



Chapter four

Tax on commercial and industrial activity

كلية التجارة

— جامعة مدينة السادات —

Chapter topics:

This chapter will address the tax treatment of the profits of these activities through the following:

First: Conditions for applying the tax.

Second: Determining the profits of commercial and industrial activity.

Third: Taxable Commercial and Industrial Activities

Fourth: Taxable revenues

Fifth: Profits from long-term contracts.

Sixth: Deductible costs.

Seventh: Losses carried forward.

Eighth: Tax Exemptions

Third: Taxable commercial and industrial Activities:

□ Article (19) stipulates that tax shall apply to the profits of commercial and industrial activity, including:

1- Profits of commercial, industrial, mining, quarrying, and petroleum establishments:

▪ In this context, Article (4) of the Commercial Law No. 17 of 1999 stipulates that: It is considered a commercial business:

A. Purchase movables of any kind to sell or rent them by themselves or after preparing them in another form, as well as sell or rent them.

B. Renting movables to lease them, as well as leasing these movables.

C. Establishment of commercial companies.

Third: Taxable commercial and industrial Activities:

❑ Whereas Article (5) of the law added that: The following businesses are considered commercial if they are professionally practiced:

- A. Supply of goods and services.**
- B. Industry.**
- C. Land transport and inland water transport.**
- D. Commercial agency and brokerage, whatever the nature of the broker's operations.**
- E. Insurance of all kinds.**
- F. Banking and exchange operations.**

Third: Taxable commercial and industrial Activities:

- G.** Warehousing of goods, means of transport, crops, and others.
- H.** The work of houses and offices operating in publishing, printing, photocopying, writing on typewriters, etc., translation, radio, television, press, news transmission, mail, communications, and advertising.
- I.** Commercial exploitation of computer programs and satellite broadcasting.
- J.** Extractive natural resources operations, such as mines, quarries, oil and gas sources, etc.
- K.** Poultry and livestock breeding projects and others to sell them.

Third: Taxable commercial and industrial Activities:

- L.** Real estate construction, restoration, modification, demolition or painting, and public works contracting.
- M.** Constructing, buying, or renting real estate to sell or rent it in whole or part into apartments, rooms, administrative or commercial units, whether furnished or unfurnished.
- N.** The work of tourism offices, export and import offices, customs release offices, employment offices, and auction shops.
- O.** The work of hotels, restaurants, cafes, theaters, cinemas, circuses, and other public amusement parks.
- P.** Distribution of water, gas or electricity, and other energy sources.

Third: Taxable commercial and industrial Activities:

- ❑ Article (6) also clarified that: It is also considered a commercial business every work related to commercial navigation, whether sea or air and in particular, the following:**
- A. Building, repairing, and maintaining ships or aircraft.**
 - B. Buying, selling, leasing, or chartering ships or aircraft.**
 - C. Purchase of tools or materials for supplying ships or aircraft.**
 - D. Maritime and air transport.**
 - E. Loading or unloading operations.**
 - F. Employing navigators, pilots, or other personnel of ships or aircraft.**

Third: Taxable commercial and industrial Activities:

- ❑ Finally, Article (7) pointed out that: A commercial business shall be any work that can be measured against the works mentioned in the previous articles due to similarity in qualities and objectives. This is because the Commercial Law defines the businesses above, for example, and not as a limitation.**
- ❑ It is also noted that some of the activities clarified by the Commercial Law as commercial activities are by their nature considered industrial activities, such as the purchase of movables of any kind to sell or rent them after preparing them in another form, which is considered as manufacturing industries.**

Third: Taxable commercial and industrial Activities:

- ❑ As for mine, quarrying, and petroleum establishments, they are by nature outside the scope of commercial establishments because they extract minerals and petroleum from the ground. However, the legislator has expressly taxed their profits under this item.**
- ❑ This is based on the premise that this is a general provision that applies to all extractive industries related to the exploitation of immovable money (and not movable ones represented in natural resources and require huge funds and highly qualified technical expertise.**

Third: Taxable commercial and industrial Activities:

2- Profits of artisans and small businesses:

- ❖ **Craftsmen or artisans are persons who practice independent businesses or activities in which they rely mainly on their own skills and for their own interests without relying extensively on capital.**
- ❖ **Their work is often manual, although they depend on some simple machines. Examples of these craftsmen are carpenters, blacksmiths, engravers, etc.**

