Doing Business in the Kingdom of Saudi Arabia

A tax and legal guide

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Welcome to this guide

The Kingdom of Saudi Arabia ("KSA") is the world's largest oil producer and exporter, and controls the world's second largest hydrocarbon reserves. It is the only Arab country to be part of the G-20 major economies, The Organization of Islamic Cooperation and OPEC.

In addition to its global standing there are substantial business opportunities stemming from a population with relatively high income levels.

This guide is intended to provide an introduction to the taxation and legal aspects of doing business in KSA, particularly from the perspective of the items an inbound investor will have in mind.
We hope you find this guide useful.

Dean Kern
Middle East – Tax and Legal Services Leader
September 2015

Country introduction

Overview

- The Kingdom of Saudi Arabia ("KSA") is the largest Arab state and was founded in 1932.
- KSA has a total population of 28.7 million, of which 20 million are KSA nationals and circa 8 million are foreigners.
- KSA possesses approximately 20% of the world's proven petroleum reserves. It ranks as the largest exporter of petroleum and plays a leading role in OPEC. The petroleum sector accounts for roughly 80% of budget revenues, 45% of GDP and 90% of export earnings.
- The government continues to pursue economic reform, diversification and promoting foreign investment, particularly since KSA's accession to the World Trade Organization ("WTO") in December 2005.
- The currency of KSA is the Saudi Arabian Riyal (SAR).

Arabic is the first language in KSA, with English widely spoken and used in business. Any correspondence with the Government bodies, however, should be in Arabic e.g. business agreements and contracts.

Incentives for foreign investors

In order to ease the procedures for foreign entities setting up in KSA, the Government established the Saudi Arabian General Investment Authority ("SAGIA"). SAGIA was established to assist foreign investors in the approval process for operating in KSA, obtain a licence and labour visas and conduct other business affairs under one umbrella.

SAGIA offers a number of incentives in order to attract investors to the country among them are:
- 100% foreign ownership of property and companies in certain industries
- Lower minimum capital requirements
- No restriction on repatriation of capital
- The ability for foreign investors to sponsor foreign employees
- Tax incentives if the company is registered in certain "economic cities" located in the less developed provinces of KSA.

Foreign Currency Control

There are virtually no currency exchange restrictions in KSA. Payments abroad may be made freely and there are no taxes or subsidies on purchases or sales of foreign currency. Officially, the Saudi Riyal (SAR) is pegged to the International Monetary Fund's Special Drawing Rights. Since 1981, however, the Saudi Arabian Monetary Authority has instead chosen to peg the SAR to the US dollar.

Legal and regulatory framework

KSA is an absolute monarchy, and has no legally binding written constitution. However, in 1992, the Basic Law of KSA was adopted by royal decree. The Basic Law outlines the responsibilities and processes of the governing institutions but is insufficiently specific to be considered a constitution.

Accordingly, the legal system of KSA is based on Shari'a, Islamic law derived from the Qu'ran and the Sunnah (the traditions of the Islamic prophet Muhammad). Its interpretation by judges in KSA is influenced by the medieval texts of the Islamic jurisprudence. Uniquely in the Muslim world, Shari'a has been adopted by KSA in an uncodified form. This, and the lack of judicial precedent, has resulted in uncertainty in the scope and content of the country's laws. The government therefore announced its intention to codify Shari'a in 2010, but this is yet to be implemented. Shari'a has also been supplemented by regulations issued by royal decree covering modern issues such as intellectual property and corporate law. Nevertheless, Shari'a remains the primary source of law, especially in areas such as criminal, family, commercial and corporate law and the Qu'ran and the Sunnah are declared to be the country's constitution.

Royal decrees (nizam) are the other main source of law but are referred to as regulations rather than laws to indicate that they are subordinate to the Shari'a. Royal decrees supplement Shari'a in areas such as labour, commercial and corporate law. Additionally, other forms of regulations (lai'hah) include Royal Orders, Council of Ministers Resolutions, Ministerial Resolutions and, Ministerial Circulars, and are similarly subordinate to Shari'a. Any Western commercial laws or institutions are adapted and interpreted from the standpoint of Shari'a law.

Additionally, traditional tribal law and custom remain significant. For example, judges will enforce tribal customs pertaining to marriage and divorce.

Establishment of business

Introduction

The formation and operation of entities is regulated by the Companies Law which was issued under a Royal Decree in 1965, as amended in 1967, 1982 and 1985 by subsequent Royal Decrees.

