Withholding Tax

هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

General Guideline for Withholding Tax

In accordance with the provisions of the Income Tax Law and its Implementing Regulations

Second Version | May 2026

Note: The English version is for guidance purposes only. In case of any discrepancy between the Arabic and English versions, the Arabic version shall prevail

The Zakat, Tax and Customs Authority (henceforth 'ZATCA') has issued this Guideline to clarify certain treatments related to the implementation of the statutory provisions in force on the date of its issuance. The content of this Guideline shall not be deemed an amendment to any of the laws and regulations in force in the Kingdom of Saudi Arabia.

The Authority affirms that it shall apply the explanatory treatments set out in this Guideline, where applicable, considering the relevant statutory provisions. If any clarification or content contained in this Guideline is amended in relation to an unchanged statutory provision, the updated explanatory treatment shall apply to transactions carried out after the date of publication of the updated version of the Guideline on the Authority's official website.

Amendment log

#	Edition No.	Amendment Date	Section/ Item	Amendment Type	Amendment Description	Remarks
-	-	-	-	-	-	-

Contents

Definitions of Key Terms in this Guideline

Term	Definition
Kingdom	Kingdom of Saudi Arabia.
Authority	Zakat, Tax and Customs Authority (ZATCA).
Law	Income Tax Law issued by Royal Decree No. M/1 dated 15th Muharram 1425H.
Regulations	Implementing Regulations of the Law issued by Ministerial Decision No. 1535 dated 11th Jumada al-Thani 1425H.
Tax	Income Tax imposed pursuant to the Law and the Regulations (collectively referred to as the "Income Tax Provisions").
Activity	Commercial activity in all its forms, or professional or craft activity, or any other similar activity intended to generate profit, and includes the use of movable and immovable capital.(1)
Payments for Airline Tickets or Air or Sea Freight	Any payments for the purchase of international departure travel tickets from the Kingdom, or air or sea freight charges paid to air or sea carriers or to their agents or representatives in the Kingdom. This does not include amounts paid for shipping goods from abroad to ports in the Kingdom.(2)
Distributed Profits	Any distribution from a resident company to a non-resident shareholder, and any profits transferred from a permanent establishment to related parties, taking into account the following: a. Dividend distributions by companies engaged in the investment of natural gas, oil, or hydrocarbon materials are not subject to Tax Withholding. b. A partial or complete liquidation of the company in excess of paid-up capital is deemed a distribution. c. The fact that the distributing company is subject to Income Tax does not preclude the imposition of Tax Withholding on the amounts distributed from it.(3)

(1). Article 1 of the Law.

(2). Paragraph 4, Article 63 of the Regulations.

(3). Paragraph 6, Article 63 of the Regulations.

Loan Returns	Any amounts realized in consideration for the use of capital, including income arising from lending activities of any kind, whether secured or unsecured, and whether or not such loans grant the right to participate in the debtor's profits. This also includes income arising from government and non-government bonds. Excluded from this are loan returns arising from interbank deposits (Interbank), where such deposits remain with the resident borrowing bank for a maximum period of 90 days, provided that an annual statement approved by the Saudi Central Bank (SAMA) is submitted, indicating the names and addresses of the lending banks, the loan period, and the amount of loan returns paid.(4)
International Telephone Communication Services	Any amounts paid to a non-resident party for services related to providing international telephone communication services from the Kingdom.(5) Amounts paid in consideration for a local telecommunications company's use of an international telecommunications company's network to carry, transmit, or deliver calls made by a subscriber in the Kingdom when requesting any international call, and amounts paid to international telecommunications companies for international roaming services, are not subject to Tax Withholding. This includes, for example: a. Amounts paid to international organizations owning satellites for the use of space capacity or international circuits on those satellites for the purpose of providing international communication services to subscribers of the local telecommunications company. b. Amounts paid to non-resident companies for leasing capacity on international cables and the Internet for the use of that capacity in various telecommunications services.(6) c. Amounts paid to non-resident companies for interconnection services, including services provided between service providers to connect their respective networks and/or other forms of access that allow their users to reach certain users or specific services.
Management Fees	Management fees refer to amounts paid under administrative service contracts, such as hotel management contracts, ship management contracts, and similar arrangements.(7)
Person	Any natural or legal person.(8)
Non-Resident	Any person to whom the residency status defined in Article 3 of the Law and the Regulations does not apply.(9)

(4). Paragraph 1, Article 5 of the Regulations.

(5). Paragraph 5, Article 63 of the Regulations.

(6). Circular No. 3256/9 dated 28th Jumada al-Thani 1426H/26th August 2005G.

(7). Paragraph 2, Article 63 of the Regulations.

(8). Article 1 of the Law.

(9). Article 1 of the Law.

Resident	For the purposes of this Guideline, a resident is a natural or legal person who meets the residency conditions in the Kingdom of Saudi Arabia as specified in Article 3 of the Law, and includes any government administration, ministry, public authority, legal person, or established entity in the Kingdom.[10]
Royalties	Payments received for the use of, or the right to use, intellectual property, including, but not limited to, copyrights, patents, designs, industrial secrets, trademarks and trade names, know-how, trade secrets, goodwill, and payments received for information related to industrial, commercial, or scientific expertise, or for granting the right to exploit natural and mineral resources.[11]
Taxpayer	A taxable person pursuant to the Law.[12]
Technical and Advisory Services	Technical, technological, and scientific services of any kind, including studies and research in various fields, surveys of a scientific, geological, or industrial nature, advisory services, or consultancy, or engineering services of any kind, including related designs.[13]
Person Obliged to Withhold Tax	Any resident person in the Kingdom, whether a taxpayer or non-taxpayer, and any permanent establishment of a non-resident in the Kingdom, who makes any payment to a non-resident from a source in the Kingdom, in accordance with the Income Tax Provisions.[14]

All terms and expressions not defined in this Guideline shall have the meanings assigned to them in the Income Tax Provisions.

(10). Article 1 of the Law.

(11). Article 1 of the Law

(12). Article 1 of the Law.

(13). Paragraph 3, Article 63 of the Regulations.

(14). Article 68 of the Law.

1. Introduction

The Zakat, Tax and Customs Authority ("ZATCA" or "Authority") publishes this Guideline to provide the necessary clarifications and guidance for the application of the provisions relating to Tax Withholding contained in the Income Tax Law and its Implementing Regulations (hereinafter collectively referred to as the "Income Tax Provisions").

1.1 What is Tax Withholding?

1.1.1 Relationship between Income Tax and Tax Withholding

Income Tax is a direct tax imposed on all persons specified in Article 2 of the Law and article 63 of the Regulation, including non-residents who earn income from sources in the Kingdom without having a permanent establishment therein.[15]

Due to the specific nature of these taxpayers and the absence of the concept of residency for them, and since their tax liability depends on specific facts represented by the realization of income from sources in the Kingdom, the mechanism for tax liability is as follows:

a. If the income is from the types of income specified in Article 68 of the Law, it is subject to Tax Withholding in accordance with the rules outlined in that Article.
b. If the income represents capital gains arising from the disposal of fixed or current assets, or capital gains resulting from the disposal of shares in a resident company, it is subject to tax in accordance with the general rules of the Law.[16]

This Guideline aims to clarify the Authority's interpretation regarding the application of the provisions of Tax Withholding in accordance with the Income Tax Provisions.

It is evident that the provisions of Tax Withholding in the Kingdom derived from the Income Tax Law and its implementing Regulations, as the rules relating to Tax Withholding are derived from the framework established by the Income Tax Law, by subjecting income earned from sources in the Kingdom by non-residents to taxation.

(15). Paragraph (d), Article 2 of the Law.

(16). Paragraph 2, Article 1 of the Regulations.

