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THE IMPACT OF DOUBLE TAXATION ON BRINGING IN FOREIGN INVESTMENTS "IRAQ IS A MODEL."

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ABSTRACT

The phenomenon of double taxation has become one of the biggest problems suffered by different countries due to the taxpayer having to pay the same tax on the same taxable item by several countries, which negatively affects the level of international trade and in front of the recruitment of foreign investments and capital, due to the diversity of countries claiming jurisdiction to impose the tax, which necessitated this and to avoid the occurrence of double taxation to conclude international agreements, and the inclusion of laws in some domestic legislations of countries, in addition to following economic methods to avoid the occurrence of this problem.

KEYWORDS

Biggest problems suffered, several countries, foreign investments and capital.

INTRODUCTION

As a result of the expansion and intertwining of economic relations between economic operators in different countries of the world, the growth of international trade transactions, the widespread of all

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forms of foreign investment, and the transfer of capital between countries under appropriate conditions is evident, and this is what embodies the phenomenon of economic globalization. This phenomenon has been countered by the tax sovereignty of states, which, based on their practice, those states have the right to impose taxes on the incomes achieved by economic operators within their territory, and their area of tax jurisdiction may extend to incomes originating from outside their territory, which has led to the emergence of international problems of a severe fiscal nature, foremost of which is international double taxation, as a result of the desire of states to serve their interests, forgetting the interest of taxpayers, which in turn restricts the movement of foreign investors, and restricts the flow of capital between various countries of the world, which leads to the loss of significant investment opportunities, especially in countries that It needs to stimulate the economic movement of its resources. Iraq is an excellent example of those countries.

IMPORTANCE OF RESEARCH

The importance of the topic is highlighted in the following: the process of facilitating and overcoming obstacles to the entry of foreign investments into any country is necessary for the development of its economy since the phenomenon of double taxation represents one of the main obstacles to attracting foreign investments as it is imposed on the investor in the country where he conducts economic business, in addition to his home country. Hence, the need arises to find local and international solutions to avoid this phenomenon, reduce the burden on foreign investors, and facilitate capital entry from one country to another.

THE SEARCH PROBLEM

The research problem is that imposing two taxes on the same taxpayer, especially those who move outside their country of origin to engage in investment economic activities, will negatively affect the recruitment of foreign investments and thus accelerate economic growth and development.

RESEARCH HYPOTHESIS

The research is based on the hypothesis that double taxation avoidance agreements contribute to encouraging the movement of foreign investment and the transfer of capital between countries and that there is a direct relationship between avoiding double taxation and increasing the volume of tax revenues.

RESEARCH OBJECTIVES

1. Highlighting the concept of double taxation, its types and effects.
2. Analysis of the effects of double taxation on foreign investment decisions.
3. Presentation of the most essential Iraqi legislation on the subject of double taxation avoidance

4. Presentation of the most important international agreements with Iraq to avoid double taxation.
5. Submit proposals for developing national tax legislation to avoid double taxation.

RESEARCH METHODOLOGY

To achieve the objectives of the research and prove his hypothesis, the researcher relied on the descriptive analytical method to determine how the phenomenon occurs, its causes, effects, and treatment.

RESEARCH STRUCTURE

The first topic, which included the introduction, conclusions, and recommendations, dealt with double taxation and foreign investment.

The second topic dealt with the causes and effects of international double taxation through two topics: the first dealt with the causes of international double taxation, and in contrast, the second dealt with the impact of double taxation.

The third discussion addressed international double taxation through economic methods, domestic legislation, and international agreements.

The first search

What is double taxation and the concept of foreign direct investment?

The tax is one manifestation of the state's sovereignty in its territory and subjects. It is legally imposed on all citizens and residents outside the state, according to the principle of bearing public costs or burdens by members of society (the theory of Social Solidarity). However, this may expose some individuals to paying tax twice or more on the same item subject to tax accounting for more than one financial authority (internal and external or both).

