

Doing Business

in the KINGDOM OF SAUDI ARABIA



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## Andersen Global

**Andersen Global®** was established in 2013 as an association of legally separate, independent member firms, with a worldwide presence and comprised of professionals that share a common background and the same vision no matter the location where they are.

Our growth is a byproduct of the outstanding client service delivered by our people, the best professionals in the industry and our objective isn't to be the biggest firm, it is to provide best-in-class client services in seamless fashion across the globe.

Outstanding client service has and will continue to be our top priority.

Our professionals are selected based on quality, like-mindedness, and commitment to client service and each and every one of the professionals that are a part of Andersen Global share our core values.

Andersen Global was established to create an enduring place – ONE FIRM where clients across the globe are afforded the best, most comprehensive tax and legal services provided by skilled staff with the highest standards.

Outstanding client service has and will continue to be our top priority.

## Andersen In Saudi Arabia

Our firm offers a myriad of services based on local understanding of the Saudi market, coupled with global exposure to international experts and best practices. Our highly skilled and seasoned professionals combine work ethics, a depth of expertise, high dedication and rich experience in a variety of domains and sectors to assure niche services for business owners. We provide our clients with relevant and efficient solutions and tax scenarios by setting personalized plans and encouraging open communication.

From tax and Zakat to Business Advisory Services, our consultants and industry experts only deliver the best services complying with tax and zakat rules in the Kingdom of Saudi Arabia and aim to maintain and strengthen the trust we gained over time.





## 2.

# Country Highlights



Located in the furthestmost part of Southwest Asia, the Kingdom of Saudi Arabia occupies about four-fifths of the Arab Peninsula. It is geographically positioned between three continents and cultures and is bound by the Arabian Gulf, United Arab Emirates and Qatar from the east, Red Sea from the west, Kuwait, Iraq and Jordan from the north and Yemen and Oman from the south.

Saudi Arabia is among the most populated countries with a population of around 34.81 million people, projected to grow and reach a peak of 45.35 million people by 2060.

Opened to the world thanks to one of the most unique transformative economic reforms, the Kingdom of Saudi Arabia turned into a major player on the international stage and presents huge opportunities for businesses, with Vision 2030 emphasizing significant improvement in the performance of investment indicators.

The Saudi economy is expected to grow to between \$1.7 and \$1.8 trillion by 2030, due to growth in very promising sectors and thanks to prominent reforms aiming to improve the investment atmosphere and to place the Kingdom among the 15 largest economies in the world.

- Capital: Riyadh
- Currency: Saudi Riyal
- Form of Government: Monarchy
- Population: Estimated around 34.81 million people
- Official Language: Arabic
- Foreign Exchange Control: No currency exchange restrictions
- 2.5% Annual GDP Growth
- 41.1% Private sector's contribution to the GDP

Since the early 1970s, the Kingdom launched several development plans to modernize its political, administrative and economic systems promoting growth while preserving stability and financial sustainability, along with its leading role in the global economy and global oil markets representing one of its largest sectors.

The oil and gas industry provides the majority of Saudi Arabia's income. Yet, the government launched Saudi Vision 2030, built on several economic and financial

## The oil and gas industry provides the majority of Saudi Arabia's income.

reforms, to diversify its economy by increasing the contribution of the private sector and reducing its dependency on the oil and gas industry.

Towards this end, it continuously invests in non-oil areas, including infrastructure, real estate, education, tourism and manufacturing, with revenues generated by the oil and gas industry. Additionally, Saudi Arabia aims to enhance the business environment and broaden financial access, particularly for small and medium-sized enterprises.

In this scope, the growth in revenues from non-oil export sectors doubled from 16 to 50%. This enables the Kingdom to become a regional leader and to move up from 49 to 25 on the Logistics Performance Index global rating, and to raise foreign Direct Investment from 3.8% of GDP to the worldwide average of 5.7%. The country aims to climb up further to the top 15 economies in the world from its current ranking.