Income earned from a source in the kingdom is subject to tax on:

Non-Resident Person

Permanent Establishment of a Non-Resident in the Kingdom

Resident Taxpayer

Tax withholding mechanism

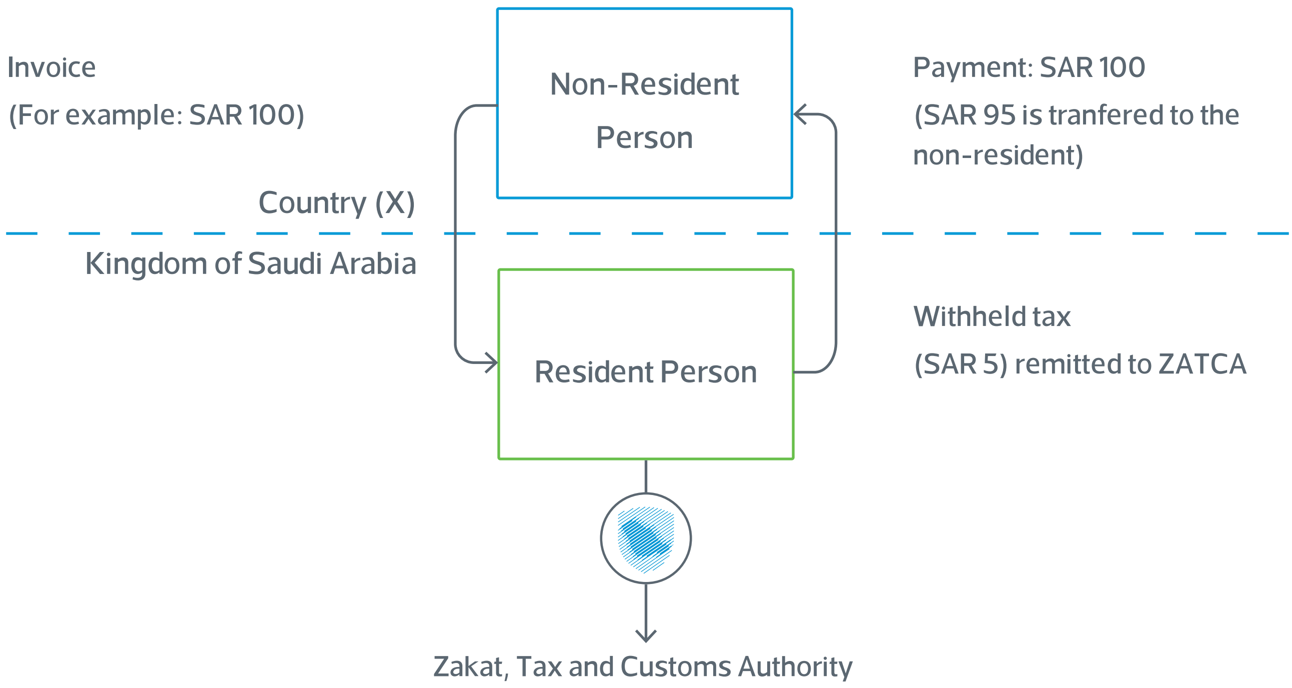
Standard tax calculation based on the tax base and the applicable tax rate

1.1.2 Tax Withholding

As previously clarified, Tax Withholding is a mechanism for imposing Income Tax that differs from the general rule of taxation. It obliges the withholding agent in the Kingdom who makes payments from a source in the Kingdom to a non-resident who does not have a Permanent Establishment therein to withhold a percentage of the amount paid in accordance with the applicable tax rate and to remit or transfer the withheld tax amount to the Authority.

It also differs in terms of determining the basis of withholding, which is based on the gross income rather than on profit; that is, the tax rate applicable to the income in accordance with the Withholding provisions is applied to the entire amount paid by the resident to the non-resident.

This is illustrated in the example below:



2. Scope of Application of Tax Withholding Provisions

In accordance with the provisions governing Income Tax, the Tax Withholding provisions shall apply when the following conditions are met[17]:

Person obligated to withhold tax	Person from whom tax is withheld	Payments subject to Tax Withholding
It is the resident person, whether a taxpayer or non-taxpayer under the Law, and the Permanent Establishment of a non-resident, who makes payments from sources in the Kingdom to a non-resident and is responsible for withholding and remitting the tax amount to the Authority.	The tax is imposed on a non-resident who does not have a Permanent Establishment in the Kingdom when such non-resident derives income from a source in the Kingdom.	They include all payments from sources in the Kingdom, made by the withholding agent to non-residents, where such payments are in consideration for any of the types of income specified in Article 68 of the Law and Article 63 of the Implementing Regulations. They encompass all amounts paid in consideration for any type of services, with the Law defining services as: any work performed for consideration, excluding the purchase and sale of goods or any other property. Payments shall mean any consideration, whether in kind or in cash, that is settled, including settlements, discounts, and book adjustments.

The following paragraphs provide further guidance regarding these principal provisions.

(17). Article 68 of the Law.

2.1 Person Obligated to Withhold Tax

The provisions related to Tax Withholding shall apply only if the person obligated to withhold is a resident in the Kingdom in accordance with the residency conditions specified in the Law and the Implementing Regulations[18], or if such person is a Permanent Establishment of a non-resident[19]. Accordingly, every resident legal person and every Permanent Establishment of a non-resident that makes a payment from a source in the Kingdom to a non-resident shall be considered obligated to withhold tax.

With respect to a resident natural person, such person shall not be considered obligated to withhold tax except in cases where they make a payment from a source in the Kingdom to a non-resident and where such payment is related to the activity carried out by the resident natural person. That is, the Tax Withholding provisions shall not apply to amounts paid by a resident natural person to any non-resident if such amounts are not connected to the activity of the resident natural person.

2.1.1 Who is the Person?

For the purposes of Tax Withholding, the person obligated to withhold must be a resident in the Kingdom. In accordance with the provisions governing Income Tax[20], a resident may be any of the following:

a. A natural person (engaged in commercial activity in the Kingdom).
b. A natural or legal person who meets the residency conditions set forth in Article 3 of the Income Tax Law.
c. Any governmental department, ministry, or public authority.
d. Any other legal person or established entity in the Kingdom.

In addition, a payment made by a permanent establishment of a nonresident in the kingdom shall be considered as if paid by a resident company for the purposes of Tax Withholding (see Paragraph 2-1-2)[21].

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(18). Article 3 of the Law.

(19). Article 3 of the Law.

(20). Article 1 of the Law.

(21). Paragraph (c) of Article 5 of the Law provides: "The amount paid by a Permanent Establishment in the Kingdom to a non-resident shall be treated as if it were paid by a resident company."

A natural person shall be obligated to withhold tax under the provisions of the Law only in cases where such payments are related to the activity carried out by that person - i.e., the person obligated to withhold - in the Kingdom. The natural person must withhold tax only in cases where payments are made to non-residents in the context of a commercial activity carried out by that person in the Kingdom[22]. Accordingly, amounts paid to non-residents by natural persons for personal use are not subject to Tax Withholding provisions.

Residency of a Natural Person

In accordance with the provisions governing Income Tax[23], a natural person shall be considered a resident in the Kingdom for a Zakat year if any of the following two conditions are met:

a. The person has a permanent dwelling in the Kingdom and resides in the Kingdom for a total of no less than 30 days in the Zakat year.
b. The person resides in the Kingdom for no less than 183 days in the Zakat year.

For the person obligated to withhold tax, it is sufficient that they are a resident, regardless of whether they are subject to tax or not. For example, a natural person subject to Zakat collection shall withhold tax on amounts paid in the context of their commercial activity carried out in the Kingdom to a non-resident[24].

Residency of a legal Person

A legal person shall be considered a resident in the Kingdom during the Zakat year if any of the following two conditions are met:

a. The person is incorporated in accordance with the Companies Law.
b. The person's principal management is located in the Kingdom.

With respect to the first condition, a company shall automatically be considered resident in the Kingdom for tax purposes if it is incorporated in accordance with the provisions of the Saudi Companies Law, regardless of any other facts or information.