To establish any type of entity structure, foreign investors are required to obtain an Investment License from SAGIA under the Foreign Investment Regulations. For certain forms of business, foreign investors may need to obtain a pre-approval from the concerned Ministry before receiving the SAGIA license.

In general, KSA Companies Law generally allows for eight forms of business entity structures which are as follows:

- General Partnerships
- Limited partnerships
- Joint Ventures
- Corporations
- Partnerships Limited by Shares
- Limited Liability Partnerships (LLCs)
- Variable Capital Companies
- Cooperative Companies (Joint Stock Company)

Foreign investors can operate in KSA through the following structures:

- Commercial agencies
- Limited liability companies
- Joint stock companies
- Foreign office branch
- Technical and scientific offices (Representative Offices)

The most common forms for the foreign investors are the limited liability companies (LLC) and foreign office branch while other forms are less common. Foreign investors may also operate through representative offices and agencies.

The ability for foreign investors to undertake business activities in KSA are limited in the absence of a formal presence in KSA. More importantly, in the absence of a formal presence, such activities may potentially be in violation of the so-called "Anti-Fronting" Law, unless local agents or distributors are appointed.

Commercial Agency arrangements

Non-KSA producers of goods are allowed to appoint local KSA agents as their representatives to sell their products and/or services in KSA. Whether they act as distributors, sales agencies, or otherwise, the Saudi Arabian commercial agencies law governs the arrangement.

The law requires a direct relationship between the business agent or distributor of products and the originator company abroad. Non-Saudis are prohibited from engaging in import and export businesses and commercial agencies in KSA.

Further, the Saudi individuals and companies are not allowed to work as commercial agents unless they are registered in the registry designed for this purpose at Ministry of Commerce and Industry (MOCI) and they should apply for the registration during the first three months as from the date of implementation of the agreement. Any agency contract should generally follow the standard format approved by the MOCI, however this is not mandatory.

Limited Liability Company ("LLC")

An LLC, also referred to as a "Saudi Limited Liability Company" is a private entity formed of two or more partners (shareholders) who are liable for company debts to the extent of their contributed capital. A maximum of 50 partners are allowed in such a company. The capital of a limited liability company shall not be less than SAR500,000. The capital shall be divided into shares of equal value, which may not be represented by negotiable warrants.

SAGIA may increase the minimum capital requirement from foreign investors depending on the industry they intend to engage in KSA (e.g. SAR 1 million for manufacturing business, SAR 20 million for Trading business).

Depending on the industry, foreign investors can wholly own this type of company and may have one or more managers (directors) with no requirement for any to be a KSA national. For example, foreign investors can wholly own a services company, however, foreign ownership in a Trading company would be limited to 75% of shares.

Shareholders' agreements are permitted and enforceable only if the terms are in compliance with Shari'a and Companies Law. There must also be a supervisory board of at least three members if the company has more than 20 shareholders. Share transfers should be approved by SAGIA and MOCI and must be offered to the other partners before third parties.

Joint Stock Company ("JSC")

A joint stock company is owned by five or more individuals or entities. Capital is apportioned into negotiable shares of an equal amount, and shareholders are liable only to the extent of the value of their holdings. The minimum capital requirement is SAR 2 million or no less than SAR 10 million if its shares are offered for public subscription. The par value of each share cannot be less than SAR 10, and, upon incorporation, its issued paid-up capital must be no less than one-half of the authorized capital. Prospective joint stock companies involving businesses such as minerals exploitation, administration of public utilities, banking and finance require authorization by Royal Decree prior to incorporation.

The management is composed of a board of directors. This board, appointed by the shareholders, must have a minimum of three members. Directors must own at least 200 shares of the joint stock company.

Branches

Foreign companies can set up a branch office in KSA which may carry out trading activities. The parent company will assume full liability for all activity undertaken by the branch office. A minimum capital of SAR 500,000 is required.

A license to establish a branch office is issued by SAGIA. Temporary branches, which do not require any minimum capital, can be established for the execution of a project for a government agency. The branch office is subject to the Foreign Investment Law and the regulatory authority of MOCI.

Technical and Scientific Office ("TSSO" or "Rep Office")

A foreign-owned entity may obtain a «technical and scientific services office» license from MOCI. This office may provide technical and scientific support to the parent company›s KSA distributor(s), conduct market surveys, and undertake product research. Such service offices are, however, prohibited from directly or indirectly engaging in commercial activities in KSA.