The first requirement: double taxation (definition, conditions, types) :

First: definition of double taxation

Double taxation is defined as the subjection of the same tax vessel to more than one tax. This happens most often for the profits of funds invested outside the country, as the importing state of capital taxes them and is also taxed by the exporting state of capital. It is also defined as "imposing the same tax more than once on the same person, for the same money, and for the same period."

We define double taxation as an economic phenomenon that imposes two or more taxes on the same money for the same taxpayer within the same period.

Second: double taxation conditions:

The realization of this phenomenon assumes the availability of four conditions:

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1-the unit of the Taxable Person:

We have outlined earlier that one of the conditions of double taxation is that an individual can afford to impose two or more taxes. There is no problem with this matter for natural persons. Still, the problem seems evident in legal persons such as companies because they represent a legal and moral personality independent of the personality of their constituent persons. The company's profits are distributed to shareholders so that the shareholder is taxed twice, once on the company as an independent personality and again on the capital of the company's shareholders.

In this case, we note that we are facing double taxation because the shareholder bears paying tax twice, once on the company's profits and again on his earnings as a person representing a natural person. This type of double taxation is called economic double because it is not considered a double legally (1).

2-unit of taxable pot (money) :

If double taxation is achieved in this case, the taxable item is stipulated to be the same; that is, a tax is imposed on the same tax base. For example, the French authorities impose a profit tax on stocks and bonds owned by an Iraqi national on the French Stock Exchange. In return, the Iraqi financial authorities also tax the income of movable values located abroad on the same Iraqi person, according to the nationality Association. This case is considered an explicit double taxation because the tax base represented by the income of movable values has been subject to more than one tax.

3-the unit of time duration:

It should be noted here that double taxation is achieved if the tax is imposed more than once during the same period, usually a year, which means that the imposition of income tax for more than one year is not considered double taxation (2).

4 - The unit of tax levied:

In the tax unit, it is stipulated that a person pays the same tax more than once on the same money, subject to the availability of other conditions. If an individual pays tax on his monthly salary and then pays tax on the sale of a movable property, this is not double taxation but multiple taxation, which is legally guaranteed.

Third: types of double taxation :

1-Internal double taxation :

Internal duplication is achieved when the fiscal authority imposes taxes on one vessel belonging to one state, whether it is a federal or unified state; that is, internal duplication requires the availability of its premises within the borders of the state locally .in the federal state, the taxpayer finds himself obliged to pay tax to both the federal government and the territorial

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authority simultaneously. Double taxation also occurs in the unified state in the case of a tax imposed on the taxpayer by the central financial authority and previously imposed by the local monetary authority.

2-international double taxation :

Double taxation, in this case, is achieved by the imposition of a tax by the financial authorities of two or more states on the same vessel and for the same period. In this case, the taxpayer pays the tax on the basis of the principle of nationality in the home state, the second on the basis of the principle of residence (settlement), and the third on the basis of the exercise of economic activity at the location of the money.

3-intentional double taxation:

This is the double taxation that the legislator intends, i.e. deliberately occurs within the state to achieve specific purposes, perhaps financial, economic, social, or political; in certain times the tax legislator seeks to achieve double taxation intentionally by providing for it in tax legislation (3), the following agencies :

A-obtaining additional revenues: This is done by the tax legislator imposing additional taxes in addition to the original taxes to achieve more financial measures for the state, increase tax fairness among individuals, or fill a temporary financial deficit in the general budget of the state (4).

B-limiting the increase in income: through the tax legislator, the intended double taxation events are carried out within the state, and to reduce the rise in incomes, he imposes a tax on the owners of certain incomes as well as on taxes levied on all taxpayers so that the intended double taxation arises here, for a specific category of taxpayers (5).