Third: Taxable commercial and industrial Activities:

- **Since owners of crafts and small activities often do not hold regular accounting books, it is difficult to determine their income accurately for tax purposes. Consequently, article (66) of Law 91 stipulates Agencies which license the wholesale trade in vegetables, fruits, grains and other foodstuff, or agencies licensing the practice of handicrafts shall collect, upon renewing a license, an amount on account of tax from the person in whose name the renewed license is issued. Such agencies are prohibited from renewing the license until the said amount is collected. The amount shall be determined by a minister's decree at not more than 10% of the renewal fees.**

Third: Taxable commercial and industrial Activities:

- **In this context, Article (18) of the Law also stipulates that The tax accounting rules and the principles and procedures for collecting the tax on profits of small enterprises shall be issued by a Minister's decree. This shall not conflict with the provisions of The Small Enterprises Development Law promulgated by Law no. 141 of 2004 and shall be consistent with their nature and facilitate their tax treatment.**

Third: Taxable commercial and industrial Activities:

3- Profits realized from any commercial or industrial activity, even if limited to one transaction. The Executive Regulation of this law shall indicate the rules of what is deemed a single transaction when applying the provisions of this clause.

- **In applying the provisions of Clause [3] of Article (19) of the law, Article (25) of the executive regulations clarified that a single transaction is every purchase made by a resident taxpayer to sell movable assets that were not purchased for personal use, provided that the transaction is for a commercial or industrial purpose and the sale occurs within twelve months of the date of purchase.**

Third: Taxable commercial and industrial Activities:

- **Accordingly**, the following requirements must be met for the profits of a single transaction to be subject to tax on the income of natural persons, namely:
 - a) The transaction shall be conducted by a taxpayer residing in Egypt.
 - b) The transaction is for sale and not for personal use.
 - c) The transaction relates to movable assets (not real estate, otherwise, the profit is subject to the provisions of real estate wealth income).
 - d) The transaction is for commercial or industrial purposes.
 - e) The sale must be made within twelve months from the date of purchase.

Third: Taxable commercial and industrial Activities:

- It must be emphasized that what is subject to tax is the profits of the transaction and not its total value if all the previous requirements are met; otherwise, the profits of a single transaction are not subject to tax. In addition, the tax legislator was completely correct in stipulating explicitly that the profits of a single transaction be taxed so as not to allow the argument that the condition of professionalism is not met, subjecting the enormous profits that may be realized from such transactions even for one time during the year.

Third: Taxable commercial and industrial Activities:

4- Profits from a transaction or transactions carried out by brokers and agents on commission, and in general, all profit realized by any person engaged in the brokerage business to purchase, sell or lease real property or any kind of goods, services, or movable assets.

- **It is apparent from this clause that the tax applies to the profits resulting from the brokerage business of buying, selling, and leasing with no other sort of contract. The sale, lease, or purchase includes any type of goods, services, or movable assets.**

Third: Taxable commercial and industrial Activities:

- The conditions that must be met for the tax to apply to the profits of this category can be summarized as follows:
- ✓ That there is a brokerage process, which entails bringing the seller and the buyer closer together to complete the contract between them and conclude the deal in exchange for financial fees (commission or brokerage) that may be a specific amount or a percentage of purchases, sales, profit, or other things, which broker receives from one or both parties.
- ✓ The brokerage process concerns purchasing, selling, or leasing without other contracts.

Third: Taxable commercial and industrial Activities:

- ✓ **The transaction relates to real estate, goods, services, or movable assets.**
- ✓ **The requirement of professionalism in brokerage operations should be met. However, the tax applies to the profits of non-professional brokers, as article (19) of the law confirms this, stating that the tax shall apply to all profit realized by any person engaged in the brokerage business.**

Third: Taxable commercial and industrial Activities:

- **The legislator has also stipulated in Article (57) of the law that the amounts which individual firms and legal persons pay to any natural person as commission or brokerage, as long as it is not related to the carrying on of her/his profession, are subject to tax. The payer of the commission or brokerage must withhold the amount of due tax and remit it to the competent Tax Office within the first fifteen days of the month following the month in which the commission or brokerage was paid at the rate stipulated in article 56 hereof, without deducting any costs.**
- **Where such amounts are subject to tax according to the rate stipulated in Article (56) of the law, which is 20%, without any reduction, whether to meet costs or family burdens.**