Minimum Capital Requirements

It is worth noting that the Foreign Investment Law permits foreign investors to operate in all economic sectors except for the activities in the negative list (discussed later).

The minimum capital required by foreign investors investing in the industrial sector is SAR 1,000,000 for all entity types, except for the technical and scientific office where no minimum capital is required.

For the services sector, the minimum capital requirement is SAR 500,000. In the case of limited liability companies which operate in trading sector, the minimum capital is SAR 20,000,000 and requires a KSA local partner(s) to hold at least 25% of the company's shares (i.e. maximum foreign ownership in a Trading company is limited to 75%).

Registration Procedures for Limited Liability Companies

To incorporate a 100% foreign owned LLC in KSA, an investment license and a commercial registration ("CR") should be obtained from SAGIA and MOCI, respectively.

Documentation requirements from SAGIA are as follows:

- Completed Investment License Application Form.
- The Company board resolution stating their desire to invest in KSA enclosing the partners' names, capital, each partner's contribution percentage, activity and general manager appointment. Such a resolution should be attested by the concerned authorities and KSA Embassy in the foreign investor's country.
- Proof of track record or experience in the industry the company wishes to engage in (e.g. audited financial statements of the foreign investor for the past 3 years).
- Copies of the participating companies' CRs attested by the concerned authorities and KSA Embassy in the foreign investor's country.
- A copy of the enterprise articles of incorporation attested by the concerned authorities and KSA Embassy in the foreign investor's country.
- Copy of the passport of the general manager.
- Where the activity requires the approval of the concerned authority including financial services, insurance, information, tourism, health or education, the applicant shall provide the approval of the concerned ministry.
- A copy of trade name booking in case the company desires to obtain trade name.
- Authorization to a lawyer's office approved to finalize all the procedures. This authorization shall be attested by the Saudi embassy or by the investor in the case where it enters KSA conforming to commercial visa.

SAGIA New Requirements and incentives

On 24 October 2014, SAGIA started implementing a new program which measures the impact of foreign investments to KSA economy.

The firms which demonstrate the following may be granted special incentives and privileges to help promote and motivate excellence and sustainability.

- Transfer and localization of technological know how.
- Diversification of KSA's economy.
- Increasing of exports and decreasing of imports.
- Developing KSA's human resources.
- Reinforcing economic competitiveness and its products in both the domestic and foreign markets.
- Balanced development among the different regions of KSA.

According to this program, firms will be divided into the following categories: Strategic; Distinctive; Advanced; Limited; Innovative and Promising, and Contracting. The categories are based on specific objective quantitative and qualitative indicators. Further details on each of the categories are shown below:

Strategic

Firms committed to deepening the value chain across targeted sectors, such as: transportation, healthcare, education and technology that are bringing in associated investments.

Distinctive

Firms employing at least 10 KSA nationals, with monthly wages of a minimum SR10,000 each, and are within the "platinum" category prescribed by the Ministry of Labour; firms with a labour force that exceeds 100 employees and a Saudization rate of over 50%; and finally, the top 10 firms in different sector based on their capital.

Advanced

Publically listed companies or international consulting firms with no less than 25 employees, in which the Saudization range is within the "platinum" category; contracting companies with more than 300 employees with monthly average wages of not less than SR5,000 per employee, and in the "green" category prescribed by the Ministry of Labour.

Limited

Contracting companies with less than 300 employees with monthly average wages less than SR5,000 per employee; individual establishments, firms working in the restaurant industry, and technology companies that are not internationally classified and industrial workshops.

Innovative and Promising

Innovative firms which have registered patents.

Non-Classified Contracting Entities

Contracting companies without classification, will be granted a temporary license to help them establish a sustainable foundation and obtain categorization from MOMRA, the Ministry of Municipal and Rural Affairs.

SAGIA has also recently introduced the "Fast Track" process for a certain category of foreign investors that intend to establish business and presence in KSA. SAGIA has stated that as part of the fast track process, the foreign investor should be able to obtain the required investment license from SAGIA within five business days from the date of application.