The imposition of a tax on foreign capital invested inside the country to reduce the flow of foreign investments inside the country, as well as to combat economically undesirable activities, is done through the imposition of an additional tax on the profits of companies or specific projects such as alcoholic products or cigarettes to limit their production or reduce consumption by convincingly preventing them, without the decision to avoid leads to internal political crises affecting the political and social situation. The security stability of the country

D-applying the principle of reciprocity is carried out through the imposition of taxes on the Nationals of foreign countries.

4-unintentional double taxation:

The opposite of intentional double taxation, if it occurs unintentionally by the tax legislator, then it arises from the inconsistency of the parts of the tax system within the state and in the case of the tax systems of several states(6).

The second requirement is the concept of foreign direct investment

First: definition of foreign direct investment:

It can be defined as " the employment of non-national funds from abroad in the form of various physical and financial assets to achieve future returns. It is also recognized as one of the most critical aspects of commercial activities in modern times, as it is associated with an essential role in the process of economic and social development of a country, as it represents a significant channel through which material capital, scientific and technical expertise, as well as modern technology flows.

For our part, we define it as the fact that a natural or legal person invests physical assets in another country to achieve financial gains, and in return, the investor's country benefits from the economic advantages resulting from the investment process.

Second: the importance of foreign investment for the economy :

Developing countries, in general, suffer from a decrease in the volume of domestic savings and the capital needed to enter into the investment process, and it has become necessary to use foreign direct or indirect investment to compensate for the deficit suffered by these countries in financing domestic investments through their internal savings.

The impact of FDI on some macroeconomic indicators is manifested in the following cases :

1-the implications of foreign investment on GDP: the size of the effect of foreign investments is fundamental and directly increases the GDP growth rate in the host country.

2-the impact of foreign direct investment on the exchange rate: the more countries experience stability in the exchange rate of their local currency, the more encouraging it is to attract more foreign investments and vice versa

3-the impact of foreign investments on unemployment rates: the flow of foreign investments is a positive factor in the host country of investment, as it contributes significantly to providing job opportunities for citizens and decreases unemployment rates, that is, the inverse relationship between foreign investment and unemployment rates.

4-the impact of foreign investment on inflation rates: the process of attracting foreign investments to a country is an influential factor in reducing inflation rates; that is, there is a negative relationship between the volume of investments and inflation rates, and seeking to attract these investments requires the availability of an appropriate investment environment and maintaining reasonable rates of inflation, according to the globally accepted rates.

Third: the advantages granted to investors in the Iraqi Investment Law No. 13 of 2006 as amended

The Iraqi state, after the political change in 2003, has been issuing new legislation consistent with the aspirations of the stage of change to the market economy system, the most prominent of which was Investment Law No. 13 of 2006, which is a targeted step to encourage local and foreign investment, as well as encouraging the local and foreign private sector to enter into investment operations that contribute to accelerating the movement of economic development through a set of facilities and guarantees for investors in general, and the advantages granted in the law to foreign investors include the following(7) :

1-the investor can take out the capital and its returns that he brought to Iraq.

2-the possibility of trading on the Iraq Stock Exchange.

3-the investor is allowed to invest the necessary land for the project for a renewable period of (50) years

4- Iraqi and foreign insurance companies will insure the investment project.

5-The foreign investor is granted a residence permit in Iraq, facilitating his entry and exit from Iraq.

6-opening bank accounts for investors inside and outside Iraq in foreign and Iraqi currencies.

7-the investment project cannot be confiscated or nationalized at all.

Eight foreign workers in Iraq can transfer their salaries and wages outside Iraq.

9-exemption of the project from taxes and fees for a period of (10) years starting from the moment of operation of the investment project, subject to increase to (15) years, including the necessary furniture.

The law also includes in its third chapter, Article (10), several privileges for the local or foreign investor, including (8) :

The Iraqi or foreign investor has the right to purchase land belonging to the private or mixed sector exclusively to establish housing projects, provided that they do not conflict with the basic design policies. In the same context, the foreign or local investor owns the land allocated to industrial projects owned by the state and the public sector.