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(22). Article 68 of the Law: "In the case of amounts paid by a natural person, the withholding conditions stipulated in this Article shall apply only to payments related to that person's activity."

(23). Article 3 of the Law.

(24). Article 68 of the Law provides: "Every resident, whether a taxpayer or not under this Law, and every Permanent Establishment of a non-resident in the Kingdom that makes a payment to a non-resident from a source in the Kingdom, must withhold tax from the amount paid…"

As for the second case, where the Head Office of the company is located in the Kingdom, the Authority shall take into consideration all relevant facts and circumstances when determining the place of the company's Head Office. Pursuant to Ministerial Decision No. 2194 dated 12th Rajab 1432H, the term "Head Office" means the place where high-level policies are drawn up and where the principal administrative and commercial decisions necessary for the overall conduct of the company's business are taken. The place of the company's Head Office shall be deemed to be in the Kingdom when at least two of the following facts are met:

- The regular meetings of the Board of Directors, at which the principal policies and decisions relating to the management and conduct of the company's business are taken, are customarily held in the Kingdom.
- The senior executive decisions relating to the management of the company's functions, such as the decisions of the Chief Executive Officer and his deputies, are taken in the Kingdom.
- Most of the company's business activities, from which most of its revenues are derived, are carried out in the Kingdom.

As stated in the case of a natural person, it is only required that the person obligated to withhold be a resident, regardless of whether such person is subject to tax. For example, a company subject to Zakat collection in the Kingdom shall also be subject to the provisions of Tax Withholding with respect to amounts paid to non-residents, notwithstanding that it does not acquire the status of a "taxpayer" under the Income Tax Law. In addition, government departments, ministries, and other authorities shall be subject to the provisions of Tax Withholding on payments to non-residents(25) by virtue of being residents, notwithstanding that they do not acquire the status of a "taxpayer".

(25). Article 68 of the Law: "Every resident, whether or not a taxpayer under this Law, and a permanent establishment of a non-resident in the Kingdom that pays an amount to a non-resident from a source in the Kingdom, must withhold tax from the payments..."

2.1.2 Permanent Establishment[26]

The provisions of Tax Withholding shall also apply to a Permanent Establishment (located in the Kingdom) of a non-resident.

As previously stated, the obligation to withhold applies to all residents in the Kingdom, including a Permanent Establishment in the Kingdom of a non-resident. Tax must be withheld at the rate specified under the provisions governing Income Tax on amounts paid by a Permanent Establishment in the Kingdom to a non-resident[27].

Unless otherwise provided in Article 4 of the Law, a Permanent Establishment of a non-resident in the Kingdom consists of a fixed place through which the activity of the non-resident is carried on, wholly or partly, including activities carried on by the non-resident through an agent.

In accordance with the provisions governing Income Tax[28], the following cases shall constitute a Permanent Establishment:

a. Construction sites, assembly facilities, and supervisory activities connected therewith.
b. Installations and sites used for surveying natural resources, drilling equipment, vessels used for surveying natural resources, and supervisory activities connected therewith.
c. A fixed base from which a non-resident natural person carries on his activity.
d. A branch of a non-resident company licensed to carry on business in the Kingdom.

In addition, a place shall not constitute a Permanent Establishment of a non-resident in the Kingdom if it is used in the Kingdom solely for the following purposes:

a. Storage, display, or delivery of goods or merchandise belonging to the non-resident.
b. Maintaining a stock of goods or merchandise belonging to the non-resident for the purpose of processing by another person.
c. Purchasing goods or merchandise, or collecting information, solely for the benefit of the non-resident.
d. Carrying out other activities of a preparatory or auxiliary nature for the benefit of the non-resident.
e. Preparing contracts for signature in connection with loans, the supply of goods, or the provision of technical services.
f. Carrying on any combination of the activities referred to in items (1) to (5).

(26). Article 4 of the Law.

(27). Paragraph (c), Article 5 of the Law.

(28). Article 4 of the Law.

Example (1):

If the Head Office of a Permanent Establishment of a non-resident provides technical services to its Permanent Establishment in the Kingdom, which in turn provides such services to its clients in the Kingdom, shall the value of those services be subject to Tax Withholding?

If the Head Office abroad provides technical services to its branch in the Kingdom, which in turn provides them to its clients, the value of such services shall be subject to Tax Withholding, and shall be treated as deductible expenses for statutory purposes, provided that the conditions for deductible expenses are satisfied.

Example (2):

Are payments made to a non-resident who has a Permanent Establishment in the Kingdom subject to the provisions of Tax Withholding?

If the amounts paid to the non-resident are connected with the activities carried out by the Permanent Establishment in the Kingdom, such payments shall not be subject to Tax Withholding. The Permanent Establishment is treated as a registered taxpayer with the Authority; The Permanent Establishment must report such payments in its tax return in accordance with Paragraph (f) of Article 68 of the Income Tax Law.

2.2 Which Payments Are Subject to Tax Withholding?

Payments from the withholding agent to a non-resident from a source in the Kingdom fall within the scope of Tax Withholding. Accordingly, the following 2 elements must be taken into consideration:

- The relevant payments must be made by a resident person or a permanent establishment of a non-resident.
- The relevant payments must be from a source in the Kingdom.

2.2.1 Payments to a Non-Resident

In accordance with the provisions governing Income Tax, a non-resident is defined as any person who does not satisfy the conditions required to acquire resident status. Accordingly, any person who does not meet those conditions (see Section 1-1-2) shall automatically be considered a non-resident.

Where a non-resident carries on an activity in the Kingdom through a Permanent Establishment, and such Permanent Establishment receives payments that are directly connected with the activity carried on by the non-resident through it, such payments shall be considered made to a resident. the amount in question shall not be subject to Tax Withholding and must be declared as part of the income of the Permanent Establishment in its Income Tax return[29].

Similarly, where a person resident in the Kingdom carries on an activity outside the Kingdom through a Permanent Establishment, and such foreign Permanent Establishment receives payments from a resident in the Kingdom that are directly connected with the activity carried on by the non-resident through it, such payments shall be considered made to a non-resident and shall therefore be subject to Tax Withholding. However, the resident person may be entitled to deduct the tax withheld from the Income Tax due, as illustrated in Example (3) below.

Example (3):

If a Saudi capital company (the Parent Company), resident and subject to tax, owns a foreign branch in the United Kingdom, and the Parent Company concludes a contract with a resident company to provide technical services thereto, and the branch provides such services to the local company on behalf of the Parent Company, provided that the branch issues the invoice to the Parent Company and not to the resident company, shall tax be withheld on the amounts paid by the Parent Company to the branch? If yes, shall the Parent Company be entitled to deduct the tax withheld in its tax return?

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(29). Paragraph (f), Article 68 of the Law.

Since such services are rendered from a foreign entity to a local entity, they shall be subject to Tax Withholding regardless of the method and place of payment, whether the amounts are paid directly to the branch or through the Parent Company to which the service-providing branch belongs. As long as the branch's revenues are included within the tax base of the Parent Company, the Parent Company shall be entitled to deduct the tax withheld from the Income Tax due thereon.

The concept of "payments" shall be interpreted broadly to include any consideration, whether in cash or in kind, that is paid, including settlements, discounts, and book adjustments. In this sense, cash payments as well as in-kind payments that replace them or by any other means that results in the discharge of liability between the transacting parties and have the same economic effect shall be considered "payments" for Tax Withholding purposes. This shall also include payments in the form of credit balances, offset settlements, or other similar accounting arrangements or adjustments.

2.2.2 Payments from a Source in the Kingdom

As a fundamental condition, payments subject to Tax Withholding must arise from a source in the Kingdom.

Article 5 of the Income Tax Law and Article 5 of the Implementing Regulations sets out the cases in which an amount paid shall be considered to arise in the Kingdom. This Article establishes a general principle and then specifies particular categories of payments, which are explained and analyzed in this Guideline.