Saudi Arabia is the world's 29th largest exporter of goods and the 32nd largest import market, with international trade accounting for 50.6% of the GDP (World Bank, 2020 – down from 63.7 percent the previous year). Petroleum products represent the vast majority of exports, followed by

petrochemical goods (propylene, ethylene, and so on, totaling 78.6% of overall exports in 2020). Imports are led by machinery and electrical equipment, followed by automobiles, chemicals and metal products. Saudi Arabia's primary export partners are China, the United Arab Emirates, India, Singapore and Turkey. The country's imports are primarily from China, the United States, the United Arab Emirates, Germany and Japan (World Bank).

To expand foreign investments and attract international companies to Saudi Arabia, the government intends to diversify its economy by establishing four economic cities and continues to open its doors to the global business world far beyond oil. Therefore, CEOs of the biggest companies gather every year at the Future Investment Initiative in Riyadh, clearly noticing a changing landscape and a vibrant society.

## Employment Affairs

The Kingdom of Saudi Arabia regulates the relations between employees and business entities through the labor laws published and organized by the Ministry of Human Resources and Social Development. The labor laws in Saudi Arabia are regulated in consistence with the differences in contracts and businesses, as per each industry and its local or international Businesses.

Working in Saudi Arabia for foreign employees requires a sponsor and a residence permit also referred to in Arabic as Iqama. Furthermore, the company must have visa approval from the Saudi Ministry of Labor and Social Development to employ foreign nationals.

The first step for getting Iqama consists in obtaining a work visa. Your employer shall apply for this visa on your behalf; and once you get the approval, you can enter the country and start working. Afterwards, and within 90 days of your arrival, it is up to your employer to apply for a residence permit, also including a work permit. Thanks to the residence permit, you will be able to carry out operations like opening a bank account.

### Employment for Foreign Individuals

In case of shortage in qualified citizens, any qualified foreign individual (between 18 and 60 years old) with professional and academic credentials needed, may find employment in Saudi Arabia. The candidate needs to be holding a passport (at least valid for six months), and to enter the country legally with an employment contract



whereas an employer will be responsible for him.

### Social Security - General Organization for Social Insurance (GOSI)

This organization offers social security and insurance to Saudi civils, military personnel and private sector workers. The scheme covers workers in the private sector and a group of workers in the public sector. It also provides the contributors and their families with a decent life after leaving work due to retirement, or in cases of disability or death.

## Terminating Employee Contract

### Saudi Labor Law: Renewal, Resignation, and Termination of Contract

1. According to Saudi labor law, there are two types of contracts and the procedures for contract renewal, resignation, and termination vary according to the relevant contract.
2. As per article 37 of Saudi Labor Law, a contract with a non-Saudi employee must always be fixed for a specific period of time.
  - Expatriate Employee = Fixed Term Contract
  - Saudi Employees = Fixed Term + Indefinite Contract
  - Each Saudi employee enters under a fixed-term employment agreement with his company.
  - Renewal of a fixed-term contract: as per article 55 (2) of Saudi law, a fixed-term contract shall be renewed only if the renewal is mentioned in the contract and for the same duration specified in it.
3. Resignation/Termination
  - As per Article 74 of the Saudi Labor Law, a worker may quit or his contract may be terminated by the employer within a sufficient notice time.

- As per Article 77, if one of the parties decides to end the fixed-term contract before it is finished, they must compensate the aggrieved party.
- Renewal of an indefinite contract: For Saudi employees, a fixed-term contract turns into an indefinite contract if:
  - a. There is no renewal clause and the employer does not terminate the worker's contract when the contract expires
  - b. A fixed-term contract becomes an indefinite contract after three consecutive renewals, or after four years of service

## Working Terms and Conditions

4. Annual Leaves
  - All employees are entitled to a prepaid annual leave of not less than 21 days, to be increased to a period of not less than 30 days if the worker has spent five years in a row in the service of the employer. The leave shall be paid in advance.
  - All employees enjoy their leave in the year it is due. They may not forgo it or receive cash in lieu during their period of service.
  - The worker may, with the employer's approval, postpone their annual leave or days thereof to the following year.
  -





- The employer shall the right to postpone the workers leave after the end of being due, if the work conditions so require for a period not exceeding 90 days. If the work conditions require the continuation of the postponement, the employee approval shall be obtained in writing, provided that the delay does not exceed the end of the year following the year of the leave due.
- Eid AL-ADHA Leave: shall be four days, starting from the day of Arafah (9th day of Dhu al-Hijjah of the lunar Islamic Calendar).
- National Day holiday: shall be one day, on the first of Libra (corresponding to September 23).