The investor or developer may make an agreement with the Investment Authority or the concerned authority on the delivery of infrastructure services up to the project's limits in accordance with the agreement concluded therein. The investor or developer may also invest in stalled projects in all sectors of a federal and strategic nature, as well as their rehabilitation and implementation.

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Second topic: causes and effects of international double taxation

The first requirement: the reasons for international double taxation

Based on what was mentioned earlier, the origin of the problem of international double taxation is due to the exercise of tax sovereignty by states even outside their territorial borders, in light of the spread of the phenomenon (economic globalization) and the interdependence of international economic relations, as these two reasons can be disassembled and analyzed into the following partial reasons :

First: the difference between the controls of tax subjection:

The controls of tax subordination are the criteria on which states are based when determining the area of their tax jurisdiction, namely:

A-nationality criterion:

It is achieved when states follow the principle of political subordination, using their sovereign authority to impose taxes on all their citizens (everyone who holds their nationality) regardless of their place of residence and on all their incomes regardless of their Source.

B-standard of residence:

It is based on the principle of social subordination, where this criterion recognizes the right of the state to impose taxes on all incomes belonging to persons who have made the state their home), regardless of the Source of these incomes, internal or external, and the term assignment domicile can be used to denote the place of residence of the taxpayer, as the intended residence here is the ordinary (permanent) residence and not the residence of the tourist for educational, therapeutic or recreational purposes.

Based on the above, basing on this criterion in determining the tax jurisdiction of the state leads to the imposition of taxes on the gross income of its residents, even if they do not hold its citizenship, including their incomes coming from outside its territory, and also allows the state of residence the right to subject the profits of companies where the seat of its administration is located and wherever the location of its economic activity is carried out. As a result, international double taxation occurs.

C-source criterion :

It is achieved when the state follows the principle of economic dependence, as this principle focuses on establishing the right of the state to impose a tax on all incomes that arise within its territory regardless of the place of residence or the nationality of the persons to whom they belong .political dependence has been the only criterion on which states rely in imposing a tax as

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a result of the legal link that connects the individual to the state, including a political link, its nationality appearance, but the relative importance of this criterion in determining the tax jurisdiction of States has diminished, to occupy the forefront by the criterion of Source and the criterion of residence.

Since the position of the Iraqi legislator in the Income Tax Law No. 113 of 1982, as amended, is consistent with the three criteria as the basis for imposing the tax, he adopted the criterion of residence when he defined the Iraqi individual as "the Iraqi who lived in Iraq for at least four months during the year in which the income was generated," that is, the Iraqi citizen is subject to internal or external about taking the standard of the homeland by stating that (if he was absent from Iraq A temporary absence as if العراق Iraq has a permanent home) (9)

Based on the foregoing, the difference in the controls on individual tax subjection leads to conflicting taxation laws in more than one country for the same taxpayer and the same tax base.

States may adopt more than one criterion for subjecting taxpayers to taxation to achieve the most significant possible tax yield, which may result in international double taxation. If we assume two states, each based on the criterion of residence and the criterion of Source together, and that a taxpayer resides in one of them and practices an activity that generates income in the other state, there is no doubt that this taxpayer will be taxed on his income in both the country of Source of income and the country of residence and therefore, despite the coincidence of the controls of tax subjection to the two states, the taxpayer has fallen into the problem of international double taxation(10)

Third: Variation in the foundations of technical regulation of taxes between countries:

The technical regulation of income taxes affects the determination of tax subjection controls, as the criterion of source, or (regional), is taken into account for specific taxes of an in-kind nature. In contrast, the criterion of nationality or residence is considered for general taxes on income (of a personal nature), which are prevalent in countries. Thus, the differences in the organization of income taxes lead to the emergence of international double taxation (11).

