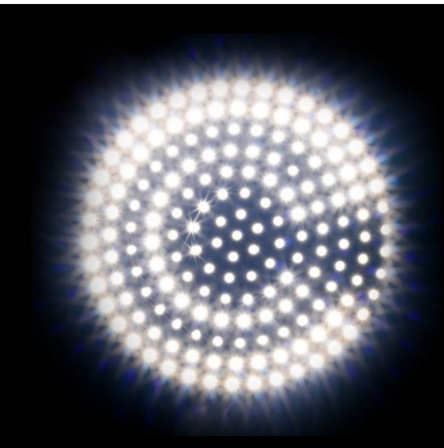
International Tax
Kuwait Highlights 2017



Investment basics:

Currency – Kuwaiti Dinar (KWD)

Foreign exchange control – No

Accounting principles/financial statements – IFRS. Financial statements must be filed annually.

Principal business entities – Under the Commercial Companies Law of 1960, as amended through Law No. 25 of 2012, the following types of entities may be formed: limited liability company (WLL), shareholding company (KSC) and partnerships (general and limited). Foreign entities may carry out business: (1) under the sponsorship of a registered Kuwaiti merchant; (2) through a WLL or KSC (limited to 49%); (3) under the Foreign Direct Investment Law No. 8 of 2001, as amended by Law No. 116 of 2013; (4) through branches in the Kuwait Free Trade Zone (KFTZ) (Law No. 26 of 1995); or (5) through provisions of the Public Private Partnership (Law No. 116 of 2014).

Corporate taxation:

Residence – The taxable presence of a foreign entity is determined by whether it carries on a trade or business in Kuwait, and not by whether it has a permanent establishment or place of business in Kuwait.

Basis – In practice, the income tax law is applied only to foreign entities carrying on a trade or business in Kuwait, with the exception of entities that are registered in Gulf Cooperation Council (GCC) countries and fully owned by Kuwaiti/GCC citizens. Although the term "taxable activities" is defined in the law, the term "carrying on a trade or business in Kuwait" is interpreted in the broadest sense by the tax authorities, generally to mean activities that give rise to all Kuwait sources of income.

Taxable income – Income tax is levied on net profits (i.e. revenue less allowable expenses) earned from the carrying on of a trade or business in Kuwait. Royalties and franchise, license, patent, trademark and copyright fees received by overseas foreign entities from Kuwait are subject to income tax in Kuwait.

A tax exemption is possible for profits earned by entities from trading operations on the Kuwait stock exchange, whether directly or through portfolios of investment funds; for profits generated from activity carried out in the KFTZ; and for profits from activity under the Foreign Direct Investment Law (on a tax credit basis, using certain multipliers). Further, under the Capital Markets Authority (CMA) Law No. 22 of 2015, a broad exemption is granted on all remuneration earned by investors through trade on the Kuwait Stock Exchange.

Taxation of dividends – See under "Taxable income, above."

Capital gains – Capital gains derived from the sale of assets are treated as normal business profits and are subject to income tax at the standard rate of 15%.

Losses – Losses may be carried forward for three years to be offset against future taxable profits. The utilization of carried forward losses is not permitted if: (1) the entity ceases its activities in Kuwait (unless the cessation is mandatory); (2) the tax return indicates that there is no revenue arising from the company's main activities; (3) the corporate entity is liquidated; (4) the legal status of the corporate body is changed; or (5) the corporate body has merged with another corporate body. The carryback of losses is not permitted.

Rate – 15%

Surtax – No

Alternative minimum tax – No

Foreign tax credit – A foreign tax credit is available only if provided for by a relevant double tax treaty.

Participation exemption – No

Holding company regime – No

Incentives – A tax exemption for up to 10 years, based on a tax credit system using certain multipliers, is available under the Foreign Direct Investment Law No. 8 of 2001, as amended by Law No. 116 of 2013 and "PPP" Law No. 116 of 2014. Entities set up under such laws also may take advantage of other benefits and exemptions, such as those relating to custom duties.

Other – Tax Law No. 23 of 1961 is applicable to entities carrying on a trade or business in the areas known as "Specified Territory" in the Divided Neutral Zone, which consists of the partitioned neutral zone between Kuwait and Saudi Arabia and the islands of Kubr, Qaru and Umm al Maradim and their territorial waters.