## Worker's Leave on Personal Occasions

### Other Leaves

#### 5. EID and Special Occasion Holidays

- Employees are entitled to full-pay leave on EIDS and other events specified in the regulations.
- Eid Al FITR holiday: shall be four days, starting from the day off following 29 of Ramadan according to the UMM AL-QURA calendar (the official Saudi calculated lunar calendar).
- The worker shall be entitled to a wage for the accrued days of the leave if they leave the work without using such leave. This applies to the period of work for which they have not used their leave. Such a worker shall also be entitled to a leave pay for the parts of the year in proportion to the part they spent at work.
- The employee shall have the right to a five-day fully paid leave in the event of the death of their spouse, one of their ascendants or descendants.



- The employee shall have the right to a five-day leave upon their marriage.
- The employee shall have the right to a three-day leave in the event of the birth of a newborn.
  - The employee shall be entitled to a paid leave to perform Hajj, for no less than 10 days or no more than 15 days, including EID AL-ADHA holiday. A minimum of two consecutive years of service with the employer are required for a worker to be qualified for this leave.
  - Upon employer consent, an employee who is pursuing their education is entitled to a fully compensated leave for exams. Days of leave must be calculated depending on the actual number of exam days.
  - Employees who have to undergo exams in a subsequent year are entitled to unpaid leave, depending on exam dates.
  - The employee's wage shall be denied in case proven that he/she didn't take the test.
  - In case the employee doesn't have the employer's approval to be enrolled in an educational institution, the actual days of exam may be deducted from the worker's annual leave without pay.

## **Sick Leave**

During a single year, the employee is entitled to a paid sick leave for the first 30 days, three quarters of the wage for the following 60, and unpaid leave for the final 30 days. A single year is defined as the calendar year that starts on the first day of the first sick day.

## **Statutory Leave for Female Workers**

- The female employee shall have the right to fully paid maternity leave for a period of 10 weeks. It starts no later than four weeks before the anticipated delivery date.
- The female employee is entitled to an additional month of unpaid leave.
- The female employee shall have - in the event of having a sick child or a person with a disability- the right to a fully paid one month leave that starts after the expiry of the maternity leave period, and the right to extend the leave for a month without pay.
- A female Muslim employee whose husband passes away shall be entitled to a fully paid leave for a minimum period of four months and 10 days as of the date of death. Such a female employee shall have the right to extend this leave without pay if such a female employee is pregnant - during this period - until such a female employee gives birth.
- A non-Muslim female employee whose husband passes away shall have the right to a fully paid leave for a period of 15 days.

## Overview

The Regulations for Companies apply to business associations (issued in 1982 and amended in 1992). (42) The business structures and forms that are most appealing to foreign investors are Limited Liability Partnership (LLP) and Joint Stock companies.

## Establishing a Local Entity

The three primary types of legal entities are the joint stock company, the Limited Liability Company, and foreign branches. The sole proprietorship and the general partnership are two different notable types of legal formations.

## Single Member Limited Liability Company (LLC)

SMLLCs are limited liability companies that may have a single owner. The proprietor of the business owns every share of this entity. While holding a single-member LLC has several benefits, it is essential to know that you are only permitted to create and operate one SMLLC.

## Limited Liability Company (LLC)

This corporate form permits limited liability for owners under the company's debt and is the most popular in Saudi Arabia. There can be no more than 50 shareholders in an LLC. Each shareholder must sign the Memorandum of Association (MOA), and the business may choose one or more auditors based on its needs. The legal entity must inform the governing authorities



about the shareholders, management, capital, auditors, and other business-related information in order to incorporate the LLC in Saudi Arabia.

### **Joint Stock Company (JSC)**

The capital of a JSC is divided into shares with equal value. Shareholders who possess shares have the right to purchase, sell, and transfer those shares without impacting the company's ability to operate. In order to establish a joint stock company in Saudi Arabia, its name, mission, and memorandum of association which identifies the members, must be submitted.

