

Introduction:

The Professional Magazine is a specialized publication issued by Ali Ibrahim Al-Nasser & Partners, Certified Public Accountants and Consultants. In this twenty-third issue, we address the provisions governing refunds under the tax and Zakat regulations. This issue also highlights a number of common professional mistakes and practices, most notably the payment of Withholding Tax on the importation of goods and merchandise.

Key Developments and Updates

1. The Saudi Organization for Chartered and Professional Accountants Approves the Rules Regulating the Profession of Financial Consulting (Non-Securities):

The Board of Directors of the Saudi Organization for Chartered and Professional Accountants (SOCPA), pursuant to Resolution No. (3/4) dated 05-07-1447H (corresponding to 25-12-2025G), has approved the Rules Regulating the Profession of Financial Consulting (Non-Securities). This resolution comes within the framework of transferring the authority to issue professional practice licenses from the Ministry of Commerce to the Authority. The Board's decision aims to regulate the financial consulting sector (non-securities), enhance the quality and efficiency of professional services, and establish a clear regulatory framework defining the requirements and conditions for practicing the profession, the licensing procedures, and the professional standards and controls to be complied with—thereby contributing to improving the overall quality of professional practice.

The Rules emphasize that practicing the profession is not permitted without a license issued by the Authority, with an exception granted to certified public accountants licensed to practice the accounting and auditing profession in the Kingdom, who are exempt from obtaining a separate license to provide such services. The Rules also regulate the register of licensed practitioners and set out the licensing requirements and conditions, the term of the license, and the mechanisms for its renewal. Furthermore, the Rules define the scope of the profession as the provision of professional advisory services in financial activities and transactions other than securities-related activities and transactions. They expressly prohibit the provision of audit services, assurance services, or other related services governed by auditing standards and provided by licensed certified public accountants in the Kingdom. In addition, they prohibit the provision of services rendered by licensees authorized to provide accounting services, Zakat and tax accounting services, or any financial services or advisory services relating to securities. The Rules also outline the obligations of licensees, the procedures for license cancellation, suspension, or cessation of practice, and the disciplinary sanctions framework, in a manner that safeguards clients' rights and enhances professional compliance and discipline within the non-securities financial consulting sector.

Refund Provisions under the Tax and Zakat Regulations

Refund provisions are among the most significant rules within the tax and Zakat framework, as the refund of Zakat or tax constitutes one of the fundamental rights of taxpayers in cases where the taxpayer—or the person who has borne the tax—is entitled to such refund. The Zakat and tax regulations include detailed provisions governing refund, depending on the nature of the tax or Zakat subject to refund and the grounds for such refund.

A refund refers to the submission of a claim by a Zakat or tax registrant, or by the person who has borne the tax, requesting the reimbursement of Zakat or tax amounts paid where such amounts are rightfully due to them, whether as a result of amounts paid in excess or due to a legal entitlement to refund tax paid or incurred.

Zakat:

A Zakat payer is entitled to request a return where Zakat has been paid in excess. This includes, for example, cases where the payer submits a Zakat return reflecting an amount exceeding the Zakat properly due, or where the Zakat payer settles part of the assessed amount while filing an objection against an assessment issued by the Authority, and a final decision is subsequently issued cancelling the assessment in full. In such cases, the Zakat payer may submit a return request in accordance with Article (107) of the Implementing Regulations for Zakat Collection.

Article (107) stipulates that a return request must be submitted within five (5) years from the regular payment date of the amount, provided that in calculating this period, it should be taken into account that if a Zakat assessment is issued to the Zakat Payer and the Zakat Payer objects to it, the calculation of the remainder of the period shall be resumed after a final decision is issued confirming that the Zakat Payer is entitled to such amounts. If this period lapses without submitting a refund request, the amount shall be treated as an advance payment of future Zakat and carried forward to the payer's account for subsequent Zakat years.

Upon submission of a Zakat return request, the Authority shall check the Zakat Payer's request, confirm the amounts paid in excess, and complete this within (30) thirty days from the date of establishing the Zakat Payer's right to refund, and after the Zakat Payer's request for it. If there are still Zakat returns not been submitted to the Authority, or in cases of objection or appeal, no request to return amounts paid in excess shall be considered except after a final ruling is issued confirming the Zakat Payer's entitlement to such amounts.



Income Tax:

A taxpayer is entitled to claim a return of any amounts paid in excess of what is due under the Income Tax Law within five (5) years from the end of the tax year to which the overpayment relates. The return request must be submitted by the taxpayer or their authorized representative under a valid power of attorney. Furthermore, a taxpayer who has paid in excess is entitled not only to refund the excess amount but also to receive a compensation of 1% for every thirty (30) days starting thirty (30) days after the return claim is submitted, continuing until the amount is received. This compensation feature is a distinctive provision of the Income Tax Law and does not appear in other tax or Zakat regulations.

The Authority is required to review the taxpayer's return request, verify the existence of any amounts paid in excess, and complete the return process within thirty (30) days from the date the Authority receives the request. Refund claims will not be considered if there are any outstanding tax returns, or in cases of ongoing objections or appeals, until a final decision confirming the taxpayer's entitlement is issued and a formal request is submitted by the taxpayer.