In order to qualify for the Fast Track process the parameters considered by SAGIA include:

- A multinational company;
- A publicly listed company whose shares are traded on an internationally recognized stock exchange;
- A company that manufactures products that are certified by independent international agencies, and employ authorized or licensed process technology;
- Small and medium size enterprises which are classified as innovative enterprises;
- A company proposing to establish regional centers in Saudi Arabia;
- A construction company classified 'first class' in its country, or which has implemented a project with a value of not less than SR 500,000,000 and have manpower of not less than 2,000 employees and total assets of not less than SR 50 million; or

The aim of SAGIA's Fast Track Service is to facilitate foreign direct investment into target sectors in the Saudi economy, namely: information technology and communications; downstream petrochemical and mining; industrial manufacturing;healthcare and life science; transportation and infrastructure; human capital development; and energy and petrochemicals.

Businesses prohibited for foreign investments

Prohibited investment activities by foreigners in KSA fall within two categories: the Industrial Sector and the Service Sector.

Industrial Sector

- Oil exploration, drilling and production. Except services related to mining sector listed at (CPC 5115+883) in the International Industrial classification codes.
- Manufacturing of military equipment, devices and uniforms.
- Manufacturing of civilian explosives.

Service Sector

- Catering to military sectors.
- Security and detective services.
- Real estate investment in Makkah and Madina.
- Tourist orientation and guidance services related to Hajj and Umrah.
- Recruitment and employment services including local recruitment offices.
- Real estate brokerage.
- Printing and publishing. Except certain related activities determined by Foreign Investment Law.
- Commission agents internationally classified at (CPC 621).
- Audio-visual and media services.
- Land transportation services, excluding the inter-city passenger transport by trains.
- Services provided by midwives, nurses, physical therapy services and quasi-doctoral services internationally classified at (CPC 93191).
- Fisheries.

Incorporation process

For foreign investors to establish an entity in KSA, they are required to register with a number of KSA governmental authorities (set out below), after obtaining the required investment license from SAGIA:

- MoCI in order to obtain a commercial registration ("CR"); after opening a bank account with a local bank in KSA to deposit the Company's share capital.
- Chamber of Commerce.
- The Labour office.
- The Municipality.
- The General Organization for Social Insurance ("GOSI").
- The Department of Zakat and Income Tax ("DZIT").

Please note that all documents to be presented to any governmental authority in KSA must be translated into Arabic.

Opening of the Saudi Stock Market ("Tadawul") to foreign investors

The Saudi Arabian Capital Market Authority ("CMA") announced during April of 2014 that as of June 15, 2015, Qualified Foreign Investors ("QFI") will be allowed to invest in shares listed on the Saudi Stock Exchange "Tadawul". QFIs are defined by the CMA regulations as financial institutions such as banks, brokerages, fund managers and insurance companies with at least $5 billion in assets under management. The CMA reserves the right to lower that limit to $3 billion.

A single foreign investor will be able to own no more than 5% of any listed firm, while all foreign institutions combined can own no more than 20%.

According to the CMA, QFIs can own no more than 10 percent of KSA's stock market by value.

Foreign institutions, including central banks, will be required to apply for permissions or licenses from the CMA to be allowed to invest on the Tadawul.

Anti-Fronting Law

The KSA Anti-Concealment Law (also known as the Anti-Fronting Law) prohibits non-KSA investors from engaging or investing in business activities in KSA without an appropriate license.

Any KSA national that enables a non-KSA investor to engage or invest in business activities from which that non-KSA investor is prohibited, either by means of that KSA national's name, license, commercial registration or any other means, commits an act of concealment.

Any act of concealment is subject to incarceration up to two years and/or a fine up to SR 1 million. After completion of the applicable sentence and payment of the applicable fine. A non-KSA investor convicted for engaging or investing in unlicensed business activities will be required to settle

any outstanding taxes and other liabilities, and will be deported from KSA. Such individuals will be banned from returning to KSA in order to undertake any business activities or work.

As follows from the Anti-Fronting Law, foreign investors that wish to undertake business activities or otherwise invest in KSA are required to obtain an appropriate foreign investment license.

Key considerations

The most common legal forms used by foreign investors to establish a business presence in KSA are either an LLC or a Branch. This decision is driven by the nature of business operations that the foreign investor intends to conduct in KSA, whether such operations would be performed with local KSA third party investors, as well as tax considerations.

It is important that the business license obtained from SAGIA accurately reflects the intended and actual business activities, in order to avoid legal complications.

Different from other jurisdictions "shelf companies" are not allowed in KSA, specifically for foreign investors.