One can conduct business operations in the Kingdom through a distributor or agent.

### **Business Through an Agent or Distributor (Agency or distributorship)**

One can conduct business operations in the Kingdom through a distributor or agent. By choosing this option, one can altogether avoid the need to establish a company in Saudi Arabia and be represented by the agent or distributor that sells or distributes one's goods or services. Utilizing one's agent's or distributor's relationships in the Saudi market, one can do business without having a physical presence in the Kingdom. The Saudi Commercial Agencies Law governs and regulates these kinds of contracts.

### **Branch of a Foreign Company**

It is a branch, office, agency, or other corporate entity established abroad. While adhering to local laws and regulations, such as utilizing Arabic for company papers, publications, and documents, a branch of a foreign corporation is permitted to represent itself and carry out operations in Saudi Arabia.

## Taxes Overview

In Saudi Arabia, non-Saudi investors are subject to income tax. On the other hand, Saudi national investors (as well as GCC citizens, regarded as Saudi citizens for tax purposes in Saudi Arabia) shall pay an Islamic tax known as zakat. When a Saudi national and non-Saudi resident jointly own a company, the former is liable for zakat, whereas the latter is subject to income tax.

In Saudi Arabia, non-Saudi investors are subject to income tax.

As per the law, the following categories are subject to income tax:

- A resident corporation, excluding the following (in which case the underlying resident company would be liable to zakat), concerning shares owned directly or indirectly by non-Saudi/non-GCC individuals and individuals engaged in oil production and hydrocarbons
- Shares purchased for trading in the Saudi stock
- Shares held directly or indirectly by individuals investing in the oil and gas industry incorporate capitals
- Natural persons residing outside Saudi Arabia and engaging in activities in the Kingdom

- Non-residents who use a PE to conduct activities in Saudi Arabia
- An entity is investing in the natural gas investment sector
- An entity that produces oil and other hydrocarbons

20% of the net adjusted profits are subject to income tax. The percentage of WHT ranges from 5% to 20%. The zakat base represents the entity's net worth as determined for zakat purposes.

Although there is a 20% income tax rate, the revenues from the two activities listed below are subject to different rates:

- Tax rates on income from the production of oil and other hydrocarbons range from 50% to 85%.
- A person's tax basis should be separate from their tax base for other activities if they work in oil and natural gas sector.

Investing in natural gas shall be taxed in accordance with general provisions, and the income tax legislation revised to repeal the Natural Gas Investment Tax (NGIT) regulations as of January 1, 2018 (including being subject to the prevailing income tax rate of 20%).



## 6. Corporate Income Tax

The main three types of taxes in the Kingdom of Saudi Arabia are: income tax, zakat (an Islamic wealth tax) and withholding tax. Persons or entities are liable to several types of taxation following the tax law, including:

### Corporate Income Tax

It is imposed on non-Saudi entities licensed to operate in KSA and is levied at 20% of the amended net profit.

Other income tax rates such as those levied on natural gas investment activities, which is subject to 30% tax rate and additional rates of up to 85%. Oil or other hydrocarbon activities are subject to a tax rate of 85%. Whilst employee salaries and benefits are not taxable, any activity corresponding to capital gain or incidental income and any other incomes or gains or profits of any types, are subject to taxation.

### Zakat

Zakat is an Islamic wealth tax imposed on Saudi Arabian and GCC citizens and Saudi Arabian and GCC-owned corporations and their shareholders. The effective rate for natural persons is 2.5% of their zakat base. It is levied at 2.5% on the zakat base that the net result of adding equity, long term liabilities, minus the fixed assets, intangible assets and long-term investments. When sufficient detailed details and information are not provided, the Zakat, Tax and Customs Authority (ZATCA) estimates a deemed profit 15% of the revenues and subject it to tax.

### Withholding Tax

Any resident (regardless of whether they are regarded or not as taxpayers under the tax law) who make payments to a non-resident from an income generated in the Kingdom of Saudi Arabia is required to hold deduct the following taxes from such income:

- 5% on technical and consulting services, payments for air tickets, air freight, and maritime freight, international Network and Telecommunications Services (NTS).
- 15% on royalties
- 20% on management fees
- 15% on any other services



## 7. Indirect Tax

### Value-Added Tax (VAT)

On January 1st 2018, Saudi Arabia implemented a standard rate of 5% VAT on most products and services. The expected VAT rate increased to 15% from July 1, 2020. Transitional regulations restrict how long what may use the 5% rate before July 1, 2021.

