The Tax and Zakat Appeal System in the Kingdom of Saudi Arabia: An overview

Ahmed A Altawyan

Al-Imam Muhammad Ibn Saud Islamic University, altawyan.ahmed@gmail.com

Follow this and additional works at: https://scholarworks.uaeu.ac.ae/sharia_and_law

Part of the Tax Law Commons

Recommended Citation

Available at: https://scholarworks.uaeu.ac.ae/sharia_and_law/vol2020/iss82/9

This Article is brought to you for free and open access by Scholarworks@UAEU. It has been accepted for inclusion in Journal Sharia and Law by an authorized editor of Scholarworks@UAEU. For more information, please contact sljournal@uaeu.ac.ae.
The Tax and Zakat Appeal System in the Kingdom of Saudi Arabia: An overview

Cover Page Footnote
Dr. Ahmed A Altawyan Assistant Professor of Law Al Imam Mohammad Ibn Saud Islamic University
Member of the Appeal Committee of Tax for Conflict and Dispute, the Kingdom of Saudi Arabia

This article is available in Journal Sharia and Law: https://scholarworks.uaeu.ac.ae/sharia_and_law/vol2020/iss82/9
The tax and zakat appeal system in the Kingdom of Saudi Arabia: An overview

Dr. Ahmed A Altawyan
Al Imam Mohammad Ibn Saud Islamic University, Assistant Professor of Law &
Member of Appeal Committee of Tax for Conflict and Dispute, the Kingdom of
Saudi Arabia

Abstract in English:

The competent judicial authority for adjudicating tax disputes differs from state to state. Some laws allow general courts jurisdiction to adjudicate tax disputes. Others allow administrative courts jurisdiction over taxation and zakat disputes because one of the parties involved in most such disputes is the competent government authority vested with administrative decision-making powers for assessment and collection of taxes. Therefore, it is natural for the administrative judiciary to be vested with the adjudication of tax disputes. However, there is a different legal system in the Kingdom of Saudi Arabia (KSA) to address such disputes. This study examines the differences between the legal systems in the west and those in the Arabic world regarding appeals in tax disputes and analyzes the apparatus under KSA by drawing on comparative law in this field. The KSA has apparently implemented significant immediate solutions such as special tribunals in the form of Tax Committees by Royal Order. However, the findings revealed the limitations of these tribunals and proposed several changes, such as limiting the members within Saudi tax tribunals to legally qualified persons because of the judicial nature of the job, and made other recommendations for improving the state of the tax judiciary in the KSA.
نظم الاستئناف في منازعات الضريبة والزكاة في المملكة العربية السعودية: نظرة عامة

د. أحمد عبد الرحمن الطويان
أستاذ القانون التجاري المساعد - جامعة الإمام
محمد بن سعود الإسلامية، عضو لجنة استئناف الضريبة على الضرائب - المملكة العربية السعودية

ملخص البحث باللغة العربية

تختلف السلطة القضائية المختصة في الفصل في المنازعات الضريبية من دولة إلى أخرى. فبعضها تسمح للمحاكم العامة في النظر والفصل في المنازعات الضريبية. والبعض الآخر يمنح تلك السلطة للمحاكم الإدارية لأن أحد الأطراف المتنازعة في معظم هذا النوع من المنازعات هو السلطة الإدارية وهي الجهة الحكومية المخولة بسلطة اتخاذ القرار الإداري في ما يتعلق بتقييم الضرائب وتحصيلها في تلك المنازعات. وفي المملكة العربية السعودية، يوجد نظام قانوني مختلف للفصل والنظر في هذه النزاعات يقوم على لجان ذات اختصاص قضائي بقرارات غير قابلة للطعن أمام أي جهة قضائية أخرى. فهذه الدراسة تبحث في الاختلافات بين النظم القانونية في بعض الدول الغربية والعربية فيما يتعلق بالاستئناف في المنازعات الضريبية وتحليل النظام القضائي في المملكة العربية السعودية من خلال المقارنة في هذا المجال. كما تقدم الدراسة توصيات لتحسين وتطوير بيئة القضاء الضريبي في المملكة العربية السعودية.
Introduction:

Zakat\(^1\) bears religious significance as one of the pillars of Islam. Taxation is significant in the legal field as a right of the State. Both zakat and taxation support the economy as central resources of the public treasury in the Kingdom of Saudi Arabia (KSA). For instance, the budget statement for 2018 released by the Ministry of Finance announced that tax revenues for 2018 would touch 166 billion riyals, depicting an increase of 89.4% compared to the previous year. In 2019, taxation registered about 183 billion riyals as of date and is expected to grow by about 10% annually to reach 201 billion riyals in 2021.\(^2\) One of the major reasons for the continuing prevalence of these resources is the presence of an independent judicial authority. The judiciary serves as a safeguard for taxpayers against arbitrariness on part of the authorities responsible for taxation and zakat. This paper focuses on this system in KSA as the subject of study.

Different countries have different laws determining which judicial authority is competent to deal with and adjudicate tax disputes between a taxpayer and the governmental authority concerned with taxation. Laws, for example, in the United States, empower the regular judiciary (general courts) jurisdiction to adjudicate tax disputes. In some other countries, administrative courts have jurisdiction over taxation and zakat disputes because one of the parties involved in most such disputes is the competent government authority vested with administrative decision-making powers for the assessment and collection of taxes. Therefore, it is natural for the administrative judiciary to adjudicate tax disputes (Al-Attiyah, 2017; Park & Eun, 2018; Griswold, 1943; Lederman, 2007). However, the KSA has a different legal system to address such disputes, which has been subjected to

---

\(^{1}\) Zakat is one of the pillars of Islam. It is based on the primary sources of Islamic law and refers to an obligated payment of a certain percentage to be made annually on certain kinds of property.

\(^{2}\) For more information, see the Statement of the budget for the fiscal year 2019. Available at: [https://www.mof.gov.sa/financialreport/budget2019/Pages/default.aspx](https://www.mof.gov.sa/financialreport/budget2019/Pages/default.aspx)
criticism in all stages of its implementation. This study analyzes the apparatus under KSA by drawing on comparative law in this field.

The Concept of Zakat

Zakat in Islamic law and in the Muslim world refers to a form of almsgiving or tax. It is a religious obligation for all Muslims who meet the necessary criteria of wealth, based on income and the value of one’s entire possessions, to customarily pay 2.5% of their total wealth above a specific amount known as nisab (Qudaman & Mughni, 1968).\(^3\) Zakat is one of the pillars of Islam (Al-Demerdash, 2019; Salmi & Sattar, 2019; Wahab & Rahman, 2011), an important part of the Islamic religion (Qudaman & Mughni, 1968).\(^4\) The Quran states the following regarding Zakat in Islam:

\[
	ext{ۖ}
\)

\[
	ext{ۖ}
\]

Zakah expenditures are only for the poor and for the needy and for those employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation imposed by Allah. And Allah is Knowing and Wise.\(^5\)

The Quran instructs Muslims to give a part of their wealth to certain classes of people, but it does not provide specific guidelines on the types of wealth that are taxable under zakat; nor does it specify the percentages to be given. The Quran states the following:

---

\(^3\) In Sharia, nisab refers to the minimum amount a Muslim must possess to pay zakat. This has numerous explanations by Muslim jurists, but these do not come within the scope of the current paper.

\(^4\) As mentioned earlier, zakat is one of the five pillars of the Islamic religion. It refers to the amount of money that must be paid by an individual to charity. This depends on the amount of money and the type of assets a person possesses. Zakat is mandatory in Saudi Arabia, and the Department of Zakat and Income is the competent authority to collect it: Its website is available at https://dzit.gov.sa/.

