying for natural resources as well as the exercise of supervisory activities connected therewith;
- A fixed base where a non-resident natural person carries out business; and
- A branch of a non-resident company licensed to carry out business in the Kingdom.

A place is not considered a permanent establishment of a non-resident in the Kingdom if used in the Kingdom only for the following purposes:

- (1) Storing, displaying or delivering goods or products belonging to the non-resident;
- (2) Keeping a stock of goods or products belonging to the non-resident for the purpose of processing by another person;
- (3) Purchasing goods or products for the sole purpose of collection of information for the non-resident;
- (4) Carrying out other activities of preparatory or auxiliary nature for the interests of the non-resident;
- (5) Drafting contracts for signature in connection with loans, delivery of goods or activities of technical services; and
- (6) Performing any series of activities stated in (1) to (5) above.

A non-resident partner in a resident partnership is considered an owner of a permanent establishment in the Kingdom, in the form of an interest in a partnership.

Disallowable items

Non-tax deductible expense items include expenses which are not connected with the earning of the income subject to tax, head office costs allocated to branches, entertainment expenses, and financial penalties and fines (other than contractual breach payments). Deductible interest expense is limited to the sum of the taxpayer's interest income and 50 percent of the taxable income excluding loan fee income and expenses.

Position of losses

Tax losses may be carried forward for offset against future years' income without time limits. However, the amount that can be offset against profits in any one year should not exceed 25 percent of the profits for that year. Also, on a change of ownership of more than 50 percent of the shares in a company the share of the tax losses arising in the period before the change and which relate to the foreign partner's share in the company cannot be relieved in the period after the change.

Capital gains taxes

There is no separate capital gains tax. Capital gains accruing to non-Saudi shareholders from the sale of shares in a local company are also taxable (20 percent). Capital gains are generally calculated as the difference between the highest of three values (the sales value, book value or market value) and the cost of the asset. Capital gains realised by non-Saudi nationals from the disposal of shares in a Saudi joint-stock company traded on the stock exchange in Saudi Arabia are exempt from tax.

Withholding taxes

Various payments made to non-residents are subject to withholding tax. Dividends and branch profits are subject to withholding tax of 5 percent on remittance to non-residents. Interest payments are also subject to withholding tax of 5 percent. The rates are shown in Table 1.

Indirect taxes***VAT/GST: main and reduced rates, exemptions***

There is no stamp duty on the acquisition of shares or assets, and no transfer tax, value-added tax (VAT), or any other indirect taxes apart from customs duty. Customs duty is generally levied at 5 percent on imports in accordance with the uniform customs tariff of the GCC Customs Union.

Personal taxes

A tax rate of 20 percent is applied to non-Saudi individuals (excluding citizens of GCC states) who carry out self-employment or business activities in Saudi Arabia.

Employment income derived from wages, salaries, fees, allowances, bonuses, rewards including director's fees derived by expatriate employees are not subject to taxation in Saudi Arabia.

Taxation of resident and non-resident individuals

Persons subject to tax include:

- A resident non-Saudi natural person who does business in the Kingdom;
- A non-resident who does business in the Kingdom through a permanent establishment; or
- Non-residents on other income subject to tax from sources within the Kingdom.

Nationality (citizenship) does not determine place of residence of a person. A natural or corporate person, notwithstanding its nationality, is not resident in the Kingdom unless the residency provisions of the tax law apply.

Domicile and residency requirements

A natural person is resident in the Kingdom during a taxable year if he has a permanent place of abode (residence) in the Kingdom and is present in the Kingdom during a period not less than 30 days, continuous or in aggregate, during the tax year.

A natural person is also resident in the Kingdom if he is present in the Kingdom for not less than 183 days, continuous or in aggregate, in the tax year even if he has no permanent abode in the Kingdom.

A permanent abode means a place of abode the taxpayer owns or leases for a long time, for not less than one year, during the taxable year. It could also be an abode provided to the natural person by any party during the tax year for a period not less than one year.

Social security/national insurance payments

Employers are required to contribute 9 percent of salaries of employees who are Saudi nationals for insurance relating to old age, disability and death, with another 9 percent contributed by the employee. The employer also pays 2 percent for all workers, to cover occupational hazards. The upper limit of monthly salaries subject to social insurance is SAR 45,000.

Transfer pricing and anti-avoidance rules

The DZIT is empowered to adjust the amounts of taxable income and deductible expenses arising from transactions between related parties under common control in order to reflect third-party arm's length reference prices.

Companies purchasing goods from foreign shareholders or affiliates are also required to submit certificates from the sellers' auditors to confirm that the goods were acquired at the prevailing market price. Branches are similarly required to submit such certificates in relation to goods purchased from the head office.

Anti-avoidance provisions

The DZIT may disregard any transactions which it considers to be artificial and re-classify the transactions in order to reflect their real commercial form.

Losses resulting from transactions between related parties may not be offset, until the related party disposes of the relevant properties to another unrelated party.

The DZIT may, in cases where there have been income splits between parties, adjust the tax base of the taxpayer and that of the other person to prevent any reduction in the due tax.

Tax treaties

Saudi Arabia has concluded tax treaties with France, China, India, Pakistan, Austria, South Africa and the United Kingdom. It has an air and maritime transportation agreement with the USA.

Table 1 Withholding taxes

<i>Type of payment</i>	<i>Rate</i>
Management fees ^a	20%
Royalties ^b or proceeds; payments for services to a head-office or related company	15%
Payments for rent; ^c payments for technical and consulting services; ^d payments for air tickets, ^e air freight and maritime freight; payments for international telecommunications services; ^f dividends; ^g interest; loan charges; ^h insurance or reinsurance premiums	5%
Other payments ⁱ	15%

- a “Management fees” means payments for management services contracts, such as hotel management contracts, ship management contracts, etc.
- b “Royalties” means payments received for use of or the right to use intellectual rights, including, but not limited to, copyright, patents, designs, industrial secrets, trademarks and trade names, know-how, trade and business secrets, goodwill, and payments received against the use of information related to industrial, commercial or scientific expertise, or against granting the right to exploit natural and mineral resources.
- c “Rent” means payments for rent contracts, such as rental of equipment, machines, houses and information networks.
- d “Technical and consulting services” means any type of technical, technological and scientific services, including studies and research on different fields, surveying work of scientific, geological and industrial nature, consulting or supervisory services, or any type of engineering services including relevant designs.
- e “Payments for air tickets, air freight and maritime freight” means any payment for air tickets, air freight and maritime freight paid in the Kingdom to air and maritime transport companies, their agents or representatives in the Kingdom.
- f “Payments for international telecommunications services” means any amounts paid to a non-resident party in return for services related to provision of international telecommunications services from the Kingdom.
- g “Dividends” means any distribution by a resident company to a non-resident shareholder, and any profits transferred by a permanent establishment to related parties; the following should be considered:
- Dividends by companies engaged in natural gas investment, oil and hydrocarbons are not subject to withholding tax.
 - Partial or full liquidation of a company is deemed to be dividends for payments in excess of paid-in capital.
 - Subjection of a distributing company to income tax shall not preclude imposition of withholding tax on its dividends.
- h “Loan charge (proceeds/interest)” means any amount paid to a non-resident for the use of money.
- i “Other payments” means payments from a source in the Kingdom to a non-resident for services other than services mentioned in this Article (1) above.