This applies to cases such as Income Tax paid in excess, excess Withholding Tax, as well as refundable taxes arising from the application of Double Taxation Avoidance Agreements, provided that the relevant agreement is applicable to the parties involved in the transaction.



Value Added Tax (VAT):

VAT is one of the taxes with the most extensive and diverse refund provisions, covering refunds for both taxpayers and others. The main forms of VAT refund include:

1) Refund of tax paid in excess:

Article 69 of the Implementing Regulations sets out the provisions for refunding tax paid in excess, which covers several cases, including instances where the input VAT declared in the tax return exceeds the output VAT, or where a taxable person has paid an amount of VAT greater than what is due.

The Article allows the taxpayer to submit a refund request either on the date of filing the relevant tax return or within five (5) years from the end of the calendar year in which the entitlement to the refund arose.

The Authority shall review the refund request and, if approved, complete the refund procedures within sixty (60) days from the date of approval. The Authority may reject the refund request if there are any tax returns required to be filed that have not yet been submitted.

2) Refund of Tax to Tourists:

Article 73 of the Implementing Regulations sets out the provisions governing VAT refunds for tourists who do not have a permanent place of residence in the Kingdom or in any of the VAT-implementing GCC States. The tourist shall submit the refund request to the Authority while present in the Kingdom through an authorized service provider, which acts on the tourist's behalf in claiming the refund. The authorized service provider is responsible for verifying that the refund claim satisfies all the requirements set out in the Article and for paying to the tourist an amount equivalent to the eligible refundable amount. The authorized service provider may—subject to agreement with the Authority—deduct a percentage of that amount as a commission for facilitating the VAT refund service, in addition to charging any other administrative fees.

The VAT refund for tourists is limited to eligible goods, meaning goods purchased for personal use from an authorized supplier. The following items are not considered eligible goods for refund purposes:

- a. Vehicles, boats, and aircraft.
- b. Tobacco products and their derivatives or substitutes.
- c. Food and beverages.
- d. Oil, gas, and their derivatives.
- e. Goods that have been used or consumed within the Kingdom.

The Authority may reject refund applications submitted by the authorized service provider on behalf of the tourist—whether in whole or in part—if it determines that any of the requirements set out in this Article have not been satisfied. Where the Authority approves the refund request, in whole or in part, it shall pay the approved refundable amount to the authorized service provider. The Authority may not issue or amend any assessment relating to refund requests governed by this Article after the lapse of five (5) years from the end of the calendar year during which the Authority received the refund application.

3) Refund of Tax to Designated Persons:

Refund provisions for designated persons, as set out in Article 70 of the Implementing Regulations, represent one of the key refund mechanisms under the VAT system. These provisions apply to persons who do not carry out economic activities, or those engaged in designated economic activities. Notable examples include:

Government entities - Charitable societies - Awqaf - Qualified real estate developers.

This type of refund requires a special registration with the Authority. An eligible person may submit an application to the Authority to register as an eligible person for refund purposes. The Authority shall review the application and, if approved, issue an individual identification number to the applicant for the purpose of submitting periodic refund claims. The Authority may reject the registration application if the eligibility conditions are not met or if the required supporting documents are not provided.

A refund claim may be submitted on a periodic basis—either quarterly period or calendar year—depending on what is specified in the registration application. In specific cases, and in accordance with controls established by the Board of Directors, the Authority may permit an eligible person to submit refund claims on a monthly basis.

Article 70 of the Implementing Regulations sets out detailed provisions governing the controls, time limits, and supporting documentation requirements for refund claims, with which eligible persons must comply. In addition, the Authority has issued specific rules and procedures applicable to licensed real estate developers in their capacity as designated persons eligible to refund VAT.

Real Estate Transaction Tax (RETT)

The refund of Real Estate Transaction Tax (RETT) is considered one of the common and significant refund cases, given the substantial amounts typically involved due to the high value of real estate transactions. In practice, mistakes frequently occur where RETT is paid on transactions that are later determined to be exempt. The cases in which RETT may be refunded are set out in Article 9 of the Law, while Article 9 of the Implementing Regulations provides the detailed conditions and considerations governing such refunds.

A taxpayer may request a refund of RETT paid to the Authority in the following cases:

- Tax paid in excess or paid in mistake, or tax paid on a real estate transaction that was not completed. This includes cases where the tax was paid and it was subsequently established that the real estate transaction was exempt from RETT.
- Tax paid on an uncompleted real estate transaction, provided that the disposer refunds any consideration received in relation to the uncompleted transaction. The Authority must be notified in accordance with the prescribed procedures and within the specified timeframe.
- Tax paid on a real estate transaction that has been rescinded by mutual agreement between the parties, subject to the fulfillment of the applicable statutory conditions.