\(^5\) The Quran 9:60.
Obey Allah and obey the Messenger, but if you turn away - then upon Our Messenger is only [the duty of] clear notification.\(^{(6)}\)

According to this Ayah (verse), Muslims must turn to Prophet Muhammad’s explanation of zakat. On several occasions, the Prophet described the types of wealth that are taxable and specified the percentages to be given (Al-Bukhari).\(^{(7)}\) In one of these sayings, the Prophet states the following:

\[
\text{فَيَسَّرَ الْسَّمَاءَ وَالْجَبَلَيْنِ وَالْبَيْلَةَ الْعَشْرَ وَفَيْنَا سَقِيمُ النَّافِضِ نَصْفِ الصَّرْحِ}
\]

On land that is watered by rain or springs or any natural means there is (zakat to pay off) a tenth. On irrigated land, there is (zakat of) a twentieth (to pay). (Al-Bukhari).\(^{(8)}\)

One of the differences between zakat and taxation is that the former is a religious obligation and imposed by Allah, or God himself, on the wealth of the rich who are capable of helping the poor and the needy.\(^{(9)}\) Another difference is that zakat beneficiaries are defined under Sharia law, which includes the poor, the needy,\(^{(10)}\) zakat collectors,\(^{(11)}\) and stranded travelers. Zakat is not to be paid to any other categories of individuals, who are not entitled recipients of zakat under the primary sources of Sharia Law, while taxation is determined by an executive authority of the government of a country or under the law of taxation of a country (Salmi & Sattar, 2019; Al-Demerdash, 2019; Wahab & Rahman, 2011).

\(^{(6)}\) The Quran 64:12.  
\(^{(7)}\) Many sayings of the Prophet explain zakat in all its aspects.  
\(^{(8)}\) Id. at, 126 No. 1483.  
\(^{(9)}\) See the Quran 9:60.  
\(^{(10)}\) There is a debate among Islamic jurists about the definition of “the poor and the needy”; however, because this point is outside the scope of the current paper, it will not be discussed here.  
\(^{(11)}\) Zakat is mandatory in Saudi Arabia, and there is a competent authority to collect it, The General Authority for Zakat and Income; its website is available at: https://www.gazt.gov.sa/ar.
The KSA handles most zakat-related issues through the Executive Regulations for Zakat Collection issued by the Minister of Finance Decree No. (2216) dated 7/7/1440H, which states that these regulations supersede the regulations issued by Ministerial Resolution No. (2082) dated 1-6-1438H and all other previous resolutions, instructions, and circulars relating to the collection of zakat and cancel all conflicting provisions. These Executive Regulations apply to financial years beginning on and after January 1, 2019, for all taxpayers (Abu Bakar, 2007).

As it is a religious obligation for Muslims involved in business activities that bring profits, zakat is imposed on all Saudi natural persons doing business and residing in KSA, all those treated as Gulf Cooperation Council (GCC) nationals, Saudi companies based in KSA (which are treated as Saudi nationals), and those holding shares of governmental bodies of KSA. Others are subject to income tax, except for certain activities such as those in the fields of natural gas investment and oil and hydrocarbons production. Article 2 of the Saudi Income Tax Law states the following:

(12) For more information on the Executive Regulations for Zakat Collection see THE GENERAL AUTHORITY OF ZAKAT AND TAX (GAZT) at: https://www.gazt.gov.sa/en/laws-regulations/zakat-collection. The KSA authorities have issued the Simplified Zakat Guide for an easier understanding of zakat. It contains an explanation of Zakat cases in various establishments, based on the type of establishment, activities subject to zakat, the executive regulations for zakat, registration in the electronic services of the authority, cases of zakat application in establishments, zakat account, zakat funds collected from establishments, regulations of non-profit establishments and charities in zakat, declarations of zakaah, types of certificates in zakaah on establishments, and obligations of enterprises subject to zakat. See: https://www.gazt.gov.sa/sites/default/files/2019-02/ZAKAT_GL.pdf to understand the practice of zakat in other Muslim countries such as Malaysia.

Persons Subject to Taxation

(a) A resident capital company with respect to shares of non-Saudi partners.

(b) A resident non-Saudi natural person who conducts business in the Kingdom.

(c) A non-resident who conducts business in the Kingdom through a permanent establishment.

(d) A non-resident with other taxable income from sources within the Kingdom.

(e) A person engaged in the field of natural gas investment.