It is further noted that the place of payment of the income shall not be taken into account in determining its source[30]. In other words, the source of the income is the basis for determining whether payments made from a withholding Agent to a non-resident fall within the scope of the withholding provisions, regardless of the place where such amounts are paid - even if outside the Kingdom.

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(30). Subparagraph (b), Article 5 of the Law.

2.2.2.1 Main Categories of Income Sources under Article 5 of the Law

The table below sets out examples of cases in which income shall be considered to arise from a source in the Kingdom[31], as well as the treatment of each case in terms of the applicability of Tax Withholding.

Please note that the payments below shall be subject to Tax Withholding only when made from a withholding agent to a non-resident person. If made between 2 resident persons, they shall be subject to Income Tax (where the relevant residents qualify as "taxpayers" in accordance with Article 2 of the Law).

Income	Is it subject to Tax Withholding? Yes/No
Payments arising from activities carried out in the Kingdom	Yes, in respect of amounts paid to a person who does not have a permanent establishment in the Kingdom.
Income arising from the sale, assignment, or disposal of immovable property	No - and capital gains are subject to Income Tax
Income arising from the use of immovable property	Yes
Income arising from the disposal of shares	No - capital gains are subject to Income Tax
Income arising from the use of movable property in the Kingdom	Yes
Income arising from the sale or licensing of the use of industrial or intellectual property in the Kingdom	Yes
Royalty	Yes
Income arising from dividends	Yes
Directors' or management fees	Yes
Income arising from services rendered to a resident company	Yes

(31). Subparagraph (a), Article 5 of the Law.

Services rendered in the Kingdom and technical and consultancy services rendered by a non-resident to a resident, regardless of the place of performance	Yes
Income arising from the exploitation of natural resources	No - such income is subject to Income Tax
Income attributable to a Permanent Establishment of a non-resident	No - such income is subject to Income Tax

The following provides a brief explanation of the tax treatment in terms of Tax Withholding for each type of income:

1. Payments arising from activities carried out in the Kingdom

In accordance with the provisions governing Income Tax, income shall be considered to arise from a source in the Kingdom "if it arises from an activity carried out in the Kingdom"(32).

Income derived from an activity carried on in the Kingdom shall be considered income from a source in the Kingdom. An "activity" is defined as any commercial, professional, artisanal, or similar activity intended to generate profit, including the use of movable and immovable property(33).

If the non-resident's activity in the Kingdom results in the establishment of a Permanent Establishment in the Kingdom, the concept of source of income shall also include amounts paid by the Permanent Establishment (which is treated as a resident) to its Head Office (which is treated as a resident) to its Head Office (which is considered a non-resident).

2. Income arising from the disposal of immovable property

In accordance with the provisions governing Income Tax, income shall be considered to arise from a source in the Kingdom "if it arises from immovable property located in the Kingdom, including gains from the disposal of an interest in such immovable property, and from the disposal of shares or stock or partnership interests in a company whose assets consist primarily - directly or indirectly - of interests in immovable property in the Kingdom"(34).

(32). First subparagraph, Subparagraph (a), Article 5 of the Law.

(33). Article 1 of the Law.

(34). Subparagraph 2, Subparagraph (a), Article 5 of the Law.

Capital gains shall not be subject to Tax Withholding, as they are declared as part of income subject to Income Tax. However, income arising from the rental of immovable property located in the Kingdom, paid by a resident in the Kingdom to a non-resident, falls within the scope of Tax Withholding unless any of the non-resident's permanent establishment criteria are met.

3. Income arising from the disposal of shares

In accordance with the provisions governing Income Tax, income shall be considered to arise from a source in the Kingdom "if it arises from the disposal of shares or partnership interests in a resident company"[35].

However, this category of income shall not be subject to Tax Withholding, as the disposal of shares or partnership interests constitutes a form of capital gain, which is treated as ordinary income and is subject to Income Tax under the general rules, rather than under the withholding mechanism.

4. Income arising from the rental of movable property in the Kingdom

In accordance with the provisions governing Income Tax, income shall be considered to arise from a source in the Kingdom "if it arises from the rental of movable property used in the Kingdom"[36].

"Rental" may be defined as any payments made by a lessee for the use or right to use asset located in the Kingdom. Accordingly, rental shall be interpreted broadly to include any amount paid for the use of movable property, whether for operating lease, finance lease, or any other leasing arrangement; however, it does not include payments for natural resources or royalties.

Payments made from Withholding Agent to non-residents for the rental of movable property used in the Kingdom shall be subject to Tax Withholding unless any of the Permanent Establishment (PE) criteria for the non-resident are met.

5. Sale of industrial or intellectual property or licensing for use in the Kingdom

In accordance with the provisions governing Income Tax, income shall be considered to arise from a source in the Kingdom "if it arises from the sale or licensing for use of industrial or intellectual property in the Kingdom"[37].

(35). Subparagraph 3, Subparagraph (a), Article 5 of the Law.

(36). Subparagraph 4, Subparagraph (a), Article 5 of the Law.

(37). Subparagraph 5, Subparagraph (a), Article 5 of the Law.

2.2.2.2 Categories of income sources under Article 5 of the Implementing Regulations

1. Loan charges (income from debt claims)

In accordance with the provisions governing income tax: "Loan charges to a non-resident shall be considered derived from an activity sourced in the Kingdom in any of the following cases:

a. If the debt is secured by movable or immovable property located in the Kingdom.
b. If the borrower is a resident in the Kingdom.
c. If the loan is associated with an activity practiced in the Kingdom through a permanent establishment[38]."

Any resident and any permanent establishment of a non-resident must withhold tax from the amounts paid to a non-resident for the payment of loan charges or debt claims.

In addition, Paragraph 1 of Article 5 of the Implementing Regulations stipulates the determination of what is meant by loan charges. For example, the Article refers to loan charges and/or income from debt claims, but it includes in the definition any amounts realized against the use of money. This includes income realized from lending operations of any kind, whether secured or unsecured, and whether or not they granted the right to participate in the debtor's profits. It also includes income realized from government and non-government bonds. However, loan charges resulting from interbank deposits "Interbank" are excluded if the deposits remain with the resident borrowing bank for a maximum period of 90 days, with the requirement that the borrowing bank provides an annual statement certified by the Saudi Central Bank showing the names and addresses of the lending banks, the duration of the loan, and the amount of loan charges paid.

Example (4):

If a resident entity pays charges on a loan in which a group of banks - resident or non-resident - participates in granting, and the lead bank - resident or non-resident - collects charges on a loan from the resident entity and distributes them to the group of banks participating in granting the loan, are all the loan charges paid to the lead bank which pertain to all the banks participating in granting the loan subject to Tax Withholding, or is the tax withheld only on the charges from which the non-resident banks benefit, excluding the resident ones?

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(38). 50 Paragraph 1, Article 5 of the Implementing Regulations.

Loan charges paid to the lead bank are not subject to Tax Withholding if it is a resident, as it must in this case include these charges in its return and subject them to income tax or Zakat as the case may be. When this manager pays the loan charges to the non-resident banks, it must withhold tax on them. However, if the manager is a non-resident bank, the loan charges paid to it which pertain to all the banks participating in granting the loan are subject to Tax Withholding.

2. Insurance premiums/reinsurance

In accordance with the provisions governing income tax: "Insurance premiums and reinsurance premiums shall be considered derived from a source in the Kingdom in any of the following cases:

a. If the insured property is located in the Kingdom.
b. If the insurer is a resident in the Kingdom.
c. If the insurance is for activities or risks associated with an activity practiced in the Kingdom(39)."

Example (5):

If the head office purchases an insurance policy covering all its branches in the world and distributes the share of each branch on a fair distribution basis, is the share of the Saudi branch, upon payment of its share in the policy, subject to Tax Withholding at a rate of 5% on the basis that it is an insurance premium?

Yes, the share of the Saudi branch of the insurance policy paid to the head office is subject to Tax Withholding at a rate of 5% on the basis that it is an insurance premium, provided that it does not include any amounts against services performed by the head office for the branch.