Taxable activities with a few exceptions, practically all supplies of goods and services (including imports) are subject to VAT. Life insurance, rental housing, and the collection of residential and commercial real estate property (starting October 4, 2020) are among the exempt supplies. Margin-based financial services are also included. Health and education services provided to Saudi nationals are exempt from VAT.

The actual VAT rate is 15%. According to the GCC VAT Framework Agreement, which outlines specified mandatory sectors for zero-rating in each of the six GCC member states, various goods and services are zero-rated (including exports of goods and services to outside KSA and the supply of qualifying medicines, medical goods, and investment metals).

Taxable activities with a few exceptions, practically all supplies of goods and services (including imports) are subject to VAT.



Residents' typical obligatory VAT registration threshold is SAR 375,000 in annual revenue. Failure to register by the deadline results in a SAR 10,000 fine. Businesses that generate at least SAR 187,500 in annual revenues are also eligible to apply for voluntary registration. Saudi Arabia requires non-residents making taxable deliveries to non-taxable clients to register (via tax representatives) within 30 days of the initial supply.

## Excise Tax

A further unified GCC initiative included in the GCC Framework Agreement was the introduction of excise tax by Saudi Arabia in June 2017. Following is a list of some of the main points:

- Certain excise goods released for consumption in KSA on or after June 11, 2017 must be imported or produced in order to be subject to excise tax.
- The tax base of the items in question is typically used to determine how the excise tax should be applied.
- Energy drinks (100% rate), tobacco products, including electronic smoking devices and liquids, and carbonated soft drinks and sugar-sweetened beverages are the main categories of excise goods (100% rate).
- Within 45 days of the start of the tax, everyone in possession of excise items worth more than SAR60,000 was expected to file a one-time transitional return and pay any excise owed. That indicates that many stores and other enterprises were required to pay tax on their inventory.
- Excise tax licensees must submit returns on a bimonthly basis detailing their overall excise tax liabilities in addition to any transitional returns (i.e., one returns every two calendar months). Within 15 days of the end of the tax period, returns and payment must be submitted
- Importers of excise items who have not entered into a tax suspension agreement must pay excise tax to the customs authorities upon importation.

## Property Tax

### Real Estate Transfers Tax (RETT)

RETT is implemented in Saudi Arabia since October 4, 2020. It applies to all sales, assignments, transfers, and similar transactions involving real estate and other assets and related rights unless expressly exempted. Reporting is required for all RETT transactions, even those that are exempt. Although the transferee is jointly liable, the transferor is responsible for RETT. There are transactions that may deliberately be exposed to both RETT and VAT. The RETT levy coincides with a VAT exemption.

### Land Tax

The Council of Ministers released the idle lands tax regulation in June 2016. This regulation levied a tax of 2.5% on all undeveloped residential and residential/commercial parcels inside urban boundaries.

The regulation determines the criteria for estimating the value of the land and the entity that undertakes such an estimation, provided that the criteria include the location of the land, its uses, building systems, the availability and accessibility of public services and utilities.

## Transfer Pricing (TP)

The Organization for Economic Co-operation and Development's (OECD) TP recommendations are generally followed by Transfer Pricing (TP) regulations, which apply to all income tax-paying enterprises. The TP requirements do not apply to 100% zakat payers before the last amendment on 30 July 2022, except for country-by-country reporting. Although 100% zakat paying entities are exempt from the TP laws, the zakat regulations mandate that related party transactions be carried out in accordance with the arm's length principle.

### TP Bylaws' Applicability to Zakat Payers

The TP Bylaws apply to mixed-ownership enterprises and all Taxable Persons under

the Income Tax Law (Zakat and Tax). The entities obligated to pay zakat must submit a country-by-country report (CbCR) and a country-by-country report notification (depending on annual consolidated revenues).