(f) A person engaged in the field of oil and hydrocarbons production. (Income Tax Law)\(^{(14)}\)

The above-mentioned statements clarify how zakat is a form of income tax for Muslims, but with some differences, which may not require further explanation considering the scope of this paper.

Taxation in KSA

Taxation is a new element in KSA, save for the Income Tax laws, which were issued per Royal Decree No. 17/2/28/3321, dated 21/1/1370 H. (2/11/1950), and amended per Royal Decree No. 17/2/28/8955, dated 30/9/1370 H (5/7/1951) and Royal Decree No. 17/2/28/576, dated 14/3/1376 H. (19/10/1956).\(^{(15)}\) The KSA has moved to impose various types of taxes on commodities, goods, and services to boost the state’s finances.

Income Tax

The Income Tax Law in KSA levies income taxes on non-Saudi partners’ shares in the Saudi private sector, regardless of whether they


are natural or legal persons, resident or non-resident entities. Moreover, Saudi non-residents are subject to this law if they receive their income through a permanent establishment therein or have sources of income in the Kingdom.\(^{(16)}\)

**Value Added Tax (VAT)**

The KSA Ministry of Finance began to impose VAT from 2018 onward. It is an indirect tax imposed on all goods and services that are bought and sold by businesses, with a few exceptions, such as medical equipment. VAT is levied on goods and services at various stages of the supply chain, indirectly including the final selling stage as well. It is imposed on the difference in the cost and the sale prices of the goods and on the cost of production. The KSA VAT Law specifies the introduction of VAT as outlined in the Unified Agreement for VAT of the Cooperation Council for the Arab States of the Gulf. It came into force from January 1, 2018 (H1439/4/14).\(^{(17)}\)

**Selective Commodity Tax**

This tax is imposed on products that are likely to cause health problems and subsequently increase medical expenses; this was to motivate people to quit using harmful substances, such as cigarettes, soft drinks, and energy drinks. KSA implements excise taxes in accordance with the Unified GCC Agreement for Excise Tax, which was published on May 30, 2017. The tax is imposed on three commodities in

---


\(^{(17)}\) In June 2016, the GCC states agreed to sign a VAT Agreement and to impose VAT across all GCC states. In February 2017 (Jumada Al-Awwal 1438), the Kingdom ratified the GCC VAT Agreement and committed to impose VAT, to be implemented from January 1, 2018 in the Kingdom. The tax was introduced at a standard rate of 5%. The General Authority of Zakat and Tax (GAZT) is responsible for managing the implementation, administration, and enforcement of VAT in KSA. For further details on the VAT Law, see: [https://www.vat.gov.sa/sites/default/files/2017-09/SaudiVATlaw-bilingual.pdf](https://www.vat.gov.sa/sites/default/files/2017-09/SaudiVATlaw-bilingual.pdf). To expand on the areas covered within the KSA VAT Law, see the VAT Implementing Regulations, at: [https://www.vat.gov.sa/sites/default/files/2018-01/20180125.pdf](https://www.vat.gov.sa/sites/default/files/2018-01/20180125.pdf).
The tax and zakat appeal system in the Kingdom of Saudi Arabia: An overview

[The tax and zakat appeal system in the Kingdom of Saudi Arabia: An overview]

the following manner: 100% tax on energy drinks and tobacco and its derivatives and 50% tax on soft drinks. These taxes are collected in a single phase from both the suppliers and manufacturers.\(^{(18)}\)

All types of taxes, including zakat, are subject to the same jurisdiction in KSA. The next section will discuss how KSA handles tax disputes.

The Tax Appeal System in Comparative Law

Disagreements with a tax authority are common. Legal systems try to find the best way to resolve such disagreements by establishing a clear procedure that is accessible to all those who need it, regardless of whether they are local or foreign entities. If a compromise does not work, a common way to resolve the dispute is through a tax appeal. There are various procedures imposed by law while seeking an appeal. This paper will discuss some of the systems in place in different countries before analyzing the legal process in KSA.

