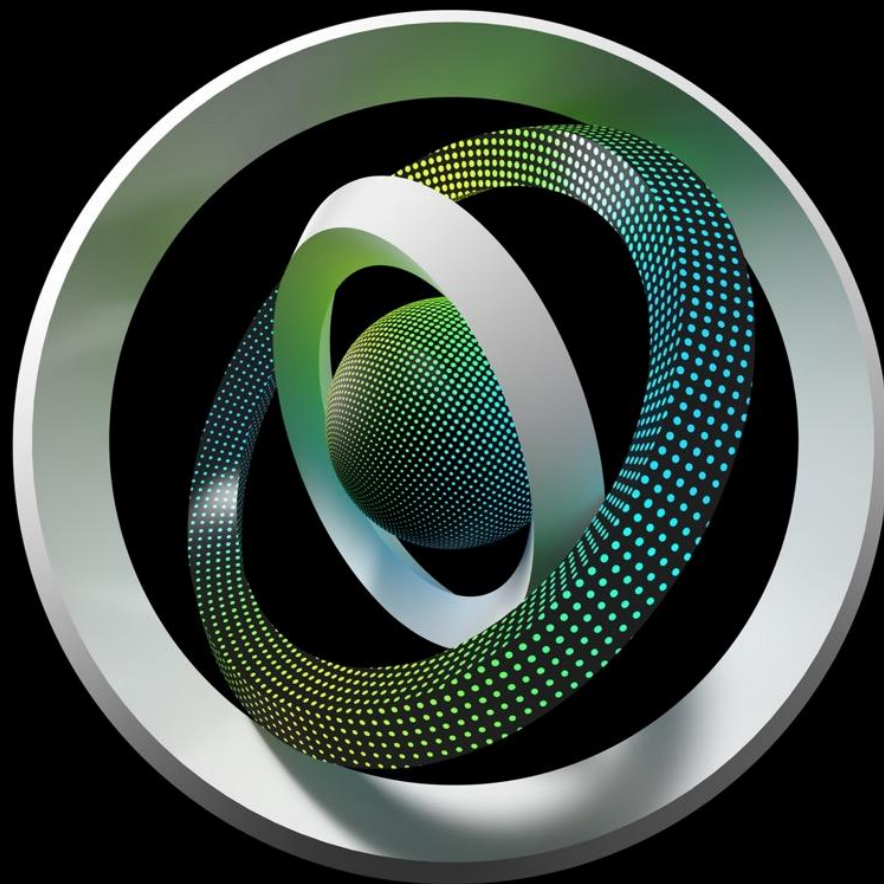


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KSA-UAE DTT

ICAI Dubai

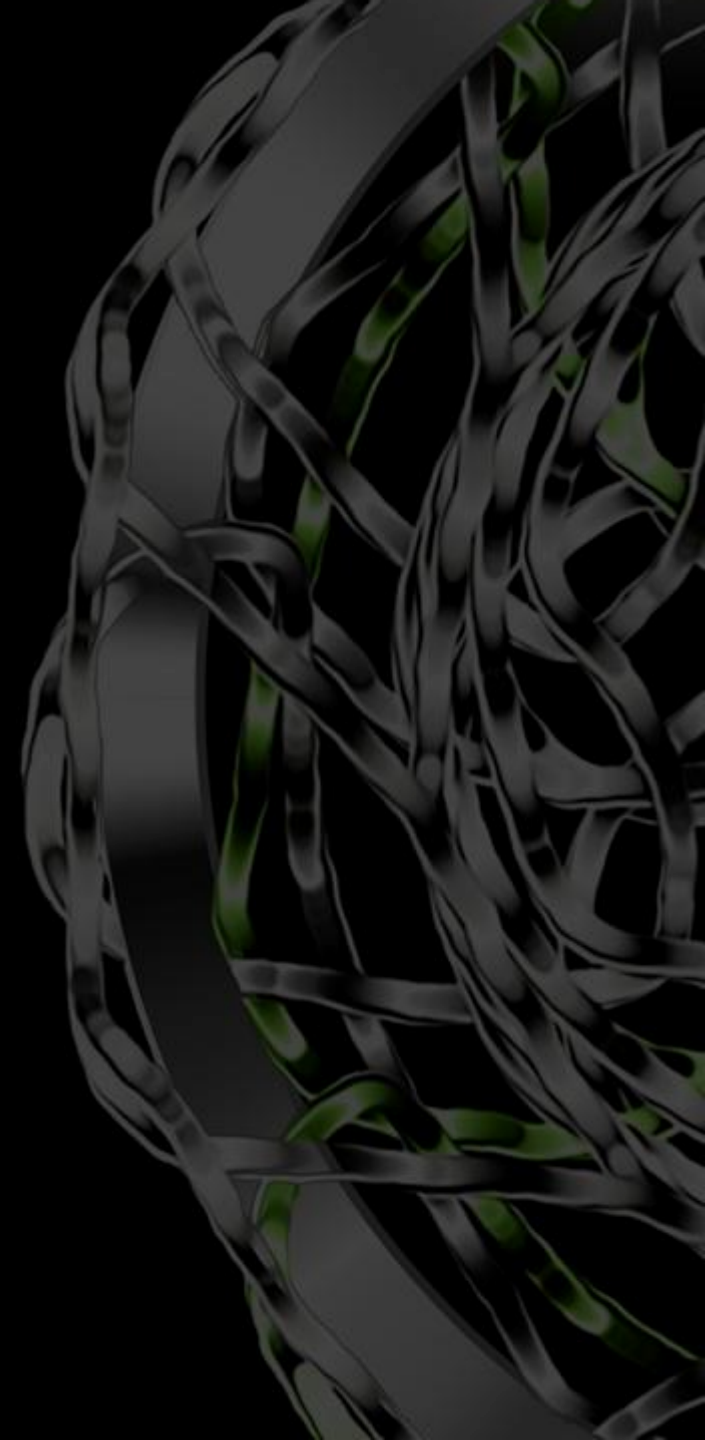
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In the Middle East
since 1926

