TAX ALERT
March 11, 2025

Double Tax Avoidance Agreement between Qatar and Saudi Arabia Ratified

Overview

On January 15, 2025, Decree No. (1) of 2025 was issued, ratifying the Double Taxation Avoidance Agreement (DTAA) between the State of Qatar and the Kingdom of Saudi Arabia. The agreement, signed on May 30, 2024, in Doha, aims to prevent double taxation on income and combat tax evasion. The official publication of the agreement in Qatar's Official Gazette took place on February 13, 2025.

The agreement had previously received approval from key bodies:

- **October 2, 2024: Approved by the Saudi Shura Council**
- **January 15, 2025: Ratified by Qatar under Decree Law No. 1 of 2025**
- **February 13, 2025: Published in Qatar's Official Gazette**

This alert provides an analysis of the treaty's key provisions, its tax implications. It also outlines the significant milestones leading to the treaty's formal implementation.

1. Milestones in the Implementation of the KSA-Qatar DTT

The implementation of a Double Tax Treaty follows a structured process, including negotiation, signing, ratification, and entry into force. Below are the key milestones of the KSA-Qatar DTT:

a) Negotiation Phase: Initial discussions between KSA and Qatar focused on fostering economic cooperation and reducing tax barriers. Both nations assessed the need for a tax treaty to encourage foreign direct investment and ensure fair taxation.

b) Signing of the Agreement: The treaty was formally signed by representatives of both governments, signaling a commitment to avoid double taxation and tax evasion.

c) Ratification by Both Countries: The treaty was presented to the legislative bodies in KSA and Qatar for approval .Each country conducted internal procedures, including parliamentary reviews, before ratifying the agreement.

e) Exchange of Instruments of Ratification: After both countries ratified the treaty, they exchanged diplomatic notes to confirm the completion of legal procedures.

f) Entry into Force: The treaty officially entered into force on the date specified in the agreement, typically from the beginning of the following tax year.

g) Implementation and Compliance: Tax authorities in KSA (ZATCA) and Qatar (GTA) issued guidelines on applying the treaty provisions. Businesses and individuals were advised on tax obligations under the new framework.

2. Key Points:

Key highlights of the agreement between KSA and Qatar

The agreement outlines several key provisions. Among these, the following articles are particularly relevant:

1. Taxes covered

The taxes covered by this treaty are:

The taxes which would be eligible for beneficial provisions of the tax treaty form a KSA Tax Law perspective are as follows:

- Zakat
- Income Tax

The taxes which would be eligible for beneficial provisions of the tax treaty form a Qatar Tax Law perspective is:

- Income Tax,

The treaty also extends to any new taxes or taxes of a similar nature that may be introduced by either of the contracting states after the agreement's signing. This includes taxes that replace or complement the current taxes. Furthermore, each country is obligated to notify the other about any significant changes made to their tax system

2. Resident

A tax resident is a person who is required to pay taxes in a country due to their residence or where their business or personal activities are based. The treaty defines who qualifies as a tax resident in each country. Residency is based on:

- Incorporation or registration of a company.
- Effective management and control of a business.
- Habitual abode for individuals.
- If a person or entity qualifies as a resident in both countries, a tie-breaker rule applies to determine their tax residency.

3. Permanent Establishment (PE)

Definition: A PE is defined as a fixed location of business where an enterprise conducts its activities, either fully or partially. A business is considered to have a (PE) in the other country <u>if it has</u>:

- A fixed place of business, such as an office, factory, or workshop.
- Construction Sites or Projects for assembly, installation, or related supervisory activities, lasting over 183 days.
- Provision of Services, including consulting, by project employees or workers for more than 183 days within any 12-month period.
- Exploration/Exploitation of Natural Resources in a contracting state for over 30 days within a 12-month period.

Exclusions from PE:

- Storage, Display, or Delivery of goods owned by the enterprise.
- Inventory for Storage, Display, or Delivery (owned by the enterprise).
- Inventory Processing by another enterprise.
- Fixed Place for Purchasing goods or gathering information.
- Fixed Place for Another Enterprise's Activities.

Note: The provisions **do not apply** to a fixed place of business used by an enterprise if it is **closely linked** to another enterprise conducting activities at the same location in the same state.