Due to the scrutiny applied by SAGIA the process of obtaining an investment license can be somewhat burdensome and time consuming. This makes establishing a presence in KSA significantly longer compared to other countries and jurisdictions.

Taxation

Tax Overview

There are two main types of taxes in KSA, Zakat which is based on Islamic concepts, and income tax. Zakat is applicable to the ownership in a KSA company by nationals of KSA or other GCC countries (United Arab Emirates, Oman, Qatar, Kuwait, and Bahrain). Zakat is assessed at 2.5% compared to a higher amount for income tax.

Zakat is applicable on the KSA/GCC ownership of the higher of net income or net wealth in a KSA company. Whereas income tax is applicable on the non-GCC ownership of a KSA company's net income.

The government authority which administers and collects zakat and tax liabilities is the Department of Zakat and Income Tax (DZIT) which is a department within the Saudi Ministry of Finance.

It is worth noting the KSA tax law was completely re-written, as of 30 July 2004, for all taxpayers whose financial year starts after this effective date. The withholding tax regulations took effect as of 30 July 2004, irrespective of when the financial year started for the taxpayer.

Who is subject to income tax in KSA?

Persons subject to tax in KSA are as follows:

- A resident capital company to the extent of its non-KSA shareholding.
- A resident non-KSA natural person who conducts business activities in KSA.
- A non-resident person who carries out activities in KSA through a permanent establishment ("PE").
- A non-resident person who has other income subject to tax from sources within KSA.
- A person engaged in natural gas investment fields.
- A person engaged in oil and other hydrocarbon production.

Only non-KSA investors (and KSA branches of any foreign company) are liable for income tax in KSA. In most cases, KSA and GCC nationals, who are considered to be Saudi citizens for KSA tax purposes, are liable for Zakat. Where a company is owned by both KSA and non-KSA investors, the portion of taxable income attributable to the non-KSA interest is subject to income tax, and the KSA share goes into the basis on which Zakat is assessed.

Tax rates and fiscal years

The income tax rate on taxable net income allocated to foreign shareholders is generally a flat rate of 20%. The corporate income tax rate would differ for companies involved in the oil and natural gas business, these rates are as follows:

- 30% for companies engaged in natural gas investment (where the rate of internal return exceeds 8%, graduated tax rates up to 85% will be applied).
- 85% for those engaged in oil and hydrocarbon production.

- The taxable year of a taxpayer for all activities is the state's fiscal year (being the Hijri year which is based on the lunar calendar).

- A taxpayer's fiscal year shall start as of the date of its commercial registration or license unless evidences prove otherwise.

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

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

Tax holidays and incentives

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

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

Among the incentives offered for certain qualifying companies include allowing tax deductibility for additional training and salary costs.

More deductions are granted if investment capital for any project exceeds SAR 1 million and if more than five employees of KSA nationality have jobs of a technical or administrative nature with contracts of at least one year.

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

Tax Administration

Tax Return Filing

Tax filings are based on the company's fiscal-year. Returns are due to be filed with the Department of Zakat and Income Tax (DZIT) and tax due must be paid within 120 days after the taxpayer's year end. The system is one of self-assessment.

Applicable tax penalties

Item	Penalty as per Tax Law
Non-registration	From SAR 1,000 to SAR 10,000
Failure to file the tax return	From 5% to 25% of the unpaid tax
Delay payment	1% of the unpaid tax for each 30 days of delay
Evasion	25% of the unpaid tax

Advance tax payments

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

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

Tax calculation

To determine the taxable income for any business, the net income (book income) should be adjusted by adding disallowable expenses and deducting allowable expenses. Disallowable expenses include, but are not limited to, salaries paid to owners, partners or shareholders; social security contributions paid abroad, all kinds of provisions (e.g. end of service, provision for bad debt, etc.), fines and penalties, board of directors' fees, entertainment and corporate tax and withholding tax.

Disallowable amounts also include depreciation in excess of the DZIT allowable amount.

Allowable expenses which could be deducted from the net book income include the utilized provisions, exempted income (capital gain realized from disposal of securities traded in Stock Market in KSA) under certain conditions and depreciation differences.

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

There is currently no concept of taxation on a consolidated basis, or group relief, for related companies in KSA, other than for wholly owned subsidiaries of KSA/Gulf Cooperation Council owned companies that are subject to Zakat only. However, an entity operating in KSA that has undertaken more than one project under the same commercial registration is required to consolidate the results of such projects into the financial statements of that entity and subject them to taxation as a single operation.

