

UPDATE ON RESOLUTION NO. 329 ISSUED BY KDIPA

Revision to the criteria for evaluating foreign investors applications for investment licenses in Kuwait and other tax incentives

Kuwait Direct Investment Promotion Authority (“KDIPA”) has issued decision number 329 of 2019 (“the Decision”) in July 2019 amending its Points Scoring Mechanism (“PSM”) for evaluating requests for investment licenses and granting incentives.

Effective date

The Decision is applicable from 14 July 2019, the date the decision was issued in the official gazette in Kuwait. KDIPA clarified that the Decision doesn’t affect licenses granted prior to 14 July 2019.

Background

KDIPA had introduced the Direct Investment Law No. 116 of 2013 on the Promotion of Foreign Investments in Kuwait (“the Law”) with the intention to promote the foreign investment in Kuwait. Under the Law, the following are the key benefits available for foreign entities / investors wanting to do business in Kuwait:

- a) Tax holiday based on tax credits for up to 10 years
- b) Partial/full customs duty exemptions
- c) Possibility of setting up 100% foreign owned entity
- d) Land at subsidized rates

Prior to the issuance of the Decision, KDIPA followed a specific PSM, issued under decision No. 313 of 2016, for evaluating applications for investments licenses and tax and other incentives. Such decision required foreign investors to meet the following broad criteria:

- 1) Transfer & Settlement of Technology.
- 2) Job Creation & Training for National Labor.
- 3) Supporting local market.
- 4) Economic diversification.

The Decision issued recently has expanded the above list and provided sub-criteria to each main criteria, as explained in the next page.



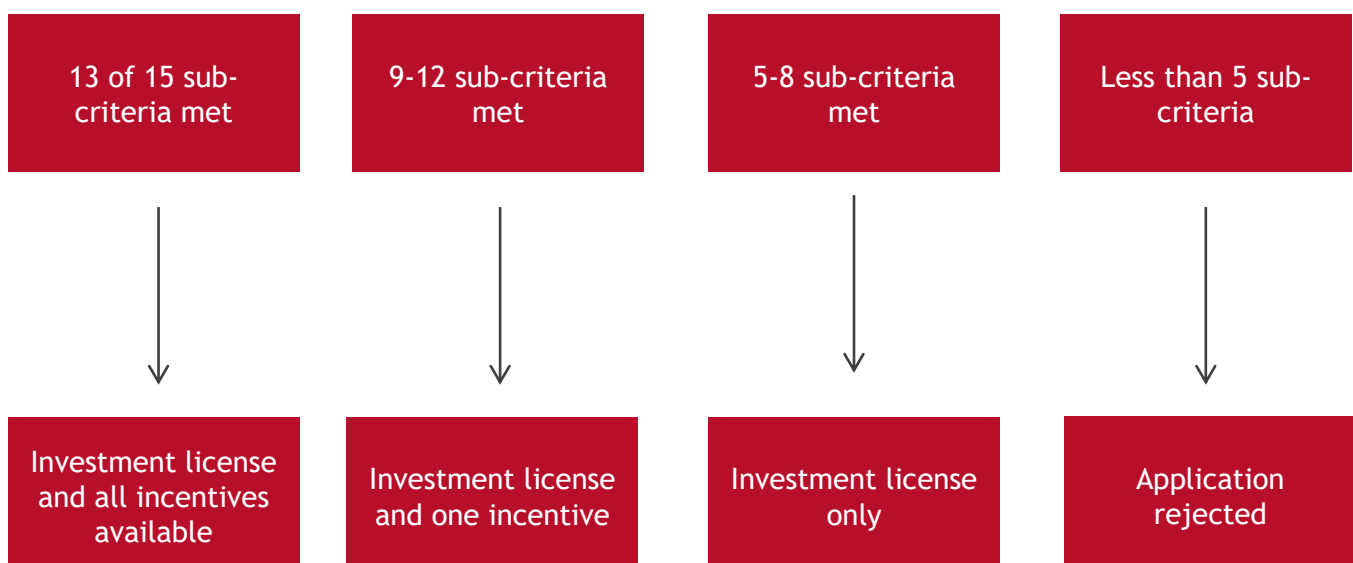
How does the new scoring system work?

Under the Decision, KDIPA has introduced 15 sub-criteria, representing 5 main criteria / objectives, in order to assess investor's application for investment license and / or tax incentives:

No.	Sub-Criteria	Objective
1	Innovative Tangible Technology	TRANSFER AND SETTLEMENT OF TECHNOLOGY
2	Innovative Intangible Technology	
3	R&D For Enabling Knowledge Creation	
4	Modern Management Method	
5	Job Creation For Nationals	HUMAN CAPITAL
6	Certified Training Programs Related To Activity	
7	Corporate Scholarship Program	
8	Domestic Market Needs	MARKET DEVELOPMENT
9	Use Of National Products & Services	
10	Product Accreditation & Quality Management System	
11	Contribution To Non-Oil Sector	ECONOMIC DIVERSIFICATION
12	Industry, Innovation & Infrastructure	
13	Fostering Competitiveness	
14	Corporate Social Responsibility	SUSTAINABLE DEVELOPMENT
15	Environmental Sustainability	

As per the Decision the following matrix will be used for granting/ rejecting applications made by investors for investment license and incentives:

- Investors that meet less than 5 sub-criteria out of the above 15 sub-criteria will be rejected.
- Investors that meet 5-8 sub-criteria out of the 15 sub-criteria will be entitled to an investment license only - no other incentive (e.g. no tax incentives will be granted).
- Investors that meet 9-12 sub-criteria out of the 15 criteria will be entitled to an investment license and only one incentive of choice (e.g. exemption from customs duty or income tax, or subsidized land).
- Investors that meet 13 (or more) out of the 15 sub-criteria will be entitled to all incentives under the Law.