4. Business Profit

Business profits are only taxable in the country of residence of the enterprise unless a PE exists in the other country. If a PE is established, only profits attributable to the PE are taxed in that country. The article also outlines that the PE can deduct expenses incurred for its activities, but not for nominal payments to the head office or other offices for things like intellectual property, commissions, management fees, or debt-related income. Additionally, payments such as royalties, fees, and commissions for services provided to the PE are not deductible when calculating its profits.

5. Dividends

The treaty specifies a reduced WHT rate on dividends paid by a company resident in one contracting state to a resident of the other. There may be exemptions or reduced rates for government entities, central banks, or substantial corporate shareholders.

WHT rate: The WHT rate on dividends is 5%, provided the recipient is the beneficial owner of the dividends.

Definition: The term "**dividends**" refers to income derived from:
- ✓ Shares, Beneficiary Shares, Mining Shares, Founders' Shares, and other rights that do not represent debt claims.
- ✓ Profit-sharing rights and income from other participation rights subject to the same tax treatment as income from shares, according to the tax regulations of the country in which the distributing company is resident.

6. Interest

Interest payments between residents of Qatar and KSA are subject to a reduced WHT rate, typically lower than domestic rates.

WHT Rate: The WHT rate on interest payments is **5%**, applicable if the recipient is the beneficial owner of the interest. Certain exemptions may apply, such as payments to government entities or central banks.

Definition: The term **"interest"** is defined as income from **debt claims** of any kind, including:

- ✓ Debt claims, whether or not secured by collateral.
- ✓ Debt claims, whether or not they grant the right to share in the debtor's profits

Specifically, **interest** includes:

- Income from government bonds, bonds, and debt securities.
- Bonuses and rewards associated with such bonds or debt securities.

Exclusion: Penalties for late payments are not considered interest for the purposes of this article.

7. Royalties

Royalties arising in one contracting state and paid to a resident of the other contracting state may be taxable in the country where the royalties originate.

WHT Rate: The WHT rate on royalties is **8%**, applicable to payments for intellectual property, trademarks, patents, and technical services. Some exemptions may apply depending on the nature of the payer and recipient.

Definition: Royalties includes payments for the use or the right to use intellectual property such as copyrights, patents, trademarks, designs, trade secrets, and industrial or scientific equipment, as well as payments for industrial, commercial, or scientific expertise. Be aware that such payments may be taxable in the country where they originate.

8. Capital Gains

The sale of real estate (immovable property) are taxable in the country where the property is located, even if the seller is a resident of the other country. Additionally, profits from the sale of movable property related to a PE in the other country may also be taxed there.

Shares/Partnership Interests: Profits from the sale of shares or similar interests may be taxed in the other country if, in the 365 days prior to the sale, more than 50% of their value comes from immovable property located in that country.

Gains from Sale of Shares: Gains from the sale of shares in a company resident in the other state are taxable in that state if the seller holds at least 25% of the capital of the company at any time during the 365 days preceding the sale.

9. Other Income

Income not addressed by other articles of the agreement is taxable solely in the recipient's country of residence. However, if the income is effectively connected to a Permanent Establishment (PE) or a fixed base in the other country, it becomes taxable in that country.
Elimination of Double Taxation

10. Exchange of Information & Anti-Avoidance Measures

The methods for eliminating double taxation involve two key approaches:

- ✓ **Tax Credit:** Residents can reduce their domestic tax liability by the amount of tax paid in the other country on the same income, preventing double taxation.
- ✓ **Tax Exemption**: Income earned in the other country may be exempt from domestic tax, ensuring it is not taxed twice. However, this exempt income may still be considered when calculating the tax on the remaining income, potentially affecting the overall tax liability.

These methods help ensure individuals are not taxed twice on the same income, facilitating smoother cross-border financial transactions.

Anti-abuse rules prevent treaty shopping, where businesses set up entities in one country solely to benefit from lower tax rates.

Conclusion

The KSA-Qatar Double Tax Treaty is a crucial step toward strengthening bilateral economic relations. By eliminating double taxation, reducing withholding tax rates, and providing clarity on tax residency and PE rules, the treaty enhances the tax environment for businesses and investors.

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