3. Technical and advisory services

In accordance with the provisions governing income tax: "Income realized from technical and advisory services shall be considered realized from an activity sourced in the Kingdom in any of the following cases:

a. If the service is provided to a resident person in the Kingdom.
b. If the service is associated with an activity practiced in the Kingdom(40)."

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(39). Paragraph 2, Article 5 of the Implementing Regulations.

(40). Paragraph 3, Article 5 of the Implementing Regulations.

Income realized by a non-resident from technical and advisory services provided to a resident person in the Kingdom or for an activity practiced in the Kingdom (i.e., a permanent establishment) is considered derived from a source in the Kingdom; consequently, the amounts paid against the provision of these services are subject to Tax Withholding regardless of the place of performance of the service. In accordance with the provisions governing income tax, technical and advisory services are defined as technical, technological, and scientific services of any kind, including studies and research in various fields, survey works of a scientific, geological, or industrial nature, advisory or supervisory services, or engineering services of any kind, including related plans.[41]

In some cases, the provision of certain services requires the use of advanced technologies. It should be noted in this regard that the use of technology in providing the service does not in itself indicate whether the service is of a technical or technological nature; meaning that providing the service through technological means does not make such service technological or technical (such as providing online video game services).

Furthermore, in the context of payments related to software, services associated with software may be provided. Amounts paid against these services are treated as consideration for technical or technological services, and not as royalties, to the extent that they are considered supplementary to and separate from the software, and not part of it. Services of this type may include support, maintenance, development, update, and training services, and the like. However, this does not mean that amounts paid against the provision of all services are treated as paid against a technical service For example, the development of software and data used in video games requires special skills and knowledge. While these games may subsequently be used in a commercial activity that allows clients to benefit from the online gaming service against the payment of a certain amount, the special skills and knowledge used in development are not used upon providing the service to the clients (i.e., at the time of paying the amount for the service) and, therefore, this amount is not considered paid against technical services. Example 10 below addresses this case with further clarification.

(41). Paragraph 3, Article 63 of the Implementing Regulations.

Example (6):

If a non-resident advertising company outside the Kingdom provides a service to a Saudi company consisting of securing advertising hours on television stations broadcast via satellite, to promote the Saudi company's products outside the Kingdom, are the amounts paid by the Saudi company to the advertising company subject to Tax Withholding?

If the work of the advertising company abroad is limited to promoting the local company's products through satellite channels without having a role in the works of designing the advertising film or conducting any studies related to it, then the amounts paid to it against that are not considered derived from a source in the Kingdom pursuant to the Paragraph of Article 5 of the Law, because those amounts resulted from services performed entirely outside the Kingdom and therefore are not subject to Tax Withholding. However, if the promotion process is accompanied by works of the advertising company performed inside the Kingdom, then the entirety of the works performed by it in this case is subject to Tax Withholding at a rate of 5%.

If the contract stipulates that part of the consideration relates to the supply of goods while another part relates to the provision of technical services, then only the part related to the provision of technical or advisory services will be subject to Tax Withholding. Example 11 below illustrates this case.

Example (7):

A resident company in the Kingdom (Company X) has entered into a one-month contract with a non-resident company (Company Y), whereby Company Y will supply equipment and provide support and maintenance services to Company X. Is this transaction subject to tax?

As long as the execution period of the supply contract and the associated works is less than one month, and the non-resident company party to this contract does not have a fixed place in the Kingdom through which it carries out its business, wholly or partly, and has no licensed agent to conduct business in the Kingdom, such company shall not be deemed to have a Permanent Establishment in the Kingdom.

Consequently, the amounts paid to it for the associated works (technical and advisory services) shall be subject to Withholding Tax (WHT) at a rate of 5%, pursuant to the provisions of Article (68) of the Law and Article (63) of the Implementing Regulations. The value of the associated technical and advisory services does not need to be estimated as long as it is detailed and specified in the contract. However, if the value of the technical and advisory services is not specified, each work shall be estimated based on the total contract value.

4. Operations and Branch Operations

In accordance with the provisions governing income tax: "Income realized by a resident capital company in the Kingdom from its operations and the operations of its branches inside or outside the Kingdom."

This type of income does not fall within the scope of application of Tax Withholding, as the resident company is the recipient of the paid amounts. In the absence of an amount paid to a non-resident, the payments received by the resident company against its services are not covered by the provisions relating to Tax Withholding.

5. Movable and Immovable Property

In accordance with the provisions governing income tax: "Income realized from movable and immovable property attributable to or associated with activities in the Kingdom practiced through a resident person."

As mentioned previously, profits realized from the disposal of immovable property do not fall within the scope of application of Tax Withholding because they relate to capital gains and are subject to income tax in accordance with the general rules of tax. However, any other income realized from movable (or immovable) property, such as lease payments and finance lease, may be subject to Tax Withholding. For example, if a Saudi company paid a lease amount to a non-resident from a source in the Kingdom, the Saudi company must withhold tax from the paid amount pursuant to Article 68 of the Law Unless the non-resident meets any of the Permanent Establishment criteria.

Example (8):

If a resident company opens a branch for it abroad, and the branch registered abroad leases a property to practice its activity there, are the amounts paid by the resident company to its branch abroad for the purpose of paying the lease value subject to Tax Withholding on the basis that they are payments from the head office to the branch?

Such payments paid by the head office to its branch abroad were not paid to the branch against services but were rather paid to the non-resident entity by the branch against the lease of the property used for the branch's purposes. Sub-paragraph 2 of Paragraph (a) of Article 5 of the Law does not consider such payments received by the non-resident entity as sources of income arising from an activity in the Kingdom because they arose from immovable property located outside the Kingdom and are, therefore, not subject to Tax Withholding.

6. Sales of goods or commodities

In accordance with the provisions governing income tax, "income realized from sales of goods and commodities manufactured or produced inside the Kingdom."[42]

Income realized from the supply of goods does not fall within the scope of application of Tax Withholding.

7. Contracts for the supply of goods to the Kingdom

In accordance with the provisions governing income tax: "Contracts for the supply of goods to the Kingdom, including contracts for their shipment and insurance, shall not be considered to have arisen from an activity performed in the Kingdom unless the contracts include associated works such as internal transportation, installation, maintenance, training, and the like, practiced inside the Kingdom. In this case, only the associated works are considered to have arisen from an activity in the Kingdom."

(42). Paragraph 6, Article 5 of the Implementing Regulations.

Example (9):

Are the costs of shipping goods from the Kingdom to collection points outside it, paid to non-resident foreign shipping companies, subject to Tax Withholding? Furthermore, are the shipping costs from collection points outside the Kingdom to all parts of the world, paid to foreign companies, subject to Tax Withholding?

Shipping costs from the Kingdom to collection points outside it paid to non-resident shipping companies, are subject to Tax Withholding pursuant to the provisions of Paragraph (a-8) of Article 5 of the Law. As for shipping costs from collection points outside the Kingdom to all parts of the world paid to non-resident companies: if the shipping company is committed to delivering the parcels to their final delivery points abroad, the process of shipping the parcels in this case from collection points abroad to their final delivery points is considered an extension of the process of shipping them from the Kingdom to the external collection points. This means it represents a single, continuous process even if performed in parts and by more than one carrier, and the income realized therefrom is subject to Tax Withholding. However, if the shipping entity's obligation ends with delivering the shipment to the foreign port only, without an obligation to deliver it to the final client's premises, then the shipping process from the foreign port to the final client's premises in this case becomes an independent process, and the income realized therefrom is not considered resulting from an activity performed in the Kingdom; hence, it is not subject to Tax Withholding.

Example (10):

Do commercial vessels and oil and gas tankers flying the Saudi flag or the flag of GCC countries enjoy exemption from Tax Withholding on payments against sea freight?