Withholding tax

Service payments made from a resident party or a permanent establishment ("PE") of a non-resident party to a non-resident are subject to withholding taxes ("WHT").

The rates vary between 5% (e.g. dividend, interest, etc.), 15% (Royalty, related party payments, etc.) and 20% (e.g. management fees) based on the type of service and whether the beneficiary is a related party. The applicable WHT rate may be reduced where a relevant double tax treaty is in force.

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

Capital gains tax

Capital gains realised by a non-resident investor from the sale of shares in a KSA resident company will be subject to capital gains tax in KSA at the rate of 20%. This rate can be reduced or completely relieved under certain double tax treaties.

Transfer pricing

The KSA tax law does not have detailed transfer pricing regulations, however, it does explicitly state that transactions between related parties should be conducted based upon the arm's-length principle. The DZIT has been drafting guidelines on the application of the transfer pricing rules. Taxpayers should expect more scrutiny of their pricing with related parties in the future.

The tax law provides the DZIT with the power to re-allocate revenues and expenses in transactions between related parties to reflect the returns that would have resulted if the parties were independent or unrelated.

Sales Tax/VAT

There is currently no value-added tax system in KSA. Nor is there any form of stamp, transfer, excise, sales, turnover, production, real estate, or property taxation except in so far as they may fall within the scope of Zakat, which is applicable only to KSA nationals.

However, given the need for diversifying government revenues, a potential introduction of a VAT system has been considered by the GCC countries. There has been no official communication or announcement confirming a VAT implementation in the near future, although the recent fluctuations in oil prices may constitute an extra push to seek a more imminent implementation.

Custom duties

KSA is part of the GCC Customs Union, which was established in 2003 to remove customs and trade barriers among the GCC member states. The implementation of the GCC Customs Union is still in progress.

The GCC member states apply a Common Customs Law and a Unified Customs Tariff with a standard customs duty rate of 5% of goods' Cost, Insurance and Freight value. However, there are certain items that are subject to a 12% duty rate, and certain commodities which are produced locally are subject to custom duties at 20%, in order to protect local production.

KSA law prohibits importation of the following products: weapons, alcohol, narcotics, pork, pornographic materials, distillery equipment, and certain sculptures.

The GCC Customs Law does not levy export customs duties.

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

The GCC Customs Law sets out the general legal framework for customs regulations and procedures; however, the practical application of the Law is subject to the interpretation of the local customs authorities in the GCC member states. This has sometimes led to discrepancies and contradicting practices among the member states which eventually affected businesses.

The Saudi Standards, Metrology and Quality Organisation (SASO) has implemented a Conformity Assessment Programme (CAP) covering goods destined for KSA. CAP requires quality checks and inspections on companies looking to export to KSA. Proof should be provided in the form of a Certificate of Conformity. MOCI provides details of import procedures.

Municipal or property tax

Currently, there are no municipal or property taxes levied in KSA.

However, the KSA tax authority recently introduced a new legislation imposing certain Zakat charges on KSA nationals owning land property that is not used (so called "white land"). It should be noted that the application of this new regime is not yet clear in practice.

Stamp taxes

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

Personal income tax

There are no personal income tax regulations in KSA. However, social security contributions apply. Social insurance tax is paid monthly based on the monthly basic salary plus housing with an upper limit of SAR 45,000 and is computed at 2% for non-KSA employees and paid by the employer. For KSA employees, the rate is 22% and is paid by both the employees (10%) and the employer (12%).

Key considerations

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

Non-resident foreign investors providing services to resident KSA companies are subject to WHT at rates of either 5%, 15%, or 20%. Reduction of the WHT rate or total relief can be achieved under the provisions of certain double tax treaties.

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

To date, KSA does not have an indirect tax regime (e.g. VAT, sales tax, stamp duty, real-estate tax, municipal tax, etc.), however, the introduction of a VAT regime may occur in the future.

Audit and accounting

Audit requirements

Companies are required to have annual independent audits. Joint stock companies and limited liability partnerships must appoint at least one independent auditor, and banks are required to have two independent joint auditors. Other companies, however, such as partnerships are not required to do so which will have an impact from Zakat/tax prospective. The appointed auditor must be a certified public accountant member of the Saudi Organization for Certified Public Accountants "SOCPA" and licensed within KSA from MOCI. Such licences are only given to KSA nationals.