In the US, taxpayers can appeal before the Office of Appeals if they do not agree with the tax assessment by the US Internal Revenue Service (IRS).\(^{(19)}\) This office is an independent organization within the IRS that helps taxpayers through informal and administrative processes to resolve tax controversies fairly and impartially, without litigation. Such appeals are reviewed after the IRS has made its decision. The office also offers an objective point of view on each appeal and provides mediation services through a Fast Track Settlement and other programs to help

---


In addition to the law, the Implementing Regulations of Excise Goods Tax Law include the fields stated in KSA Law, where the implementation rules are detailed, available at: [https://www.gazt.gov.sa/sites/default/files/2017-10/Excise_IR_Final.pdf](https://www.gazt.gov.sa/sites/default/files/2017-10/Excise_IR_Final.pdf).

\(^{(19)}\) The US Internal Revenue Service (IRS) is a bureau of the Department of Treasury and its task is to enforce income tax laws and to oversee the collection of federal income taxes (For more information, see [https://www.irs.gov](https://www.irs.gov)).
resolve the dispute at the earliest possible stage in the audit or collection process.\(^{(20)}\) If the taxpayer does not wish to raise an objection before the Office of Appeals or the taxpayer does not arrive at an agreement with the Appeals Office to resolve all or part of the appeal,\(^{(21)}\) a tax objection may be raised before the US Tax Court, which is the next stage of appeal.\(^{(22)}\)

The US Tax Court was established by the Congress under Article 1 of the US Constitution, and the taxpayer can submit his dispute to the Tax Court before paying any disputed amount.\(^{(23)}\) The official website of this court presents its mission statement in the following words: “The mission of the US Tax Court is to provide a national forum to expeditiously resolve disputes between taxpayers and the Internal Revenue Service while considering the merits of each case carefully and ensuring the uniform interpretation of the Internal Revenue Code. The Court is committed to providing taxpayers, most of whom are self-represented, with a convenient place of trial and, when their disputes involve relatively small amounts of tax money, simplified procedures.”\(^{(24)}\) The US Tax Court is a federal court of limited jurisdiction. It includes the authority to re-determine transferee liability, making certain types of declaratory judgments, adjusting partnership items, ordering abatement of interest, awarding administrative and

\(^{(20)}\) For more information on this office, see https://www.irs.gov/appeals.
\(^{(22)}\) For steps regarding how to appeal to the Tax Court, see: https://taxclinic.law.gsu.edu/judicial-review/u-s-tax-court/
\(^{(23)}\) See: https://www.ustaxcourt.gov/about.htm and https://taxclinic.law.gsu.edu/judicial-review/u-s-tax-court/.
\(^{(24)}\) See https://www.ustaxcourt.gov/about.htm
litigation costs, re-determining worker classification, determining relief from joint, and several liabilities on a joint return.\(^{(25)}\)

In Britain,\(^{(26)}\) the process of tax appeal is similar to that of the US. If the taxpayer does not agree with the tax assessment by UK HM Revenue and Customs, which is a non-ministerial department of the UK Government responsible for the collection of taxes, payments, and customs authority, he or she can submit an appeal, which will be considered by the Appeal Commissioners who are independent of Her Majesty’s Revenue and Customs, except where the case is about the value of land in the UK, which is presented before the Lands Tribunal. If the taxpayer does not agree with the decision of the Commissioners, an appeal can be referred before the High Court in England and Wales, or the Court of Sessions in Scotland.\(^{(27)}\)

Some Arab nations too have such tax appeal systems; for example, the United Arab Emirates (UAE) and Egypt. In the UAE, the concerned law is Federal Law No. (7) of 2017 on tax procedures, the provisions of which apply to tax procedures related to the administration, collection, and implementation of taxes by the Federal Tax Authority to regulate the mutual rights and obligations between the Authority and the taxpayer and any other person dealing with them. There are also common rules that apply to all tax laws in the state. Article 28 of this Law necessitates the formation of one or more permanent committees called the “Committee for the Settlement of Tax Disputes,” chaired by a member of the judiciary and two tax experts to be appointed by the Minister of Justice. Under Article 31 of this law, it is not permissible to appeal to the competent court before submitting the objection to this committee, but its decision is not final. This is similar to some other laws mentioned above. Its decision may be challenged before the

\(^{(25)}\) See: [https://www.ustaxcourt.gov/about.htm](https://www.ustaxcourt.gov/about.htm)

\(^{(26)}\) In addition, in Canada too, the situation is similar to that in the US. For more information, see The Canada Revenue Agency (CRA) administers tax laws for the Government of Canada. Available at [https://www.canada.ca/en/revenue-agency.html](https://www.canada.ca/en/revenue-agency.html)

competent court, and according to the first article, the competent court is the Federal Court, which is within the jurisdiction of the headquarters of the Authority (Federal Tax Authority), or one of its branches.