Submitting a refund request for Real Estate Transaction Tax (RETT) is subject to a number of conditions and considerations set out in detail in Article 9 of the Regulations. These include, among others, the following:

- The refund request must be submitted within a period not exceeding twelve (12) months from the due date of payment relating to the real estate transaction, or within sixty (60) days from the date of issuance of a final decision by the competent judicial authority, or from the date of issuance of a settlement decision with the Authority in respect of the real estate transaction.
- Refund requests for amounts paid in excess that are subject to an objection or grievance filed by the disposer shall not be considered until a final decision has been issued regarding such objection or grievance, or a final judgment has been rendered by the competent judicial authority.

Upon submission of the refund request, the Authority shall examine the request and may require any additional supporting documents necessary to verify its validity. The Authority shall issue its decision to approve or reject the request, in whole or in part, and shall notify the applicant accordingly, stating the reasons for any rejection. In all cases, the Authority must issue a decision on the refund request within thirty (30) days from the date of submission; otherwise, the request shall be deemed rejected.

Excise Tax

Articles 50, 51, 52, 52 (bis), and 53 of the Implementing Regulations of the Excise Tax Law set out the cases and provisions governing the refund of paid Excise Tax. A refund of Excise Tax may be requested in any of the following cases:

1. Refund of tax paid in excess.
2. Refund of tax paid on excise goods that are transported or exported outside the Kingdom.
3. Refund of tax relating to excise goods that are not consumable in the Kingdom, or that become unfit for consumption therein.
4. Refund of tax on excise goods that have been released for consumption where the consumer is entitled to an exemption under the Law.

The above-mentioned Articles set out the detailed provisions governing refunds and the related controls and requirements.



Conclusion: A request for the refund of Zakat or tax constitutes a statutory right of the taxpayer where the legal grounds for such refund are met. The tax and Zakat regulations in the Kingdom have safeguarded the taxpayer's right to claim refunds and have clearly defined the applicable conditions and time limits, thereby ensuring both the protection of taxpayers' rights and the proper regulation of refund mechanisms and procedures.

Accordingly, one of the key aspects of effective Zakat and tax planning—and achieving Zakat and tax savings—is to assess the taxpayer's potential entitlement to refund Zakat or tax incurred, and to exercise the necessary professional diligence in this regard. Common examples include the following:

- Verifying that there are no amounts paid in excess of Zakat or tax, including Withholding Tax.
- Ensuring that all Input VAT has been properly deducted in VAT returns, including input tax incurred prior to the taxpayer's VAT registration, where the conditions for deduction are met.
- Reviewing cases of exemption from Real Estate Transaction Tax (RETT) and reassessing prior real estate transactions to determine whether any statutory exemption conditions may apply.
- Examining Withholding Tax and examining the applicability of Double Taxation Avoidance Agreements.
- Considering eligibility for registration as a designated person for refund purposes, particularly for charitable societies, Awqaf, and government entities.



Common Professional Mistakes and Practices

Common Mistake:

Failure of intermediary electronic platforms to remit the full Value Added Tax (VAT) in accordance with the provisions of Article Forty-Seven of the Implementing Regulations of the Value Added Tax Law.

Correct Procedure:

An electronic or digital platform, or any similar platform, whose principal purpose—or one of its principal purposes—is to enable suppliers to display, offer, make available, or contract for them with the customers benefiting therefrom (whether goods or services), must account for and remit the full VAT where the conditions and criteria set out in Article Forty-Seven of the Implementing Regulations of the VAT Law are met.

Explanation:

Pursuant to the provisions of Article Forty-Seven of the Implementing Regulations of the Value Added Tax Law, where an electronic marketplace (such as electronic platforms) facilitates the supply of services electronically within the Kingdom while acting as an intermediary for a non-resident supplier or a resident supplier who is not subject to VAT, the electronic marketplace shall, in such case, be deemed to have purchased those services from the non-resident suppliers for its own account and to have re-supplied them in its own name and for its own account to the customer benefiting from such services. Accordingly, the electronic marketplace is responsible for collecting and remitting the VAT to the Authority on the taxable supplies, subject to the considerations and exceptions provided for in the Article. It is a common mistake in such cases for the electronic marketplace to remit VAT only on its commission or share of the fees due.

Common Mistake:

Remitting Withholding Tax on the importation of goods and merchandise.

Correct Procedure:

Withholding Tax should not be deducted on imports of goods and merchandise, including freight and insurance related thereto, in accordance with Paragraph (7) of Article (5) of the Implementing Regulations of the Income Tax Law.

Explanation:

Paragraph (7) of Article (5) of the Implementing Regulations of the Income Tax Law provides that:

“Contracts for the supply of goods to the Kingdom, including contracts for shipping and insurance thereof, shall not be considered as arising from an activity carried out in the Kingdom, unless such contracts include ancillary works such as inland transportation, installation, maintenance, training, or similar activities performed within the Kingdom. In such case, only the ancillary works shall be considered as arising from an activity in the Kingdom.” Accordingly, amounts paid for the purchase of goods from outside the Kingdom, including freight and insurance costs, are not considered income arising from an activity carried out in the Kingdom. Therefore, such payments do not constitute Saudi-source income and are not subject to Withholding Tax.



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