Accounts have to be prepared in local GAAP, in the Arabic language and denominated in the Saudi Riyals. However, for banks and other International companies especially in the Oil and Gas industry, IFRS may be used as the local GAAP may not always include comprehensive technical guidance.

Accounting books and records

MOCI requires that all companies and establishments (with capital that exceeds SR100,000) should keep the following books of account locally in Arabic in KSA:

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

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

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

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

Accounting standards

Companies registered in KSA are required to comply with the accounting standards issued by the Saudi Organization of Certified Public Accountants ("SOCPA"). In case no SOCPA accounting standard exists, International Financial Reporting Standards (IFRS) are to be used as a guide.

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

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

Filing with MOCI

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

Only open joint stock companies (available for public) accounts are disclosed. Other companies accounts are only disclosed for authorities and other concerned parties.

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

Additional legal considerations

Human Resources and Employment Law

All labour and work affairs in KSA are regulated by the Work and Workmen Regulations ("Labour law") which was issued by a Royal Decree in 2005.

Contract requirements

Work contracts should be in two copies, one for the employer and the other for the employee. It should state the employer's name, address and location, employee's name, nationality, ID number, agreed salary, nature and place of work.

In case of hiring a non-KSA employee, the employee's contract should be in writing specifying the work duration. According to the labour law and regulations, the employer will be liable to pay the fees of immigration, residence visa (iqama), work permit together with their renewal and any fines resulting from their delay, re-entry visas and the final departure tickets.

Minimum wage and working hours

There is no minimum wage standard in the KSA Labour Law. The Labour Regulations state that an employee may not actually work for:

- More than eight hours a day if the employer uses the daily work criterion; or
- More than forty-eight hours a week if he uses the weekly criterion.

It is important to note that during the month of Ramadan, the actual working hours for Muslims shall be reduced to a maximum of six hours a day or thirty-six hours a week.

Wage protection system

The Saudi Ministry of Labour has recently issued a new "Wage Protection System" (WPS) whereby the Qualified Employers (who meet the number of employee criteria) are mandated to transfer the salaries of their employees through Saudi banks.

Immigration and visas

To travel to KSA, a valid visa should be obtained by all except:

- Nationals of Bahrain, Kuwait, Oman, Qatar and United Arab Emirates.
- Transit passengers continuing their journey by the same or first connecting aircraft within 18 hours, provided they hold valid onward or return documentation, do not leave the airport and make no further landings in KSA (except nationals of Burkina Faso, Mali, Niger and Nigeria who always require a transit visa).
- Holders of re-entry permits and 'Landing Permits' issued by the KSA Ministry of Foreign Affairs.

Business visit visas are generally used for consultants and other personnel who are required to be in KSA for short-term visits, etc. The person entering on a Visit visa is not eligible to employment and salary in KSA; however, such persons often work in KSA on short-term basis. Usually, they are single entry & exit visas, but in some cases also multiple entry and exit visas can be issued.

Such visas are issued for a duration ranging from fourteen days to six months.

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

- Application form to Consulate (or Consular section at Embassy).
- Letter of invitation from KSA host company endorsed by a KSA Chamber of Commerce (original and copy).
- Letter from company or organisation in own country.

Obtaining work visas for expatriates can be a burdensome process and should be considered early in any business planning.

Unions

Workers unions and collective bargaining are currently prohibited in KSA.

Termination of employment

Pursuant to the KSA Labour Law, any employment contract shall be terminated in the following cases:

- If both parties agree to terminate it, provided that the employee's consent be in writing.
- If the term specified in the contract expires, unless the contract has been explicitly renewed in accordance with the provisions of this Law in which case it shall remain in force until the expiry of its term.
- At the discretion of either party in indefinite term contracts.
- The employee attains the age of retirement, which is sixty years for males and fifty five years for females, unless the two parties agree on continuing employment after this age. The retirement age may be reduced in cases of early retirement as provided for in the Employer's organisational regulations. If it is a fixed-term employment contract which extends beyond the retirement age, it shall terminate at the end of its term.
- Force majeure.

Anti-dumping regulations

If a product is sold on an export market for a price that is lower than the price charged in the seller's domestic market, the seller risks an accusation of "dumping". This is regarded as an unfair trade practice.

If a person is suspected of dumping, that person may be investigated by the Anti-dumping Committee and will be subject to anti-dumping duties for five years.