The criterion is the person practicing the shipping activity. If the vessel is owned by resident Saudi companies in the Kingdom or operating for their account, the resident Saudi company must declare the income realized therefrom within its annual return; it must also pay the tax withheld on the amounts paid against leasing the vessel if the lessor is a non-resident entity. However, if the vessel is owned by companies that are non-resident in the Kingdom or operating for their account, it is subject to Tax Withholding on payments against shipping from the Kingdom's ports.

3. Tax Withholding Rates*

Tax is withheld on payments subject to Tax Withholding provisions in accordance with the rates specified for each type of income. Therefore, the relevant type of income must be identified in order to determine the rate at which the tax is withheld.

Management fees	20%
Royalties	15%
Dividends	5%
Rent	5%
Loan charges (income from debt claims)	5%
Insurance/reinsurance	5%
Technical and consulting services*	5%
Payments for air tickets or air or sea freight	5%
International telecommunications services	15%
Land transport within the Kingdom	15%
Any other payments	15%

Management fees

Management fees are defined as amounts paid against management service contracts. This includes, for example, hotel management contracts and ship management contracts. For further information, please refer to Paragraph 6 of Section 2.2.2.1 of this Guideline.

Land transport within the Kingdom

Land transport payments within the Kingdom are any amounts paid against land transport (by car, bus, and the like) within the Kingdom. For further information, please refer to Paragraph 2 of Section 2.2.2.2 and Paragraph 8 of Section 2.2.2.1 of this Guideline.

* The following are not subject to Tax Withholding:
- Amounts paid for a local telecommunications company's use of an international telecommunications company's network to pass, transfer, or connect calls made by a subscriber in the Kingdom when requesting any international connection.
- Amounts paid to international telecommunications companies for international roaming services.

4. Exemptions and Reductions

Dividends in companies operating in the field of natural gas, oil, or hydrocarbon investment are exempt from Tax Withholding in accordance with the provisions regulating income tax, which state the following: "Dividends in companies operating in the field of natural gas, oil, or hydrocarbon investment are not subject to Tax Withholding."(44)

Please note that estimated profits are not subject to Tax Withholding except in the following cases:

a. Evidence exists proving that the taxpayer has paid the estimated profits to a non-resident entity (the head office, the parent company, the owners of the company), or that they were offset or settled with such entities.
b. The taxpayer files his tax return on an estimated basis, in which case the profits are subject to Tax Withholding within the limit of the estimated profit percentage stipulated in the Law and its Regulations, or stated in the taxpayer's return, or agreed upon with the taxpayer prior to filing his return, whichever is greater.
c. The emergence of revenues or contracts not declared by the taxpayer for which he was assessed on an estimated basis.
d. The taxpayer's failure to maintain accounting books and records.
e. The taxpayer's failure to file his tax return.
f. The absence of bank accounts for the taxpayer within the Kingdom.
g. The case under audit is included within cases of tax evasion or avoidance.
h. The taxpayer's consent to subject the estimated profits pursuant to a written approval signed by him.
i. Other than that, the provisions regulating income tax do not stipulate any other exemptions or reductions regarding Tax Withholding.

Concerned persons have the right to request the application of any exemption or reduction of Tax Withholding rates pursuant to an international agreement to prevent double taxation to which the Kingdom is a party, as set forth in the following Section.

(44). Paragraph 6, Article 63 of the Regulations.

5. Provisions

Monthly withholding statement and tax payment

The person obligated to withhold tax must register with the Authority and submit a monthly withholding statement, including any amounts paid for Tax Withholding in the relevant month. If there are no amounts subject to Tax Withholding, the person is not obligated to submit the monthly statement. The person obligated to withhold tax must submit the monthly statement and pay the withheld amount (if any) within the first 10 days of the month following the month of payment to the beneficiary. For example, if a resident pays a royalty to a non-resident on 20th January, the person obligated to withhold tax must submit the withholding statement and pay the withheld tax no later than 10th February, and must also provide the beneficiary with a certificate showing the amount paid to him and the value of the tax withheld from him.

In addition to the monthly withholding statement and the payment of withheld tax to the Authority, the person obligated to withhold tax is also committed to submitting an annual statement no later than 120 days from the end of their fiscal year, except for partnerships, which must submit the form within 60 days from the end of their fiscal year.

The annual Tax Withholding statement can be considered a mere summary of all monthly withholding statements submitted throughout the year; therefore, the person obligated to withhold tax does not have to pay any amounts for Tax Withholding upon submitting the annual withholding statement. It is important to note in this regard that, in contrast to monthly withholding statements, the submission of the annual withholding statement is mandatory even if the value declared in the statement for withheld tax throughout the fiscal year equals zero, provided that withholding cases existed for which he was obligated during the year.

Interaction between Tax Withholding and income tax

As previously mentioned in Paragraph 1 of this Guideline, the objective of Tax Withholding provisions is to ensure that non-residents who derive income from a source in the Kingdom are properly subject to tax. Accordingly, Tax Withholding is essentially considered a dynamic advance payment of the income tax due on income derived from a source in the Kingdom and earned by a taxable non-resident person. Pursuant to the provisions regulating income tax, payments to resident taxpayers or permanent establishments in the Kingdom are not subject to Tax Withholding. This is because these payments are already included in the tax base of the resident person or the permanent establishment. The primary difference between the two taxes is that Tax Withholding is imposed on the gross amount, whereas income tax is calculated on the net profit.

However, if tax is withheld from an amount paid to a taxpayer that has been calculated within his tax base, the withheld tax shall be deducted from the tax due from the taxpayer calculated based on his tax base, in accordance with Paragraph G of Article 68 of the Law.

Record keeping and maintenance

The person obligated to withhold tax must provide the Authority at the end of the tax year with the names, addresses, and registration numbers of the beneficiaries from whose paid amounts tax was withheld during that tax year, to the extent that such information is available to the person obligated to withhold tax. The Authority may request additional information and may compel the person obligated to withhold tax to provide it.

The person obligated to withhold tax must maintain records that are not only limited to proving compliance with the provisions of the Law, but are also sufficient to prove the accuracy of the withheld tax. These records must include, at a minimum, the name and address of the beneficiary, the type of payments, their value, and the amount withheld. These records shall be maintained for a period of no less than 10 years after payment, and the record-keeping period may be extended if the matter is still under study by the Authority or any other competent authority. In such a case, the records shall be maintained until the study is completed or a final decision is issued regarding its subject matter.

Penalties

Paragraph A of Article 77 of the Law imposes a delay penalty on the person obligated to withhold tax at a rate of 1% of the unpaid tax for every 30 days of delay. The Paragraph explicitly states that this includes any delay in paying the tax required to be withheld. Furthermore, Sub-paragraph E of Paragraph 1 of Article 68 of the Implementing Regulations adds 1% of the unpaid tax for every 30 days of delay in the event of a delay in paying the tax required to be withheld after 10 days of the month following the month in which the payment was made to the beneficiary, in accordance with the Tax Withholding provisions pursuant to Article 68 of the Law. Consequently, both delay in payment and failure to make full payment are subject to a penalty of 1%.

In addition to penalties related to delay in payment, based on Article 69 of the Implementing Regulations, the fraud penalty provisions stipulated in Paragraph B of Article 77 of the Law also apply to the person obligated to withhold tax in the event of concealing information or providing incorrect information, and the responsibility for its payment lies with the entity obligated to withhold. This may lead to the imposition of a financial penalty of 25% of the tax difference resulting from the person obligated to withhold tax or his certified accountant providing untruthful information or fraud with the intent of tax evasion, particularly in the following cases:

a. Providing untruthful books, records, accounts, or documents that do not reflect the correct position of the taxpayer.
b. Providing the statement on the basis of the non-existence of books or records while including information that contradicts what his books and records show.
c. Providing forged or artificial invoices or documents, or altering purchase or sales invoices or other documents with the intent of reducing profits or increasing losses.
d. Failure to disclose one or more types of activities subject to tax.
e. Destroying or concealing books, records, or documents before the Authority conducts the audit.

