

الهيئة العامة للزكاة والدخل
General Authority of Zakat & Tax



COMPILED RESOLUTIONS AND CIRCULARS REGARDING WITHHOLDING TAX PURSUANT TO THE INCOME TAX LAW & ITS IMPLEMENTING REGULATIONS

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CIRCULAR NO. (3227/19) DATED 06/09/1431H (23/05/2010G)

RE: AGREEMENTS FOR THE AVOIDANCE OF DOUBLE TAXATION & THE PREVENTION OF TAX EVASION WITH RESPECT TO TAXES ON INCOME TO WHICH THE KINGDOM IS A SIGNATORY ("DTAT")

FIRST: with respect to circular No. 19/ 3227 dated 09/06/1431H (23/05/2010G) on DTATs; DTATs determine the withholding tax rates on payments made by a resident of the Kingdom to a beneficiary who is a resident of the other contracting state ("Other State"). Such payments include dividends, royalties and income from debt claims (interest). In certain cases, the withholding tax rates under DTATs may be lower than the default rates stated in the income tax legislation. Upon a DTAT's entry into force, the General Authority of Zakat and Tax ("GAZT" or the "Authority") receives queries regarding the applicable tax rates under the DTAT, and eligibility to claim a refund from the Authority in the event tax is withheld at the higher statutory higher rate than that afforded under the DTAT.

In an effort to uniform the Authority's practices with respect to the implementation of DTATs, it is the Authority's position that where a payment is made from a resident of the Kingdom to a nonresident subject to withholding tax pursuant to the income tax legislation and the relevant, the following procedures shall be applied

1. The resident payor obligated to withhold tax from payments to a nonresident (the "Withholding Payor") shall deduct the tax due on such payment and remit it to the Authority in accordance with with the provisions and rates stated in the income tax law.
2. Where a payee [beneficiary of a payment] ("Payee") is entitled to an exemption or reduction of the statutory withholding tax rate under the applicable DTAT, in order to claim a refund of the withheld tax paid to the Authority, the Withholding Payor must submit a letter to the Authority requesting the refund along with the following attachments:

- (a) A letter from the Payee who is a resident in the Kingdom's counterparty to the



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DTAT requesting a refund of the excess tax amounts paid.

(b) A certificate issued from the tax administration of the Other State in which the Payee is a resident confirming that the Payee is a resident therein as per Article (4) of the DTAT and that the payment received is subject to tax in the Other State.

(c) A copy of the withholding tax return relating to the tax paid to the Authority and a receipt evidencing remittance of the tax to the Authority.

3. Upon receiving of the above-mentioned items and verifying that the nonresident satisfies the requirements of the DTAT and is thus eligible to obtain the benefit afforded under the DTAT, the Authority shall refund the tax paid in excess in accordance with the procedures set forth in Circular No. 3324/9 dated 16/06/1427H (12/07/2006G).

CIRCULAR NO. 3256/9 DATED 28/06/1426H (03/08/2005G)

RE: WITHHOLDING TAX ON CERTAIN TELECOMMUNICATION SERVICES

Second: Circular No. 3256/9 dated 28/06/1426H (03/08/2005G) that refers to Article (68)(a) of the income tax law and which states in subparagraph (a)(5) that the withholding tax rate for payments made against international telecommunication services is 5%, and that also refers to Article 63(5) of the implementing regulations to the income tax law.

An inquiry was received about whether tax should be withheld from the following payments made by residents to international [nonresident] telecommunications companies and payments to other nonresidents:

1. Payments made in respect of international phone services, telex, and intermediary services. Such services arise from a local telecommunication company's use of an international telecommunication company's network to connect, transmit or deliver calls made by a KSA resident subscriber when placing a requesting to make an international call.

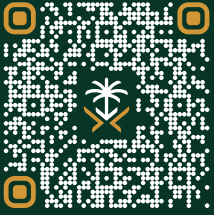


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2. Payments made to international organizations that own satellites against the use of satellite bandwidth or international circuits in such satellites for the purpose of providing the local telecommunication company subscribers with international telecommunication services.
3. Payments made to nonresident companies in respect of leasing capacities in international cables and internet for the purpose of using such capacities in various communication services.
4. Payments made to international telecommunication companies against international roaming services -a service arising from the use of a foreign phone network when a subscriber of a Saudi telecom service provider uses a Saudi-issued mobile sim when abroad for the duration of their stay outside of the Kingdom-.

Studies were conducted to examine such types of services in light of the income tax legislation and the relevant practices of other countries and presented to the Minister of Finance, his excellency the Minister of Finance determined (via letter no. 1/4260 dated 22/04/1426H (30/05/2005G)) that the relevant provisions of the income tax legislation clearly indicate that payments for the services stated in paragraphs 1, 2 & 3 above are subject to withholding tax at a rate of 5%. However, payments made in respect of the services stated in paragraph 4 above -related to the international roaming services- are not subject to withholding tax. This is because the activities carried out in rendering such service is wholly carried out outside the Kingdom; this the payment received by the nonresident in respect of that service cannot be considered to be derived from a source in the Kingdom. Further, in the case of roaming services the role of local telecommunication companies is limited to that of an intermediary that invoices subscribers and collects payment for and on behalf of the nonresident foreign telecommunication company. The Minister directed the tax authority to apply the treatments highlighted in the aforementioned letter to all similar cases.

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