The amendment suggests defining *Taxable Persons* to include entities that pay 100% of zakat. Therefore, the zakat payers described in the Zakat Regulations shall be subject to the rules of the new TP Bylaws.

### Changes to Related Persons' Definition

People with the ability to govern businesses are included in the definition of *Related Persons*. It is suggested that the new





definition include people who can effectively oversee enterprises. The word *effective* has been added to the definition in this scope.

## TP Documentation and Exceptions Threshold

For the following, no need to maintain a master file and local file:

- Individuals (other than institutions).
- Small-scale businesses (entities with arm's length value of *Controlled Transactions* not exceeding SAR 6 million (USD 1.6 million) in 12 months).

Therefore, if related party transactions in the tax/zakat year exceed SAR 6 million, zakat payers, including institutions, must keep a master file and local file.

Zakat declaration and TP Disclosure Form must be submitted with each year's income tax.

All zakat payers must submit certain disclosure documents on *Controlled Transactions* (within 120 days following the end of their fiscal year) along with their yearly income tax return.

Details of all *Controlled Transactions*, including non-financial transactions, would be included in the disclosure form. Additionally, information regarding total revenue, total expenses, net profit or loss, assets, total funds, payments in advance, debt, and other components of the zakat base, including sums deducted from the zakat base, must be recorded.

Regardless of the value, every person involved in a controlled transaction must electronically submit the disclosure form that is a component of the annual tax statement in Arabic.

Additionally, tax and zakat payers must provide an affidavit from their certified

accountant stating that their transfer pricing policy is consistently enforced concerning the taxpayer in KSA.

## Permanent Institution

The Arm's Length Principle shall be used to determine the tax base of a Permanent Establishment. Additionally, it is made clear that Permanent Establishment's expenses may be written off in compliance with applicable international laws, regulations, and agreements.

## Updated Definitions

The regulations established by Ministerial Resolution No. 2216 dated 07/07/1440H and any updates are referred to as the *Zakat Collection Law*.

*Declaration* refers to the tax declaration for individuals subject to the law's tax declaration requirements and the zakat declaration for those subject to the Zakat Collection Regulation's zakat declaration requirements.

Two or more connected people are referred to as a *Group* if they are required to prepare consolidated financial statements in line with applicable accounting standards or will be required to do so if one is a company listed on a financial market.

## Interpretation

In accordance with TP Bylaws, the income tax law (including income tax regulations) and zakat regulations are to be understood and interpreted. Additionally, the audit guidelines and appeals process outlined in the zakat regulations shall be followed.

## Other Adjustments

In the TP Bylaws, *Multinational Enterprise Group*, has been replaced by Multinational Group.

Saudi Arabia had already approved BEPS Pillars 1 and 2 as a G20 member state. ZATCA has grown more aware of the significance of tax collection, especially in light of Saudi efforts to diversify revenue sources and transition away from an economy solely reliant on oil.

The intention of ZATCA to change the country's taxation structure is shown by the proposed application of TP Bylaws on zakat payers.

In the light of the above mentioned, analyzing transactions involving related parties that could be affected by suggested revisions is crucial.

## 10. Succession Tax and Tax Penalties



### Overview

An initiative to exclude or eliminate fines and monetary penalties imposed on taxpayers because of the failure to comply with numerous procedural features related to applicable taxes in the Kingdom of Saudi Arabia has been relaunched by the Zakat, Tax and Customs Authority (ZATCA).

Excise tax, value-added tax (including electronic invoicing), real estate transaction tax, withholding tax, and corporate income tax are several forms of taxes covered by this program. The exemption is valid for six months, from June 1, 2022, to November 30, 2022.

### Taxes on Corporate Income and Tax Offenses:

- The penalty for failing to file the tax return by the deadline is imposed at the rate of 1% of the total revenue of the taxpayer (up to a maximum of SAR 20,000). Alternatively, a percentage of the unpaid tax ranges from 5% for delays under 30 days to 25% for delays beyond 365 days is applied.
- For every 30 days of delay, there is a penalty equal to one percent of the unpaid tax that covers both the expedited tax payments and the WHT delay.
- Tax disparities arises due to filing of false information or fraud by the taxpayer shall be subject to a penalty of 25% of the value of the tax that would have had to be declared.



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