**Overview of the Tax Appeal System in KSA**

As stated earlier, it is universally known that one of the most complex and difficult disputes that arise between individuals and administrative bodies is tax disputes (Al-Qahtani & Sattar, 2019). Similarly, in KSA, zakat disputes, which revolve around the taxpayer’s objection to payments of zakat, are complex issues. These disputes pertain to the basis of the application of zakat, or the collection of the sum.

In the case of zakat and tax disputes in the Kingdom, the former system was based on the right of the taxpayer to appeal to zakat and the Income Tax Authority’s Zakat or Taxation, through several procedures detailed in the Executive Regulations of Saudi Income Tax law (60 - 61 - 62), which stated that the objection must first be made to the General Authority of Zakat, and the next step should be to appeal to the primary committee, and then the Appeals Committee. According to Article 61 of the Executive Regulation, committees to adjudicate tax violations consist of at least three members, who must be specialists in accounting, law, or taxation, and one of them must be an employee of the General Authority of Tax and Zakat. This means that the body is not independent of the authority that directs judicial appeals to the two levels before the administrative court, before finally culminating in the Supreme Administrative Court.

Following the regulation issued by the Minister of Finance, Decree No. 1535, dated 11/6/1425 H, major changes were made in the tax appeal system in KSA to meet the requirements of Saudi’s Vision

---

(28) This regulation was issued by the Minister of Finance Decree No. 1535 dated 11/6/1425 H. It was published in issue No. 4102 (dated 27/5/1427 AH) of the Umm al-Qura Journal, which is the official journal of KSA.
2030. (29) Achieving the goals of the Saudi Vision, the Minister of Finance made the decision (No. 2753 dated 1439/8/14 AH) to approve the rules for the settlement of zakat and tax disputes. This represented the rules and procedures for the work of the Committee for the Settlement of Zakat and Tax Disputes under Supreme Order No. 33406 dated 1435/08/18 AH. This committee approves the formation of internal committees in the General Authority for Zakat and Income, which in turn assume the task of settling disputes that arise between the tax authority and those charged with zakat and tax. These internal committees are responsible for the consideration of requests for settlement as submitted by taxpayers who are subject to zakat or tax. (30)

Since such committees are internal and are not independent of the tax authority, before establishing such committees, the Board of Directors of the General Authority for Zakat and Income No. (1488) (dated 20/04/1439H) decided to establish the independent General Secretariat of Tax Committees. (31) This secretariat aims to achieve the highest levels of efficiency and quality and to enhance the credibility and effective role of the judicial system. This, in turn, contributes toward raising the efficiency of the zakat and tax sector. The website of the General Secretariat carries data on the services provided and means of communication. (32)

Reinforcing an appropriate environment to decide upon tax disputes, Royal Decree No. (M / 113) was issued on 2/11/1438 AH, which amended the text of Article 67 of the Income Tax Law. By this amendment, the instrument began to address the formation of two types of committees, namely the primary and appellate committees.