Third: Taxable commercial and industrial Activities:

5- Profits from the leasing of a commercial or industrial shop, whether the lease includes all or part of its tangible or intangible elements, as well as profits from leasing mechanical and electrical machinery, excluding farm tractors, irrigation machines and their accessories, and machinery and equipment used in agriculture:

- **The legislator stipulated that the subject of the lease should be a commercial or industrial shop (as real estate) and that the lease contract should include the exploitation of all or part of its tangible elements (machinery, equipment, or furniture) and intangible (trade name or trademarks) necessary to run of the shop. In the case of renting a shop devoid of these elements, it is not considered a commercial business; therefore, its revenues are liable to real estate wealth tax.**

Third: Taxable commercial and industrial Activities:

- **Also, the legislator did not differentiate between leasing through the owner or the tenant; instead taxed all leasing operations, even if they were subcontracted. The tax generally levies on the net rental profits after deducting the expenses necessary to generate such revenues.**
- **Regarding the rental of mechanical and electrical machines, Article (26) of the Executive Regulations clarifies that the mechanical and electrical machines stipulated in item [5] of Article (19) of the Law include electronic, digital, and other machines.**

Third: Taxable commercial and industrial Activities:

- Also, the legislator did not differentiate between leasing through the owner or the tenant; instead taxed all leasing operations, even if they were subcontracted. The tax generally levies on the net rental profits after deducting the expenses necessary to generate such revenues.
- The tax applies to the profits derived from renting the machines mentioned above of all types, methods of operation (automatically, electrically, or electronically), the field of use (industrial, commercial, or agricultural), and whether they are in their place or moved to a different location to benefit from them. This is owing to the expensive price of purchasing these machines, which has led many businesses to opt to rent them instead.

Third: Taxable commercial and industrial Activities:

- The legislator has excluded from taxation profits from the rental of farm tractors, irrigation machines and their accessories, and machinery and equipment used in agriculture. This comes to encourage the expansion of agriculture using these machines and equipment.

Third: Taxable commercial and industrial Activities:

6- Profits from all kinds of transportation activity:

- ❖ This is considered the introduction of a new addition of profit to be subject to tax under Law 91, as previous tax legislation did not explicitly stipulate those profits generated from transport activity of various types be subject to tax, whether by land, sea, river, air, or by train, whether it is the transportation of passengers, goods, or merchandise, individually or collectively.
- ❖ They are considered profits resulting from the conduct of commercial business, and according to the general principle, they are liable to tax on the income of natural persons regardless of the method employed.

Third: Taxable commercial and industrial Activities:

7- Profits by those engaged in the construction or purchase of real property with the intention of selling them professionally, whether the profits result from selling the property as a whole or divided into apartments, rooms, administrative or commercial units, or otherwise:

- **Where the legislator requires that a person purchase or construct real estate for himself and on his responsibility (independence), and the availability of the intention to sell and make a profit at the time of the purchase or construction, for these profits to be subject to tax.**

Third: Taxable commercial and industrial Activities:

- In addition, this activity should be professional and habitual, whether the whole or part of the property is sold. It is not required that the purchase, construction, and sale operations be repeated during the tax year to indicate the habit. Furthermore, this property must have been acquired by the person through purchase or construction and not by any other means to be subject to taxation.
- **Consequently**, the sale of gifted, inherited, constructed, or purchased property for the use is not subject to tax on commercial and industrial activity due to the absence of the previous conditions.

Third: Taxable commercial and industrial Activities:

It is worth noting that the taxable profit is computed under the Minister of Finance's Decree No. 167 of 1982 as follows:

- (1) Net profit = sale price of the property - the cost of the property**
- (2) The sale price is determined according to the real price of the property sold on the date of sale. The price stated in the sale contract is the basis for determining the taxable revenue unless the Tax Authority proves that this price does not represent the real price of the property.**
- (3) The cost for built real estate or land purchased by taxpayers to sell them is determined as follows:**
The cost of the property = the purchase price + the capital expenditure spent to acquire the property.

Third: Taxable commercial and industrial Activities:

(4) The cost of real estate that taxpayers construct to sell them is determined as follows:

The cost of the property equals the purchase price of the land on which the property is constructed plus the cost of the works accomplished until the completion of the construction of the property or the date of disposal.

