

Case Study:

XYZ — A UK company was wrongly taxed on offshore income

Case Study:

XYZ – A UK company was wrongly taxed on offshore income.



Executive Summary:

- A UK company entered into a contract with a Kuwaiti company for providing data management services. the location for safe storage as well as for maintenance should be United Kingdom except for training, consultancy and other specific works which were inside Kuwait. The tax department considered the income as onshore and levied taxes. RSM Kuwait defended the cases and got a favorable decision from appeal committee proving that the income is offshore and exempt from tax in Kuwait.



The key challenge

- A UK company entered into a contract with a Kuwaiti company for providing data management services. the location for safe storage as well as for maintenance should be United Kingdom except for training, consultancy and other specific works which were inside Kuwait. The tax department considered the income as onshore and levied taxes. RSM Kuwait defended the cases and got a favorable decision from appeal committee proving that the income is offshore and exempt from tax in Kuwait.



Our Approach

- RSM Kuwait team defended the case by quoting the provisions of Double Taxation Avoidance Agreement between Kuwait and UK which provides that profits of a PE in Kuwait shall be taxable only to the extent such profits are earned from activities carried out inside Kuwait.
- Since the servers of the client for data storage were located in UK, RSM Kuwait contended that main activity of storage and maintenance of storage took place in UK. Hence, even if few ancillary activities took place inside Kuwait(which were offered to tax in Kuwait), such activities could not form a basis to hold entire offshore income as taxable in Kuwait.



Results

- The matter reached till Appeal Committee of tax department. The Appeal committee analyzed facts of the case.
- RSM Kuwait Tax Team, substantiated its argument with supporting documents in the form of contract, UK tax returns, confirmation from contracts owner and legal arguments.
- After several rounds of discussion with the Appeal Committee, the case was decided in favor of client based on the appeal filed by RSM Kuwait, several legal arguments presented by RSM Kuwait, documents produced. This outcome resulted in substantial tax savings to the UK company.



RSM Kuwait

Arraya Tower, Floors: 41 & 42, Abdulaziz
Hamad Alsaqar Street, Sharq, P. O. Box
2115, Safat 13022, Kuwait
www.rsm.global/kuwait

Disclaimer:

While utmost care has been taken in compiling this Tax newsletter, its contents are not intended to be a substitute for professional advice or to serve as a basis for formulating any business or other decisions. This Tax newsletter is therefore intended for information purposes only and RSM Kuwait accepts no liability whatsoever for any direct, indirect or consequential losses arising from its use or for any errors or omissions contained herein. Readers must seek professional advice regarding specific issues before making any decision.

RSM Albazie & Co. is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network. Each member of the RSM network is an independent accounting and consulting firm each of which practices in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction.

The network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London EC4N 6JJ. The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.