(29) The kingdom presented a plan to reduce state dependence on oil, to diversify its economy, and to improve public service sectors such as recreation, education, health, tourism, and infrastructure. See https://vision2030.gov.sa/en for more details.
(30) For more information on such committees, see the official website of the General Secretariat of Tax Committees. Available at https://gstc.gov.sa/news.xhtml.
(31) Such committees are different from internal ones. They are independent and are formed under the direction of the royal order, which will be explained later in detail.
(32) See https://gstc.gov.sa/aboutusme.xhtml
The Royal Decree stated that, “the decisions of the Appeals Committee are final and cannot be contested before any other judicial body.” In view of these amendments, the Royal Decree cancelled the jurisdiction of the administrative courts and facilitated only an appeal to the new independent Trial and Appeal Committees. However, their formation by Royal Order and their wide scope of jurisdictional power truly makes them a court. Their jurisdiction as stipulated in the Royal Decree extends to matters pertaining to the irregularities, disputes, and claims of public and private rights arising from the application of the provisions of the tax regulations, and other regulations, decisions, and instructions issued in furtherance of these regulations. The Committees have all the powers necessary to investigate and adjudicate cases within their jurisdiction, including the power to summon witnesses, order evidence and documents, issue decisions, and impose sanctions. Each Committee consists of several circuits, with each circuit confined to a particular branch of tax law. Each circuit comprises three members qualified in law and accounting, provided the head of the circuit and at least one of its members have the necessary legal qualifications.\(^{(33)}\)

The Committees established by Royal Order are similar to the tax courts in the US and the UK in terms of their functions and jurisdiction, although they are more like courts in terms of their formation and power; they also constantly face questions on their impartiality and independence, especially as they do not come under the judicial system. In the next section, this paper will shed light on such committees in the Saudi legal system.

**Administrative Committees (Mini-Tribunals) in the KSA Legal System**

KSA has a dual judicial system that comprises the General Courts System and an independent administrative judiciary known as the Board of Grievances (Diwan Al-Mazalem). There are also several

\(^{(33)}\) See for more information about such royal orders, see: https://gstc.gov.sa/committees.xhtml
Administrative Committees (mini-tribunals) that have jurisdiction over specific cases under the authority of different governmental bodies. In 2007, the KSA implemented a modern judicial system by Royal Decree M/78 to reform the judiciary and to create a new court system after its judicial system was criticized both domestically and internationally for being slow and arcane.

As per the new judicial law in KSA, the courts are given authority to oversee all cases in general. For example, Commercial and Labor Courts will oversee disputes that had previously been handled by the Special Committee Tribunals constituted by the Ministry of Commerce and Industry and the Ministry of Labor. Article 25 of the law of the judiciary states the following: “Courts shall have jurisdiction in all cases according to the rules outlined in the legal proceedings system and the system of criminal proceedings.” The Implementing Regulations of the Law of the Judiciary excluded the tribunals in three sectors, namely the banking, financial market, and customs sectors. In 2012, Royal Order No. 37441 was issued to address the formation of the Appellate Committee of Disputes and Banking Irregularities. Not only did the committee continue to operate, but five years after the new judiciary law was passed, an appellate body was created for this committee. By this, the independence of the committee and the appellate body were protected based on the measures outlined under Royal Decree No. M/113 dated 2-11-1438 H. The question here is why these committees continued to remain even though they were previously criticized for their decisions (which were not always enforceable) and were also challenged before other courts in KSA (IBP, 2008). The tribunals were constantly questioned on their impartiality and independence, especially because they functioned under an executive authority (IBP, 2008).

Regarding this, Michael Lindsey stated the following:

---

(35) Id.
(36) Royal Order No. 37441, 2012.
Middle Eastern countries are generally characterized by weak judiciaries, which are not independent from the executive branches of government. The judges in the region are often government employees working under the executive through the minister of justice. This gives the executive branch the power to interfere in the judicial process. Egypt and Lebanon, for example, have highly developed judiciaries but are often under pressure from the executive branches of their governments. (Elsaman, 2011)

Therefore, the major reason for establishing such committees is that Saudi judges do not have the training they need in the law to deal with such disputes. Nancy Turck mentioned that “the judges are trained only in Sharia and often have no technical background to understand a complex, highly technical case” (Turck, 1988; Karl, 1991; Vogel, 2000). Another cause for creating such committees is that, taking for example the Banking Dispute Committee which is similar to the Tax Committees, the legal right of the bank to collect interest is unacceptable under Sharia Law as applied in KSA courts. Abdurahman Bammir explained this as follows:

It should be noted that the committee was established as a compromise between Sharia and economic interest in order to remove the burden from judges who faced a religious dilemma when deciding on disputes related to banking business. The dilemma occurred because of the gap between the legal right of the bank to collect the amount of interest in full, as stipulated in the agreement between the parties following the principle of *pacta sunt servanda*, on the one hand, and the fact that the whole transaction is unacceptable under Sharia on the other. (Bammir, 2013)

Undoubtedly, the existence of several committees to address different legal aspects raises serious questions about the quality of the judges in KSA, especially after the establishment of the new judicial system. This paper will provide a few suggestions to improve the legal system, especially in the context of taxation disputes that can help pave
the way toward creating a more welcoming judicial environment in KSA for the resolution of these disputes.

**Possible Solutions and Improvements**

Reforms in the legal system and in the judicial infrastructure in KSA are long-term strategies that will take time to create an impact on the system. The KSA implemented effective immediate solutions such as the establishment of special tribunals in the form of Tax Committees by Royal Order. However, since the present author is a member of the Tax Appeals Committee and has examined this area, this paper proposes the following suggestions for improving the state of the judiciary.

- The new Tax Committees that were established by Royal Order can operate under the General Secretariat of Tax Committees, which should be connected directly to the King and separated from the General Authority of Zakat and Tax (GAZT) as it is an executive authority that can be of great support for the Tax Committees if it enjoys a greater degree of independence.

- The members of the tax committees should strictly be restricted to those who are legally qualified and have experience in Sharia Law. Those qualified as accountants or in other relevant fields may at the most be experts, but not members. This solution is in line with one included in a report submitted to the Shura Council for the qualification of judges. It should be noted that a recent report of the Judicial Committee of the Saudi Shura Council included a proposal to amend Article 31 (d) of the judicial law. The amendment stipulates that a candidate seeking to become a member judge must obtain a certificate from one of the Sharia colleges in KSA, or another equivalent certificate, or have a degree in law from a university in KSA, provided he passes the two-year qualification program in Sharia. Such a proposal will help reduce conflict between members of such committees in terms of their qualification.

qualifications and the Saudi judicial law, and at the same time, the flexibility of such committees will be maintained, which is not found in traditional Saudi courts.

- If these suggestions are followed, there will not be much of a difference between the Tax Committees and the courts in terms of how they are formed and constituted, as well as the qualifications of those who want to be part of it. Thus, this last solution suggests changing the names of the Tax Committees to “Tax Courts” and to identify all outcomes from such Tax Courts as judgments instead of as decisions. Such a proposal is in shape, but it is necessary to transfer to a complete judicial system in the tax and zakat disputes in KSA and reinforcing it in all its forms.

Conclusions

The legal, regulatory, and judicial environments in KSA are striving toward professionalism, independence, and competitiveness, particularly with respect to settling zakat and tax disputes under Vision 2030, with the overarching aim of attracting international investments into the country. KSA has a dual judicial system that comprises both the General Courts System and an independent administrative judiciary known as the Board of Grievances (Diwan Al-Mazalem). There are also several Administrative Committees (mini-tribunals) that have jurisdiction over specific cases under the authority of different governmental bodies, of which one set is the Tax Committees that have undergone several levels of reinforcement and reform since their establishment.

To support the pursuit and success of Vision 2030, the Royal Decree No. (M / 113) was issued on 2/11/1438 AH, concerning the formation of two types of committees—primary and appellate committees. Their establishment by Royal Order and their wide powers of jurisdiction make them similar to tax courts in most states; for instance, their jurisdiction includes disputes, and claims of public and private rights, arising from the application of the provisions of tax regulations. However, a judicial environment can be reinforced in tax disputes
through suggestions such as ensuring that new Tax Committees can operate under the General Secretariat of Tax Committees, which in turn should be connected directly to the king and separated from The GAZT as the latter is an executive authority. Doing so will make the Tax Committees more independent. Further, the re-formation of such committees should be limited to those who are legally qualified, as is done in tax courts around the world. This would enable substantial transfer of power to a comprehensive judicial system addressing tax and zakat disputes in KSA and ensure its reinforcement.
References


[The tax and zakat appeal system in the Kingdom of Saudi Arabia: An overview]