Fourth: Differences in interpretation of technical terms in the tax field:

Perhaps one of the most prominent examples of this is the variation in the tax legislation of different countries regarding concepts such as residence, establishment, and settlement conditions (12), as some countries may rely to determine the former on the person owning a residence within the borders of their territory, and that he resides there permanently, and he may Others are based on an idea other than permanent residence, and

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this discrepancy in the meaning and interpretation of terms results in the possibility of double taxation concerning the same tax base, viewed from two different points of view (13).

The spread of international double taxation is also due to the following reasons:

1- Ease of movement of labor and capital between different countries.

2- The spread of economic projects that operate in more than one specific country and joint-stock companies that deal in the financial assets they issue (stocks and bonds) in various countries.

1- The expansion of the introduction of personal taxes that apply to the taxpayer to achieve the imposition of tax on all of his income, whatever its source, including revenue generated from abroad.

The second requirement: the effects of international double taxation

There is no doubt that double taxation produces some adverse effects from financial, social, and economic aspects, as follows:

First: The impact of direct international double taxation

1- The effects of international double taxation on foreign trade:

International trade is of great importance at present, in addition to its role in establishing economic relations between countries, as it contributes significantly to providing goods and services at a lower expense than if they were produced locally (14)

Double taxation has adverse effects on foreign trade by depleting a portion of the profits of companies that have economic activity in more than one country, which leaves harmful effects on the economic activity of international companies and obstructs work, production, projects, and trade exchanges between countries (15)

2- Obstructing the movement of capital:

Foreign investment plays an important economic role and is one of the critical sources of financing the national economy because of the hard currency it brings to countries. Any process of obstructing investment leads to a significant threat to the country's national economy (16).

International double taxation is an obstacle to the movement of foreign capital and investors to various countries to invest in because the investor's income is subject to the same tax in his country of residence as well as the other country in which he carries out a particular activity, which leads to the accumulation of taxes due on the same income, and a heavy burden. The tax is borne by the investor, which leads to a reduction in the returns that he was hoping to achieve,

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which makes the investor refrain from reinvesting those returns and becomes an obstacle to transferring capital between different countries (17).

Double taxation also leads to the flight of investors and capital and their displacement to regions and countries that impose lower taxes, or perhaps non-existent, which leads to an unequal distribution of capital and concentration in specific areas and regions. In contrast, other countries remain in the country. As is the case for developing countries, there is a need for investments and capital to finance their projects. In addition to the impact of the essential elements of the investment climate on the extent of attracting foreign investments, such as the stability of economic and political conditions, avoiding double taxation, primarily through tax agreements, has become a Today, it is an element of the international investment climate, allows the free flow of the latter, and enhances international economic and trade relations (18).

1- The impact of double taxation on tax justice:

International double taxation violates the principles of justice by burdening the taxpayer with more than he can bear. This leads to a clear and explicit violation of the principle of equality before taxation, failure to achieve it, and a dead letter: equality in sacrifice.

Second: The indirect effects of international double taxation

1- Tax evasion

From a financial standpoint, this duality leads to the occurrence of another tax problem in addition to double taxation: tax evasion. This is no less dangerous than the first, as those charged try to get rid of part or all of the tax owed by them through many legitimate and illegitimate methods. This reduces tax collection and thus eliminates its revenues (19).

2- International tax competitiveness:

Countries seek to encourage tax investment by applying tax competitiveness, a tax measure carried out unilaterally to encourage Investment and attract capital by reducing taxes or granting tax exemptions. Countries resort to using this tax measure because of Double taxation in order to reduce the severity of double taxation on investors and attract Investment in them, which brings great benefits to these investment-hosting countries, namely providing hard currency and creating job and production opportunities for them (20)

The third section: Methods of dealing with double taxation

The process of avoiding the occurrence of local and international double taxation requires three important points. The first is following a set of economic methods represented by friendly procedures and international arbitration. The second includes concluding international agreements in this field in order to encourage the entry of foreign investments into the host countries and remove obstacles to them. While the third is through amending internal legislation, especially those related to tax laws, the second and third methods are the most widespread among countries to avoid double taxation.