Speaker



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KSA- UAE Double Tax Treaty (KSA- UAE DTT)

- KSA-UAE DTT represents first DTT among Gulf Cooperation Council (GCC) members.
- DTT benefits effective from January 2020.
- A blend of OECD and UN Model Tax Convention in structure and phrasing - to rely on OECD Commentaries for interpretation.
- Outlines the allocation of taxing rights between the contracting states over various incomes:

- ✓ Business profits
- ✓ Dividends
- ✓ Interest
- ✓ Royalties
- ✓ Capital Gain



- Person eligible for DTT benefits- resident of either one or both jurisdiction (KSA and UAE).
- Tie-breaker rule for dual-resident entities – place of effective management
- Tax Residency Certificate – enable entities to leverage DTT benefits on taxability of various incomes.
- Taxes Covered in both jurisdiction:

| | KSA | UAE |
|------------|-----|-----|
| Income Tax | ✓ | ✓ |
| Zakat | ✓ | N/A |

Key Elements

Service PE, Installation
PE, Agency PE

Anti-Fragmentation
Rule

Limited Force of
Attraction

Principal Purpose Test

Capital Gains

Preferential
Withholding Tax Rates

KSA- UAE DTT – Preferred Rates

Potential benefits under the DTT

| WHT Rates | WHT rate (KSA) | WHT rate (UAE) | KSA-UAE DTT |
|---------------------|----------------|----------------|------------------|
| Dividend | 5% | 0% | 5% |
| Interest | 5% | 0% | 0% |
| Royalty | 15% | 0% | 10% |
| Management Services | 20% | 0% | 0% (potentially) |
| Technical Services | 5% | 0% | 0% (potentially) |
| Other Payments | 15% | 0% | 0% (potentially) |

Approaches to avail Treaty Benefits

Approaches

Refund Approach

- KSA Entity- deduct withholding tax at specified rates
- KSA Entity – apply for refund to ZATCA (to be accompanied along with prescribed documents including Tax Residency Certificate of the UAE residents).

Relief at Source Approach

- Disclosure of all treaty benefits;
- Tax Residency Certificate in Q7B form – covers the service period, regardless of actual payment
- Statement - amount subject to tax in residence country
- An undertaking (KSA entity) - settle any due tax/penalties in incidence of any error, misinterpretation of DTT

KSA- UAE DTT – Preferred Rates

Recover the past. Protect the future.

THE TWO-FOLD OPPORTUNITY

1

STOP FUTURE WITHHOLDINGS

Obtain a Positive Ruling

Secure a favorable ruling from ZATCA to eliminate or significantly reduce WHT on future service and software payments — creating ongoing annual savings.



2

RECLAIM PAST WITHHOLDINGS

Refund up to 5 Years

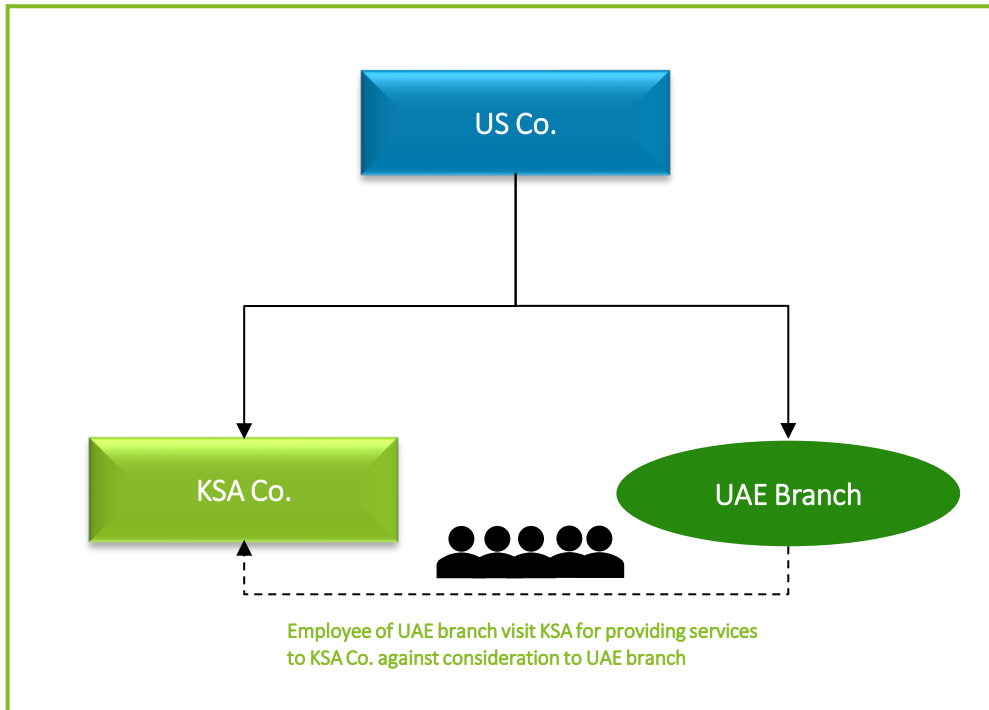
Leverage ZATCA's revised position to claim refunds for WHTs paid in the last 5 years under the Saudi Statute of Limitations — turning past overpayments into recovered cash.