Clarification on the criteria

Along with the Decision, KDIPA issued some helpful definitions that provide clarity to the criteria of the scoring mechanism for evaluating applications for investment licenses and granting incentives. The definitions also provide examples on how the criteria could be achieved. The definitions are summarized below:

Key definitions		
Transfer & Settlement of Technology		
1	Innovative tangible technology	Transfer and settlement of products, machinery, vehicles, high precision instruments as well as its optimal utilization.
2	Innovative intangible technology	Transfer and settlement of patented technology, copyrights, trademarks, databases, software, production systems, distribution systems, franchises, literary works, applications and other intangible technology which aims to contribute to supporting the digital transformation of Kuwait in the era of the fourth Industrial Revolution.
3	Research & Development (R&D) for enabling knowledge creation	Fostering research development and innovation activities undertaken by companies for innovation, development and improvement of their products, services, operations and strategic objectives.
4	Modern management method	Introducing and adopting practical systems, mechanisms, procedure and rules to enhance productivity, effectiveness, and efficiency within the area of specialization.
Human Capital		
5	Job Creation for nationals	Creating job opportunities for national employment in accordance to the Council of Ministers Decision No. 1028 of 2014 regarding the National Labor ratios at non-governmental entities applied to the investment entities with 25 employees or more. The investment entities with less than 25 employees are not subject to the above-mentioned decision, therefore KDIPA requires a Kuwaitization percentage of 50% or more from the total staff.
6	Certified training programs related to specialization or core activity	Providing practical, on-the- job, and certified professional training programs related to the economic activity to improve the skills of national employees and expand their knowledge.
7	Corporate scholarship programs	Granting corporate scholarship programs for national employees and providing financial support to cover needed expenses throughout the duration of the study period like travel and accommodation; or providing financial and technical support for national employees to benefit from career-oriented disciplines in certified centers abroad offering intensive training courses to maximize learning and encourage more intensive professional interactions.

Definitions (continued)		
Market Development		
8	Domestic market needs	Meeting the domestic market need of goods and services both in the framework of forward integration by contributing to the distribution and marketing of output, or backward integration by contributing to raw materials and the value of input; aiming to invigorate the domestic market by improving efficiency, cost saving, diversifying and increasing national exports while reducing imports.
9	Use of national products and services	Purchasing local products and services to satisfy the needs of investment entities, leading to support the local producers and suppliers' networks, to enhance and encourage the domestic market dynamism, decreasing propensity to import, and increasing propensity to export.
10	Product Accreditation and Quality Management System	Obtaining product accreditation certificates, and implementation of quality management systems in accordance with international standards, enhances the capability and efficiency of the established entity to improve outcomes as well as the quality of local products within the domestic market.
Economic Diversification		
11	Contribution of non-oil sector to GDP	Contributing to developing a diversified and sustainable economy by investing in non-oil economic activities in accordance with the Kuwait National Development Plan.
12	Industry, innovation & infrastructure	Promote sustainable economic growth through investment in resilient infrastructure, stimulate an develop industrialization and promote innovation and technological progress.
13	Fostering competitiveness	Increasing Kuwait's competitiveness by contributing to the creation of competitive clusters in priority sectors, and through enterprise development and internationalization of local companies, especially SMEs, through facilitating their integration into the production, distribution and marketing chains of investment entities operating in Kuwait, expanding to international markets by integrating in the Global Value Chains (GVCs)
Sustainable Development		
14	Corporate Social Responsibility	Launching CSR initiatives that take place outside the core business of the investment entities, contributing to support social, humanitarian, and environmental activities with the aim of benefiting society.
15	Environmental sustainability	Providing mitigating techniques for managing waste generated by the economic activity of the investment entity, addressing environmental risks, adopting the "green environment" initiatives to protect the ecosystem, deepen the use of recycling means and promote the use of new and renewable sources of clean energy, as well as, promoting consumer products responsible for improving the quality of habitat environment.



FOR MORE INFORMATION:

RAMI ALHADHRAMI

Partner- TAX

Direct: +965 22957592
rami.alhadhrami@bdo.com.kw

MNEESH BAJAJ

Senior Manager - TAX

Direct: +965 22957594
Mneesh.Bajaj@bdo.com.kw

This publication has been carefully prepared, but it has been written in general terms and should be seen as containing broad statements only. This publication should not be used or relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained in this publication without obtaining specific professional advice. Please contact BDO to discuss these matters in the context of your particular circumstances. BDO Kuwait, its partners, employees and agents do not accept or assume any responsibility or duty of care in respect of any use of or reliance on this publication, and will deny any liability for any loss arising from any action taken or not taken or decision made by anyone in reliance on this publication or any part of it. Any use of this publication or reliance on it for any purpose or in any context is therefore at your own risk, without any right of recourse against BDO Kuwait or any of its partners, employees or agents.

BDO Al Nisf & Partners in Kuwait is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Copyright © September, 2019. All rights reserved.

www.bdo.com.kw