5.1. Definition of Intellectual Property and Royalty

Intellectual Property

The provisions governing Income Tax do not provide specific definitions for industrial property and intellectual property. The following are commonly accepted concepts:

a. Intellectual property rights are defined as the rights enjoyed by individuals as a result of human thought or creativity. Typically, intellectual property grants the creator an exclusive right to use the product of their creativity for a specific period of time. Intellectual property may include inventions, literary and artistic works, designs, symbols, names, and images used in commerce. There are various types of intellectual property, such as copyright and industrial property. Copyright is the legal term used to describe the rights that creators have over their literary and artistic works. Such works include books, music, paintings, sculptures, films, computer programs, databases, advertisements, maps, and technical drawings.

b. Industrial property is a subset of intellectual property in its broader sense and includes patents, trademarks, industrial designs, models, service marks, trade names, and geographical indications.

Royalty

The provisions governing Income Tax define "royalty"[(45)] as payments received for the use of, or the right to use, intellectual property, including but not limited to copyrights, patents, designs, industrial secrets, trademarks, trade names, know-how, trade secrets, business secrets, goodwill, and payments received for information relating to industrial, commercial, or scientific expertise, or for granting the right to exploit natural or mineral resources.

The method of payment shall not affect the definition of royalty. The definition is not limited to regular payments; it also includes irregular payments, one-time payments, and payments made under any other arrangement.

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(45). Paragraph 6, Article 63 of the Regulations.

Examples

Payments for the use of, or the right to use, industrial or intellectual property, or a scientific, artistic, or literary work covered by copyright, a patented invention, or natural resources, expressed as a percentage of the revenues generated from the use of such property or as an amount payable per unit produced, are considered royalties. For example, if a company in the Kingdom pays an amount to a non-resident for the right to use its trademark, such royalty payments shall be subject to Tax Withholding.

If a person authors a book, song, play, or paints a painting, the resulting work shall be considered the intellectual property of that person. Similarly, when an inventor obtains a patent for their invention, the inventor becomes the holder of the intellectual property rights in the work they created. Typically, authors, songwriters, composers, playwrights, and inventors do not possess sufficient financial resources to fully exploit the commercial potential of their creations. Consequently, they often rely on commercial companies specialized in marketing intellectual property.

When a commercial company obtains the right to market a creative product, the creator of that product typically receives compensation in the form of a royalty.

The agreement on royalties forms part of the contract negotiated between the creator and the company seeking to exploit the creative product. Royalties may take a simple form, such as a fixed amount received by the creator for each copy sold by the company of the book or CD containing the creative work. For example, a novelist may grant permission to a publisher to publish her new book. The royalty a playwright receives for their play may be a percentage of the revenues earned each time the play is performed. Similarly, the royalty an inventor receives may be a fixed amount per unit sold of their invention or a percentage of the profits derived from the invention. In some cases, royalties may be a combination of both. Since royalties are one of the terms negotiated in the contract, the type and amount of the royalty shall be determined based on the agreement reached by the parties involved. Royalty agreements are also used in the mining and gas sectors, and these agreements share many features with the term in its original sense.

5.2. Distinction between Knowledge Transfer and Services

The Authority recognizes that there are ongoing discussions regarding the scope of the term "royalties," as some types of payments may also fall under other classifications. For example, it may be difficult to distinguish whether an amount paid constitutes a royalty for knowledge transfer or a fee for services rendered.

The concept of knowledge, or know-how, is not precisely defined but generally refers to practical knowledge related to how to accomplish a specific task. Knowledge is intangible by nature and may take the form of drawings, designs, assemblies, or similar representations. In the context of intellectual property, knowledge is generally considered an element of technology transfer, and the rights related to it may exist independently or be associated with rights in other types of intellectual property, such as patents, trademarks, and copyrights, and is recognized as an economic asset.

Knowledge can also be understood as all information related to industrial, commercial, or scientific experience, whether patentable or not, that is necessary for the industrial reproduction of a product. In other words, know-how represents what a manufacturer, for instance, cannot acquire merely by examining the product or by knowing the underlying technology.

Payments for the transfer of knowledge or information related to industrial, commercial, or scientific expertise fall within the scope of royalties. As long as a transaction involves the communication or transfer of knowledge to another person in a manner that enables that person to use it or benefit from the right to use it, the transaction shall, to that extent, fall within the definition of a royalty.

A transaction is considered to involve knowledge transfer if it meets the following three conditions:

1. It involves information relating to computer programming technologies and is provided under terms that prohibit disclosure without authorization.
2. It is specifically contracted between the parties.
3. It is considered property protected as a trade secret.

In practice, a transaction shall only be described as involving knowledge transfer if it is limited to the transfer of proprietary skills or techniques related to computer programming.

Income	Classification of Payments
Payments for the use of, or the right to use, patents, trademarks, confidential processes and assemblies, goodwill, franchise rights, knowledge transfer, and similar rights	Royalty
Payments for the rental of industrial, commercial, or scientific equipment	Not a royalty[46]
Payments for roaming services	Not a royalty
Payments for obtaining exclusive distribution rights for a product or service in a specific territory	Not a royalty
Payments for design implementation	Not a royalty
Monthly payments for maintenance	Not a royalty
Payments for consultancy services involving technical knowledge and expertise	Not a royalty
Payments for the right to exploit natural or mineral resources	Royalty
Payments for copyrights in films or television programs	Royalty
Payments for purchasing advertising space	Not a royalty
Payments for the right to use a database in the beneficiary's business for resale as part of the beneficiary's product	Royalty
One-time payments for the right to reproduce a song	Royalty
Payments from a branch to the parent company for the use of intellectual property rights	Royalty
Payments for customizable software requiring the transfer of exploitation rights, such as modification rights or rights to use open-source code	Royalty
Payments as subscription fees to access technical or scientific information or databases	Royalty
Payments as subscription fees for access to a magazine or newspaper	Not a royalty
Payments for software for personal or recreational use	Not a royalty
Payments for support and development services not bundled with the relevant software	Not a royalty

(46). Article 1 of the Law.

6. Dividends or Management and Directors' Fees

According to the provisions regulating the Income Tax, income is considered sourced in the Kingdom if it arises from "dividends or management and directors' fees paid by a resident company."[47]

Income derived from dividends may be subject to Tax Withholding in accordance with the provisions of the Income Tax Law. Profits distributed by Saudi companies to their non-resident shareholders are subject to Tax Withholding, as these companies are resident in the Kingdom and make payments to non-residents from a source within the Kingdom.

A. Dividends

Dividends refer to distributions from a resident company to a non-resident shareholder, including any profits remitted from a permanent establishment to related parties[48], with the following considerations:

- **a.** Dividends distributed by companies engaged in natural gas, oil, or hydrocarbon investment are not subject to Tax Withholding.
- **b.** Partial or complete liquidation of the company that exceeds paid-up capital shall be treated as a distribution.
- **c.** The company's liability to income tax does not prevent the imposition of Tax Withholding on the distributed amounts.

Dividends also include in-kind distributions and other distributions treated as dividends for tax purposes, provided their purpose is to distribute profits to shareholders, such as profits distributed from the use of bonds or other securities.

(47). Subparagraph 6 of Paragraph (a), Article 5 of the Law.

(48). Paragraph 6, Article 63 of the Implementing Regulations.

Estimated profits are subject to Tax Withholding only in the following cases:

a. There is evidence that the taxpayer has paid estimated profits to a non-resident entity (head office, parent company, or company owners) or offset or settled them with such entities.
b. The taxpayer has submitted an estimated tax return, in which case the profits are subject to Tax Withholding up to the percentage of estimated profits provided in the Law and its Implementing Regulations, or as declared by the taxpayer, or as agreed with the taxpayer before submitting the return, whichever is greater.
c. Revenues or contracts not declared by the taxpayer have emerged and have been accounted for on an estimated basis.
d. Failure of the taxpayer to maintain accounting books and records.
e. Failure of the taxpayer to submit their tax return.
f. Absence of bank accounts of the taxpayer in the Kingdom.
g. The case under audit falls within instances of tax evasion or avoidance.
h. The taxpayer's consent to subject estimated profits to Tax Withholding through a written approval signed by them.