WHY NOW?

- ✓ ZATCA has aligned its position with the OECD on service and software payments
- ✓ This is a change in interpretation (not law) — with retrospective effect
- ✓ 5-year Statute of Limitations is a ticking clock on refund eligibility

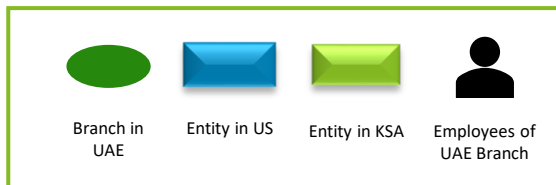
Common Observations

Tax Inefficiencies



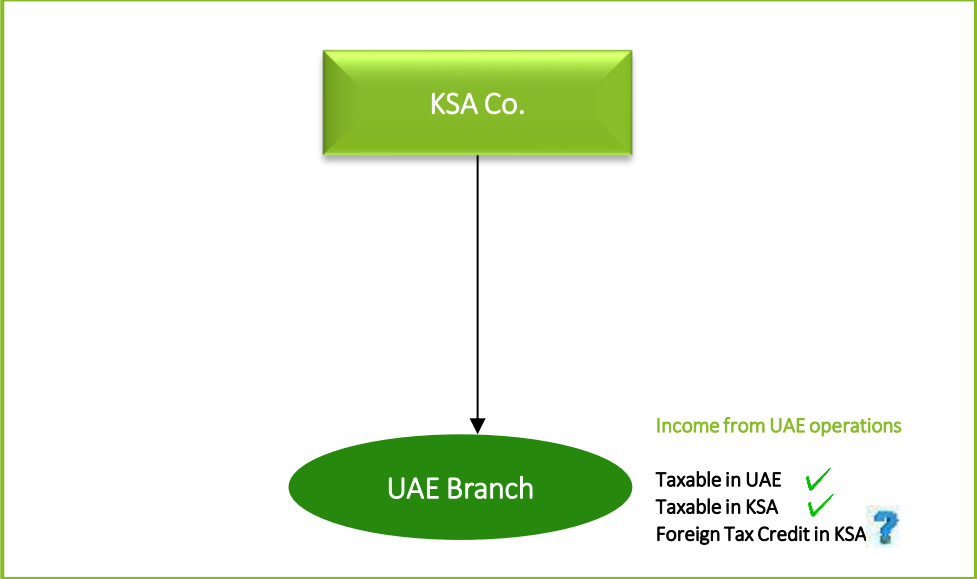
UAE Branch of US Co. earning income from KSA subsidiary of US Co.

- Employees of the UAE branch travel to KSA and provide services to KSA subsidiary.
- The UAE branch recharges the service costs (management fee/service fees) to the KSA subsidiary.
- From a KSA tax perspective, the payment is being made by a KSA resident company to a non-resident.
- KSA withholding tax may apply on the service payment depending on the nature of the services and where they are performed.
- Whether foreign tax credit / DTT benefits are available on payment from KSA Co. to UAE Branch?



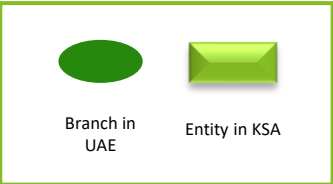
Common Observations

Tax Inefficiencies





KSA Company with UAE Branch


- UAE branch to be subject to UAE CT at 9% (assuming taxable income exceeds the threshold and no exemption applies).
- The financial results of UAE branch to be consolidated in the financial results of KSA Co and consequently, taxed in KSA.
- Same income suffers taxation in both jurisdictions.
- Whether foreign tax credit / DTT benefits are available on taxes paid in the UAE?



Key Takeaways

 In the event where tax withholding has occurred over the past five years on payments received from a KSA entity - reassess the position with the ZATCA - pursue a favourable ruling to facilitate a refund claim.

 UAE subsidiary is preferred over a UAE branch when cross-border service recharges, royalties, or management fees are expected.

 UAE entities may act as an IP holder for KSA structures given the WHT benefit on royalty payments.



Live Q&A





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