Competition rules

In order to control the competition environment in KSA, a Royal Decree was issued in 2004 to approve and launch the Competition Law.

The Competition Law aims to protect and encourage the fair competition in the KSA markets. It also prevents the monopoly and merger and acquisition transactions that affect the markets.

Breaking the competition law may lead to pay a fine of maximum SAR 5 million .

Anti-bribery & corruption

Anti-Bribery and Corruption ('ABC') is actively enforced through legislation and other initiatives in KSA. Examples of KSA's commitment to international best practice include signing up to the UN Convention Against Corruption (UNCAC) and creating an anti-corruption commission (the National Anti-Corruption Commission or 'Nazaha') to combat administrative and financial corruption. The KSA Anti-Money Laundering Law requires companies to implement internal controls, systems and policies. Records must be kept for 10 years.

Trade facilitation

There are certain levies and/or taxes on imports to promote the purchase of Saudi equivalents, but KSA has joined several World Trade Organisation free trade agreements and is a member of the GCC Customs Union.

Kingdom of Saudi Arabia key tax indicators

Tax indicators	Resident	Non-resident *
Fiscal year end	Calendar year, unless approval for alternate year end is obtained.	Calendar year, unless approval for alternate year end is obtained.
Companies		
Income tax	20% corporate tax on profits attributable to the non-GCC shareholders in a Saudi company. Income from natural gas investments and from oil and hydrocarbon production is taxed at 30% - 85%. Zakat at 2,5% is levied on the higher of adjusted net profits or adjusted net asset value attributable to the company's Saudi or GCC shareholders.	Not applicable, unless the foreign company has a permanent establishment in Saudi (refer to comments opposite)
Tax on capital gains	Gains on non-listed shares are subject to Zakat or 20% corporate tax. Gains on listed shares are exempt from corporate tax but are subject to Zakat.	20%, unless the shares are traded on the Saudi stock exchange (subject to certain conditions).
General sales tax	Not applicable	Not applicable
Value added tax	Not applicable	Not applicable
Individuals		
Individual marginal tax rate (max)	No personal income tax. Saudi individuals pay Zakat in their personal capacity, at their own discretion.	Not applicable
Basis of taxation	Not applicable	Not applicable
Withholding tax		
Dividends	Not applicable	5%
Interest	Not applicable	5%
Royalties	Not applicable	15%
Management service fees	Not applicable	20%
Customs	Standard rate is 5%. Other rates (0%, 12%, 15%, 20%, 100%) apply depending on the nature of the goods.	
Exchange controls	No	No
Thin capitalisation	There are no specific thin capitalisation rules. Arm's length interest is tax deductible, subject to the lower of (i) the actual interest expense or (ii) 50% of EBIT.	
Transfer pricing	Whilst Saudi Arabia has no specific transfer pricing rules, the Saudi tax law does require payments between related parties to be in accordance with the arm's length principle. Formal transfer pricing rules are expected to be introduced shortly.	
Double tax treaties	Austria, Bangladesh, Belarus, China, France, Greece, India, Ireland, Italy, Japan, Luxembourg, Malaysia, Malta, Netherlands, Pakistan, Poland, Romania, Russia, Singapore, South Africa, South Korea, Spain, Syria, Tunisia, Turkey, Ukraine, United Kingdom, Uzbekistan, Vietnam	
Treaties awaiting conclusion or ratification	Azerbaijan, Egypt, Ethiopia, Hungary, Kazakhstan	

** Not resident in KSA and no permanent establishment in KSA.*

About PwC Middle East

Our services

PwC helps organisations and individuals create the value they're looking for. We're a network of firms in 157 countries with more than 195,000 people who are committed to delivering quality in assurance, tax and advisory services. Established in the Middle East for 40 years, PwC has firms in Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, the Palestinian territories, Qatar, Saudi Arabia and the United Arab Emirates, with over 3,000 people.
We provide a comprehensive set of services covering:

- Assurance and Audit.
- Consulting
- Deals
- Family business
- Tax and Legal

Tax and Legal

The Middle East Tax & Legal practice offers expertise in jurisdictions across the region with over 500 staff. We can provide assistance with the following areas:

- Indirect taxation (VAT and customs) and fiscal reform
- International taxation
- Global mobility and Human Resource Services
- Legal
- Mergers and Acquisitions
- Services for U.S. citizens and Green Card holders
- Tax and Zakat advisory
- Tax compliance, management and accounting services
- Transfer pricing

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