The first requirement: economic methods for treating double taxation

1- Friendly measures:

It means finding solutions to the problems suffered by taxpayers as a result of one or both contracting states applying harsh measures contrary to the agreement concluded with the other contracting state through an agreement between the competent authorities of these two states. In addition to mutual assistance between these authorities in order to implement the agreement, and in order to overcome ambiguity in some of the provisions of the agreement, and if the requirements of the tax agreements relate only to avoiding legal double taxation, it is possible through amicable measures to reduce the tax burden borne by some taxpayers, as a result For international economic double taxation, which is the case in which two different persons are subject to the same tax and for the same taxable item, the amicable procedures begin at the request of the taxpayer by presenting his case to the competent authority of his country of residence, or of the Government of which he holds nationality, if it is considered that the measures taken By a contracting state, or by both contracting states, which leads, or will lead to the imposition of a tax contrary to the provisions of the agreement concluded between them, and the competent authorities can communicate with each other, through the presence of a joint committee that consults among themselves, in order to implement Compromise procedures, and this is the essence of (friendly procedures)

Second - Arbitration:

This method, along with the process of friendly procedures, promotes the avoidance of economic double taxation, as well as other cases of legal double taxation that are not stipulated in the provisions of the agreement concluded between the two contracting states, where the taxpayer may consider that the solution obtained by the competent authorities of two contracting states is not satisfied, From this point, it is possible to resort to another solution, which is represented by (arbitration): which is a procedure through which the two contracting states request the opinion of both parties to the matter, provided that the final decision rests with these two states whether to accept or reject that opinion (21).

The second requirement is the role of international agreements in avoiding double taxation.

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First: The role of double taxation avoidance agreements in encouraging foreign Investment

Experiences that took place in developing countries have proven the failure of tax exemptions to attract investors. It is more likely to conclude bilateral agreements between countries to encourage foreign Investment, as high taxes constitute an obstacle to this Investment because they increase costs and reduce the percentage of profits, which leads to facilitating the movement of Investment in which the tax rate is low. The highest profit rate is achieved, besides the role that security and political stability play in attracting investments to the host countries. Then, the vast majority of developing countries resorted to providing tax exemptions to investors in their countries, and since this measure did not work to encourage Investment in Their countries, encourage only short-term investments that the investor wants to recover his capital and achieve profits in the short term during the tax exemption period only. On the other hand, the foreign investor does not benefit from the benefits of the exemptions provided by the host countries, especially if the home country to which he belongs applies the principle (Globalization of revenues), which includes subjecting the income he obtains from his foreign investments in the form of profits to the same tax in his country. This is called international double taxation. Tax exemptions also waste tax revenues in relation to the state's revenues (22).

A study was conducted on companies that invested in Egypt (2002-2003) to determine how much incentives influence their investment decisions. The study proved that (25.6%) of these companies find that incentives are among the most critical factors affecting the rush toward Investment, While (77.8)% said that tax incentives are only one of the influential factors. Another study was conducted in Libya for the period (2003-2004), and its results showed that the distinguished geographical location of the country hosting Investment and security and political stability occupy first and second places, respectively. Tax and customs exemptions came in eighth place, while the freedom to transfer profits and principal of invested capital abroad came in ninth place (23).

Based on the above, agreements to avoid double taxation between countries can encourage the attraction of foreign Investment without the need for tax exemptions. However, the tax rate in the country hosting the Investment must be moderate, as these agreements work to avoid double taxation and prevent its recurrence. Other factors also play a role. Non-tax has a more significant role in attracting foreign Investment (24).

The following is a presentation of the first model tax agreements of the United Nations and the Organization for Economic Cooperation and Development for double taxation between developed

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and developing countries. It included four methods and can be summarized as follows:

First - Exemption method: This method means that foreign capital revenue enjoys tax exemption, and the taxpayer is not subject to tax except in the country where the revenue is generated, regardless of his residence. This method has succeeded in countries such as Germany and Switzerland in avoiding the problem of double taxation (25).