Third: Taxable commercial and industrial Activities:

8- Profits from land parceling operations, whether for sale or construction:

- ☐ The legislator did not require that such business be practiced professionally to be liable to the tax; rather, the actual sale of the land is sufficient.
- ☐ The lands are also not required to be owned by purchase, gift, or inheritance, but the tax applies regardless of the reason for ownership. Additionally, the intent to resell is not required when owning the land, as is the case when purchasing and constructing real estate to sell it.

Third: Taxable commercial and industrial Activities:

- It should be mentioned that the net profits of those who parcel and dispose of lands are determined in the light of Finance Minister Decree No. 167 of 1982, as follows:

(1) Determination of the taxpayer's realized net profits:

Net profit = Land selling price - Land cost.

(2) The sale price is based on the market value of the land at the time of the sale. The price stated in the sale contract, whether registered or unregistered, is deemed actual unless the Tax Authority proves that this price does not reflect the actual value of the land.

Third: Taxable commercial and industrial Activities:

- The cost of lands to be parceled to dispose of them shall be defined as follows:
 - A.** The cost of the parcelled lands shall be determined following the prior rules indicated in Clauses (3) and (4) governing the construction or purchase of real estate to sell it.
 - B.** The cost of the streets area and other utilities shall be subtracted from the cost of the lands specified in the previous to determine the cost of the parcelled land and divide this cost by the total square meters designated for sale to determine the cost per square meter.

Third: Taxable commercial and industrial Activities:

9- Profits from land reclamation or cultivation establishments, poultry farms or mechanical hatcheries projects, cattle and livestock farms of more than 20 head, and fish farms and fisheries projects:

- **Regarding the Profits from land reclamation or cultivation establishments:**
It is clear that the legislator used the term (or) to indicate that the tax may apply to the profits of land reclamation or land cultivation establishments only or to the earnings of establishments that practice both activities simultaneously.
- **Concerning poultry farms or mechanical hatcheries projects, the legislator requires that poultry must be farmed or hatched mechanically for such profits to be taxed. Thus, if poultry rearing or hatching is carried out non-automated, it is not subject to taxation.**

Third: Taxable commercial and industrial Activities:

- Regarding cattle and livestock farms and fattening them, the legislator has subjected the profits of these projects to tax, as their revenues meet the criteria for being taxed. In addition, the activity of these projects has spread on a large scale since it generates massive profits for its owners through the collaboration of capital and labor to practice the activity professionally.
- The profits of these projects are not subject to taxation until they have an obvious commercial nature and have a purpose beyond solely serving the owner's cultivation.
- The legislator has decided to temporarily exempt the profits of livestock projects exclusively under the second item of Article (31) of the law, which stipulates that livestock husbandry and fattening are tax exempted for a period of ten years from the date of activity inception.

Third: Taxable commercial and industrial Activities:

- **As for the profits of fish farms and fisheries projects, the legislator has subjected them to tax, similar to poultry, livestock, and other projects. The legislator has decided to temporarily exempt fisheries, fish farming enterprises and fishing boats enterprises profits from being subject to tax for a period of ten years from the date of activity inception.**

The tax also applies to profits from investing in or disposing of securities abroad

- **This paragraph was added by Law No. 53 of 2014. This provision entails the taxation of profits to a natural person from investing in securities abroad, including dividends or bond interest, and profits realized from the disposal of such securities.**

Third: Taxable commercial and industrial Activities:

- ❑ For these profits to be subject to taxation, it is not necessary for a natural person to have a tax file or engage in commercial or industrial activity in Egypt, as this provision considers investing abroad to be an activity subject to taxation, regardless of whether the natural person practices this activity repeatedly and professionally or on an occasional basis.**
- ❑ However, in light of Article (6) of the law, which clarified the scope of imposing tax on the income of natural persons, the profits from investing in securities abroad or disposing of them are not subject to tax in all cases, but they are taxed if they are realized by a taxpayer who has a commercial or industrial activity based in Egypt.**

A decorative pattern of hexagons in various colors (blue, orange, grey, dark blue) arranged in a honeycomb-like structure, primarily located on the left side of the slide.

Thank you

FACULTY OF COMMERCE

USC

كلية التجارة

— جامعة مدينة السادات —