B. Management Fees

Management fees paid by a resident company to a non-resident company from a source within the Kingdom are subject to Tax Withholding.

Management fees are defined as payments for management service contracts, such as hotel management, ship management, and similar contracts.[(49)]

To be classified as management fees, the payments must be for specific services actually rendered, and these services must add commercial value to the company's operations. Usually, the agreement between the parties regarding management fees specifies the services to be provided, the fee amount, and the responsibilities of each party. Management fees may include:

a. Management of a commercial facility and the activities conducted therein.
b. Information technology systems and human resources management services.
c. Housing management services.

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(49). Paragraph 2, Article 63 of the Implementing Regulations.

d. Building and real estate management services.

e. Ship management services.

f. Management fees paid by a resident in the Kingdom to a non-resident are subject to Tax Withholding in accordance with the provisions of the Income Tax Law.[50]

g. Fixed and floating hotel management services.

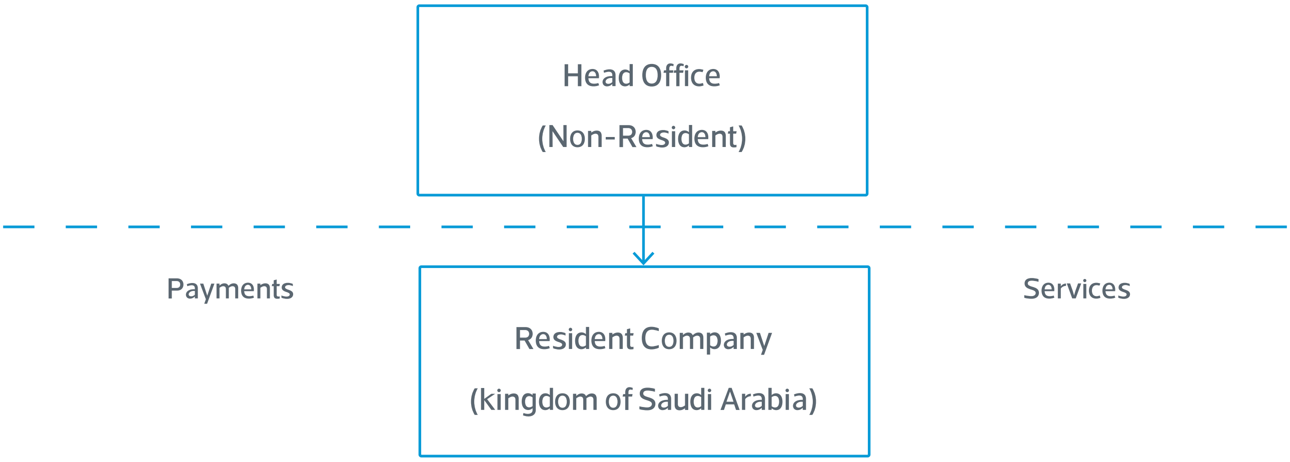
C. Board of Directors' Fees

The provisions of the Income Tax Law do not provide a specific definition for "board of directors' fees." Generally, this term refers to fees paid by a company, including full-time fees, meeting attendance allowances, and similar payments, for services rendered by board members.

7. Services Provided to a Resident Company

According to the provisions of the Income Tax Law, income is considered to be sourced in the Kingdom if it consists of "amounts paid by a resident company to its head office or to a related company."[51]

This type of income falls within the scope of Tax Withholding regardless of the location where the services are rendered.



(51). Subparagraph 7 of Paragraph (A), Article 5 of the Law.

8. Services Rendered in the Kingdom

According to the provisions of the Income Tax Law, income is considered sourced in the Kingdom if it consists of "amounts paid by a resident for services performed wholly or partially in the Kingdom."[52]

Income derived from services rendered wholly or partially in the Kingdom is subject to Tax Withholding. Services are considered performed in the Kingdom in any of the following cases:[53]

a. If the work, or part of it, required to provide the service is carried out in the Kingdom, even if performed remotely. Physical presence of the service provider in the Kingdom is not required.

b. If the work is performed on board an aircraft or vessel operated for a person conducting activity in the Kingdom.

Example (11):

Do amounts paid to visiting expatriates, such as doctors or others performing temporary work in the Kingdom, fall under Tax Withholding?

Yes, amounts earned by visiting expatriates performing temporary work in the Kingdom are subject to income tax at 20% or Tax Withholding at 15%, depending on their residency status, unless such amounts arise from an employment relationship governed by applicable labor laws with all employment conditions met.

Supply contracts associated with works or services:

If the activity performed by a non-resident only involves delivering goods to the Kingdom, the transaction is not subject to Tax Withholding, as it is merely a supply of goods without additional services. However, if the non-resident provides services such as installation, maintenance, or technical services to a resident client in addition to supplying goods, the contract should clearly separate the consideration for goods from the consideration for services. The total income arising from contracts executed wholly or partially in the Kingdom is taxable in the Kingdom. This explicitly includes service contracts performed wholly or partially in the Kingdom.

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(52). Subparagraph 8 of Paragraph (A), Article 5 of the Law.

(53). Article 6 of the Implementing Regulations.

In all cases, technical & consultative services are always subject to Tax Withholding in the Kingdom, regardless of the place of their performance (meaning whether they are performed inside or outside the Kingdom) as long as they are provided to a resident person in the Kingdom. The diagram below illustrates how the contract is treated in terms of Tax Withholding if it includes a part related to the supply of goods and another part related to the provision of services.

Does the non-resident have a deemed permanent establishment in the Kingdom? (whether under the provisions governing income tax or under an effective tax treaty?)

Yes → Payments to the non-resident are not subject to withholding tax because the income of the permanent establishment of the non-resident in the Kingdom falls within the scope of income tax.

NO ↓

Does the contract relate merely to the supply of goods (i.e., without the provision of additional services)?

Yes → Payments to the non-resident are not subject to withholding tax because the supply of goods in itself does not fall within the scope of withholding tax.

NO ↓

Will the services be performed exclusively outside the Kingdom?

Yes → Services may not be subject to withholding tax - in the event they are not technical or advisory services.

NO ↓

Are the services performed entirely outside the Kingdom of an advisory or technical nature?

Yes → Technical or advisory services are subject to withholding tax regardless of the place in which they are performed.

NO ↓

Does the contract include services performed entirely or partially in the Kingdom?

Yes → Services provided are subject to withholding tax.

9. Exploitation of natural resources

In accordance with the provisions governing income tax, income is considered to be derived from a source in the Kingdom if it consists of "amounts against the exploitation of a natural resource in the Kingdom". [54]

These amounts may include royalty income and are subject to Tax Withholding if paid to a non-resident person.

Dividends in companies operating in the field of natural gas investment, oil, or hydrocarbons are not subject to Tax Withholding

10. Permanent establishment

In accordance with the provisions governing income tax, income is considered to be derived from a source in the Kingdom: "if the income is attributable to a permanent establishment of a non-resident located in the Kingdom, including income from sales in the Kingdom of goods of the same or similar type as those sold by the non-resident through the permanent establishment, and income arising from providing services or performing another activity in the Kingdom of the same or similar nature to the activity performed by the non-resident through the permanent establishment".[55]

This type of income does not fall within the scope of application of Tax Withholding, because these amounts are treated as amounts paid to a resident in the Kingdom. Therefore, in the absence of payments to a non-resident, this type of income is not subject to the provisions of Tax Withholding.

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(54). Sub-paragraph 9 of Paragraph (a), Article 5 of the Law.

(55). Sub-paragraph 10 of Paragraph (a), Article 5 of the Law.

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