Second - The deduction method: This method requires that the taxpayer's country of residence deduct from the tax payable on his income or (his wealth) the amount of tax paid in the income-source region about the income earned there or that wealth and the taxpayer must submit the official documents proving his payment. For tax in the income-exporting country, Western American legislation allows citizens, companies, and resident foreigners to deduct from the amount of tax due from them, the taxes paid in the foreign country that is the source of income, which notes that even if the American legislator addresses double taxation, he does not waive his right to tax collection. (26)

Third—The method of sharing revenue: This method involves imposing the tax by one of the two contracting states according to the tax agreement concluded between them and requiring that a particular state transfer a portion of the tax it has collected to the other contracting state (27).

Fourth—The method of distributing the taxable material: According to this method, the two contracting states impose the tax alternately on the taxpayer, according to the category of income achieved from a specific activity under a tax agreement between them, such as one of the two states being competent to impose taxes on corporate profits and the other contracting state being competent to impose the tax on the pension category (28).

Both the method of sharing the revenue and the process of distributing the taxable material have been abandoned, because they both require great cooperation and coordination between the tax administrations of the contracting countries. As for the methods of deduction and exemption, countries still follow them to avoid the problem of double taxation within the framework of The tax agreements concluded so far, especially since they are the two methods approved in the model agreements of the United Nations and the Organization for Economic Cooperation and Development (29).

Second: Presentation of international double taxation agreements ratified by the Iraqi Government (30)

1—The Tunisian agreement: One of the agreements to avoid double taxation concluded by the Iraqi and Tunisian governments was ratified Under Law No. (95)

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of 2001, after the Tunisian Government submitted its draft, Iraq agreed to it after adding and amending some notes. Its goal was to strengthen the relationship between the two countries and avoid double taxation on income.

2- The Sudanese —agreement: One of the bilateral agreements to avoid double between Iraq and Sudan taxation between Iraq a, adornment under Law No. (ratified its provisions 37) of 2002.

3- The Yemeni Agreement: This agreement was concluded between Iraq and Yemen to avoid double taxation and prevent tax evasion. It was ratified under Law No. (30) of 2002, and included (31) articles.

4- The Emirati Agreement: This agreement was concluded between Iraq and the United Arab Emirates in Abu Dhabi on 10/3/2017 to avoid double taxation and prevent financial evasion regarding the tax on income and capital between the two countries, and Law No ratified it. (10) of 2019 and included (31) Article (31)

5- The Hungarian Agreement: To avoid double taxation and prevent evasion of paying taxes imposed on income and capital between the Government of Iraq and the Hungarian Government, this agreement was signed between the two countries in the city of Budapest on November 22, 2016, and was ratified under Law No. 18) of 2020, which included (32) Articles (32).

There are several agreements, the draft of which was presented to the Iraqi Government, such as the Algerian, Moroccan, Yugoslav, Pakistani, Russian, Malaysian, Vietnamese and Kuwaiti agreements. However, all the provisions of these agreements have yet to be ratified, and they are studying them and making comments on them by the competent Iraqi authorities.

The third requirement: The position of the Iraqi financial legislator on double taxation

The Iraqi legislator tried to avoid double taxation through a package of measures stipulated in the amended Iraqi Income Tax Law No. 113 of 1981, as well as through international agreements, as follows:

First- The procedures of the Iraqi financial legislator to avoid internal double taxation:

1- Exempting agricultural income: For the purpose of avoiding the farmer paying income tax and other taxes on agricultural lands, the legislator decided to prevent this by exempting income coming from farmlands from paying the tax, which is what was stated in the text of paragraph (1) of Article (7) of the above law. (Exemption of agricultural income resulting from agricultural activity and animal breeders from plant and animal products, including animal husbandry) (33)

2- Exempting income resulting from renting a property other than agricultural land, as this financial income is

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subject to property tax under Law No. 162 of 1959. Thus, the financial legislator has avoided double taxation by paying two taxes, namely the income and property taxes (34).

