Case Study:

An Indian company operating in Kuwait– Tax liability arising for future years based on the tax assessment order for previous years

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Executive Summary:

- An Indian construction company having operations in Kuwait, got its tax assessment for 2 years completed (say year 1 and year 2). In the tax assessment order for such 2 years, the losses were disallowed and overall result of the tax assessments were decrease on the amount of total losses carried forward, however, the net result was still losses, hence, no tax liability for such 2 years. Because of the decrease in amount tax losses carried forward, these 2 years tax assessments resulted into a tax liability for next 2 years (say year 3 and year 4) where set-off of losses had been claimed. We advised the client to deposit the tax liability for year 3 and 4 based on the current tax assessment of year 1 and 2 even though the assessment order did not mention anywhere to pay the tax liability of future 2 years.

The key challenge

- Since year 1 and year 2 tax assessment order does not mention anything about the tax liability arising in year 3 and 4 because of year 1 and year 2, the client was under the impression that it is not supposed to deposit the tax liability of 3 and 4.

Our Approach

- The RSM Kuwait team advised the client that based on the reading of the law (Executive Regulation no. 52 of the Kuwait Tax Law), taking precedence from other countries and practical knowledge, the resultant tax liability for year 3 and 4 should be deposited within 30 days of issuance of tax assessment order for year 1 and 2.

Results

- The company deposited the tax liability for year 3 and year 4 based on the tax assessment order for year 1 and 2. This saved the company huge amount of tax penalties which could have levied, had the company not deposited the tax liability of year 3 and year 4 arising out of decreased carried forward losses based on year 1 and 2 tax assessments.

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