Withholding tax:

Dividends – No (the 15% withholding tax previously levied on dividends distributed by fund managers, investment custodians and corporate bodies has been eliminated)

Interest – No

Royalties – No

Technical service fees – No

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – No

Social security – Both the employer and Kuwaiti employees make social security contributions based on the employee's salary (up to a ceiling of KWD 2,750 per month). The contribution rates are 11.5% and 10.5% of the employee's salary for the employer and the employee, respectively.

Stamp duty – No

Transfer tax – No

Other – All entities operating in Kuwait are required to retain 5% of the total contract value (which may be deducted from each payment made, where payment is made in installments) from a contractor or subcontractor until the contractor/subcontractor settles its tax liabilities with the Kuwait tax authorities and obtains a certificate from the authorities.

KSCs (listed and closed) must pay 1% of their profits, after the transfer of the statutory reserve and the offset of losses brought forward, to the Kuwait Foundation for the Advancement of Science, to support scientific progress.

Kuwaiti shareholding companies listed on the Kuwait Stock Exchange are required to pay a 2.5% annual tax on net profits under a law relating to the support of employment in nongovernment agencies.

Kuwaiti shareholding companies (both listed and unlisted, but excluding government companies) must pay 1% of net profits for Zakat or as a contribution to the state's budget. The company has the option whether to consider the 1% as Zakat or a state budget contribution.

Anti-avoidance rules:

Transfer pricing – The tax authorities deem profit margins on certain activities, as follows:

Materials imported by foreign entities operating in Kuwait: 15% on materials imported from the head office; 10% on materials imported from related companies; and 5% on materials imported from unrelated companies.

Design work carried out outside Kuwait: 25% on design work conducted by the head office; 20% on design work conducted by related companies; and 20% on design work conducted by unrelated companies.

Consulting work carried out outside Kuwait: 30% on consulting work conducted by the head office; 25% on consulting work conducted by related companies; and 20% on consulting work conducted by unrelated companies.

Thin capitalization – No

Controlled foreign companies – No

Disclosure requirements – No

Other – The maximum deduction for head office expenses is 1.5% for foreign companies operating in Kuwait through a local agent, and 1% for foreign companies that are shareholders in a KSC or WLL.

Compliance for corporations:

Tax year – The taxable period is normally the calendar year. However, with the permission of the Director of the Income Tax Department, a taxable entity may keep its books on a different basis (e.g. if the overseas parent follows a financial year end other than 31 December).

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – The tax declaration for each taxable period must be submitted within three and a half months of the end of the taxable period. A foreign entity may request an extension of up to 60 days for filing the tax declaration, provided the request is submitted on or before the 15th day of the second month following the end of the taxable period; otherwise, the request will not be considered.

Tax may be settled in a lump sum or may be paid in four installments on the 15th day of the fourth, sixth, ninth and 12th months following the end of the tax year. If an extension is granted, no tax payment is necessary until the declaration is filed. However, payment must then be made for the first and second installments.

Penalties – Delays in the submission of the tax declaration are subject to penalties, at a rate of 1% of the tax payable for each 30 days' delay or part thereof. A penalty also is charged for a delay in the payment of tax, at a rate of 1% of the tax due for each 30 days' delay or part thereof.

Rulings – No

Personal taxation:

Basis – There is no personal income tax (employment tax) in Kuwait.

Residence – N/A

Filing status – N/A

Taxable income – N/A

Capital gains – N/A

Deductions and allowances – N/A

Rates – N/A

Other taxes on individuals:

Capital duty – No

Stamp duty – No

Capital acquisitions tax – No

Real property tax – No

Inheritance/estate tax – No

Net wealth/net worth tax – No

Social security – Kuwaiti employees must contribute 10.5% of salary to the Public Institution for Social Securities; the employer also contributes 11.5%.

Compliance for individuals:

Tax year – N/A

Filing and payment – N/A

Penalties – N/A

Value added tax:

Taxable transactions – There has been some media coverage regarding the possibility of introducing VAT in Kuwait as part of the GCC initiative, but no information regarding the expected issuance date has been released.

Rates – N/A

Registration – N/A

Filing and payment – N/A

Source of tax law: Amiri Decree No. 3 of 1955 amended by Law No. 2 of 2008, the supplementary resolutions and circulars; Law No. 19 of 2000, relating to the national labor support tax; Law No. 46 of 2006, regarding Zakat and contribution to the state's budget; Law No. 23 of 1961, relating to the Divided Neutral Zone

Tax treaties: Kuwait has more than 60 tax treaties.

Tax authorities: Department of Income Tax

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