1- Not imposing a tax on income generated outside Iraq for non-Iraqi persons residing in Iraq, as stated in the text of Article Five, Paragraph / 3 of the Income Tax Law (35).

Second - The procedures of the Iraqi financial legislator to avoid international double taxation through internal legislation

1- Exempting salaries and allowances paid by foreign and Arab representatives to their employees and diplomatic affiliates working in Iraq. This is done on the condition of reciprocity and by a decision issued by the Council of Ministers.

2- Exempting salaries and allocations paid by the United Nations to its employees or affiliates from their budget (non-Iraqis)(36).

As I mentioned above, the financial legislator distinguished between the foreign employee and the Iraqi employee who works for any agency affiliated with the United Nations, as he subjected the salary and allowances received by the Iraqi to income tax. It was more appropriate for the Iraqi financial legislator to exempt Iraqis as foreigners by the United Nations standard United (37).

3—Exempting the allocations and salaries of employees of non-Iraqi agencies and international organizations that have a relationship with the United Nations and its affiliated organizations. This exemption is absolute for non-Iraqi foreign employees who are subject to income tax (38).

4- The delegation allowances foreign employees receive from employers abroad are exempted at 25% of their monthly salary due to their work in Iraq, provided these allowances are separate from the monthly wage (39).

CONCLUSION

Through studying the research topic, we reached a set of conclusions and recommendations that can be drawn as follows:

1. International double taxation arises when each country exercises its tax sovereignty rights that exceed its territory in accordance with what its national interests require. Thus, the problem of double taxation arises.

2. Domestic and international double taxation has a number of direct and indirect adverse effects, including financial effects represented by a decrease in the optimal tax revenue through the spread of the phenomenon of tax evasion, social effects described by the absence of social justice among taxpayers in the issue of paying tax, and economic effects in which

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double taxation constitutes an obstacle to the transition Foreign capital and investors to various countries to invest in them.

3. The Iraqi financial legislator took a positive position on the issue of double taxation in Income Tax Law No. (131) of 1982. Many of its provisions referred to a set of tax exemptions intended to avoid international double taxation due to its negative effects on the investment movement and to advance economic growth and development.

4. The position of the Iraqi financial legislator in the amended Income Tax Law No. (113) of 1982 is consistent with the three criteria as a basis for imposing the tax. It took the criteria of residence, nationality, and domicile.

5. Iraq has concluded many international agreements aimed at avoiding the phenomenon of double taxation in order to encourage the entry of capital and foreign investors. There are also draft new agreements under discussion and study that Iraq seeks to conclude or join later.

2- Experiences that took place in developing countries demonstrated the failure of tax exemptions to attract investors, and it is more likely to conclude bilateral agreements between countries to encourage the movement of foreign Investment.

3- There is a direct relationship between avoiding double taxation (local and international) and increasing the volume of tax revenues.

Suggestions

1-Seeking to intensify international efforts by concluding unified agreements concerned with unifying tax principles to address the phenomenon of international double taxation so that they constitute what is called (unified international tax legislation).

2-The tax system must be simplified by reducing the number of different taxes and unifying the rules and procedures, which will make it more transparent and attractive to foreign investors.

3- Activating the bilateral agreements concluded by Iraq, which were suspended due to the political and economic events that the country went through in 2003 and beyond, which were aimed at avoiding international double taxation and encouraging the movement of investments in general. The Iraqi Government should also expand the conclusion of international bilateral agreements. To develop economic relations with other countries and provide a favorable tax climate for foreign investors and the flow of foreign capital into the country.

4- The source standard is considered the best standard that the Iraqi financial legislator should adopt because it reduces international double taxation and is

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consistent with double taxation avoidance agreements, and embracing the nationality principle should be avoided.

5- Establishing websites by the Iraqi Government specifically to introduce the importance of agreements to avoid double taxation and the privileges that will result from them.

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