

International Tax Kuwait Highlights 2018



Investment basics:

Currency – Kuwaiti Dinar (KWD)

Foreign exchange control – No

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

Principal business entities – These are the 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; (4) through branches in the Kuwait Free Trade Zone (KFTZ); or (5) through provisions of the Public Private Partnership (PPP) Law.

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 pure trading operations on the Kuwait stock exchange, whether directly or through portfolios of investment funds; for profits generated from activities carried out in the KFTZ; and for profits from activities under the Foreign Direct Investment Law (on a tax credit basis, using certain multipliers). Various tax exemptions also are granted under PPP for private companies working in collaboration with the public sector. Further, under the Capital Markets Authority (CMA) Law No. 22 of 2015, a broad exemption is granted on all revenue earned by corporate 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 under a relevant 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 and the PPP Law. Entities set up under such laws also may take advantage of other benefits and exemptions, such as those relating to custom duties.

Other – Entities carrying on a trade or business in the area known as the “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 are taxed under the Tax Law No. 23 of 1961, rather than the standard corporate income tax law. A 20% tax rate applies to taxable income below KD 500,000 and a 57% tax rate applies to taxable income in excess of KD 1 million. Marginal relief applies to taxable income between KD 500,000 and KD 1 million.

Withholding tax:

Dividends – No

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 (both listed and unlisted) 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 an annual national labor support tax of 2.5% of net profits to support 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.

All of the above amounts must be deducted when calculating distributable profits.

Anti-avoidance rules:

Transfer pricing – There are no formal transfer pricing rules, but 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 15% 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 normally is 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 head office of the taxable entity 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 then must be made of both 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 – No

Filing status – No

Taxable income – No

Capital gains – No

Deductions and allowances – No

Rates – No

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 – 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 employee contribution rate is 10.5% of salary.

Compliance for individuals:

Tax year – No

Filing and payment – No

Penalties – No

Value added tax:

Taxable transactions – The Kuwaiti government has committed to introduce VAT by signing the main framework agreement with the GCC countries. However, the draft law has not yet been prepared and submitted to the parliament for discussion and approval.

Rates – No

Registration – No

Filing and payment – No

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 concluded 63 tax treaties. Kuwait signed the OECD multilateral instrument on 7 June 2017.

Tax authorities: Department of Income Tax

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