# INSIGHTS INTO KUWAIT TAX

# Insights into Kuwait tax

**Under the Kuwait tax law and regulations, any income earned from carrying out trade or business in the State of Kuwait, either directly or through an agent, is taxable. An agent is a person or entity authorized by a principal to carry out business or activity on behalf of and for the account of the principal under a binding agreement**

## Entities subject to Kuwait tax

Under the Kuwait Income Tax Decree of 1955, as amended by Law No. 2 of 2008 ("tax law"), all entities (either local or foreign) carrying out trade or business in Kuwait are taxable. However, in practice, the tax law has not been applied to entities incorporated in member states of the Gulf Corporation Council ("GCC") [comprising Saudi Arabia, UAE, Qatar, Oman, Bahrain and Kuwait] provided that they are owned by individuals who do not represent foreign companies, or are owned by GCC companies that are in turn owned by individuals. Accordingly, the Kuwait tax law has been applied only on foreign entities and their shareholding in local entities or in GCC entities carrying out trade or business in Kuwait or earning taxable income from Kuwait.

## Tax rate

For tax periods beginning after 3 February 2008, the income tax rate is a flat 15% on net income. Previously the tax rate ranged from 0% to 55% based on prescribed income slabs.

## Tax registration and tax card

Tax registration is required to be completed within 30 days of commencing business or signing of a contract with a Kuwaiti customer.
All foreign entities carrying on trade or business in Kuwait, or earning income that is deemed taxable in Kuwait, are required to apply for and obtain a tax card from the Department of Income Tax in Kuwait ("DIT"). The tax card is required to be renewed on annual basis.
Government and private sector entities are forbidden from dealing with entities that do not have a valid tax card.

## Filing of tax declaration

All entities that earn income from Kuwait, including those that are exempted from tax (e.g. because of a double tax treaty), are required to file tax declaration with the DIT through an approved audit firm.

The tax declaration should be filed on the standard actual profit basis and prescribed accounting records should be maintained.

However, in practice, the DIT accepts tax declarations filed on deemed profit basis - where expenses are estimated as a percentage of Kuwait.

There are limited exemptions to the tax filing obligation. For example, entities earning profits or other income from listed securities in the Kuwait Stock Exchange, as well as certain foreign airlines working in Kuwait are currently exempt from the tax filing requirement.

## Tax inspection and assessment

Following the filing of the tax declaration, it is the practice of the DIT to carry out a tax inspection to verify supporting documents relating to amounts reported in the tax declaration. Once the tax inspection is completed, an assessment letter is issued. It must be noted that it is the practice of the DIT to disallow, wholly or partially, expenses that are not supported by documents or are paid outside Kuwait or are paid in cash.

## Withholding tax / tax retentions requirements

Kuwait does not apply a withholding tax system. Instead, there is a requirement for tax retentions. Local as well as foreign entities carrying out trade or business in Kuwait (or those earning income that is deemed to be taxable in Kuwait) are required to retain 5% of the total contract value or 5% from each payment made to any vendor.

**Key Tax Facts**

- Income tax rate: 15%
- Zakat: 1%
- NLST: 2.5%
- KFAS: 1%
- Customs Duty: 5%
- Tax Retentions: 5%
- Withholding Tax: N/A

Local and foreign companies in Kuwait must adhere to the Kuwait tax retention rules. Failure to do so may result in such entities being liable to pay the taxes due by their contracting parties that failed to settle their taxes.

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Entities that fail to comply with the above may not be allowed to claim an expense deduction for payment from which tax retentions were not made. Further, such entities may be held liable for paying the tax due of the body corporate that has failed to settle its Kuwait taxes. This retention can be released only on receiving a tax clearance letter /retention release letter issued by the DIT.

In addition to the above requirement, the DIT requires entities to submit copies of their subcontract agreements to the DIT.

## Income deemed to be taxable in Kuwait

Income earned by any entity from the following is deemed to be earned from Kuwait and therefore taxable in Kuwait, which includes

- Income earned from any activities or businesses wholly or partially executed in Kuwait whether the contract has been concluded inside Kuwait or abroad.
- Royalty, franchise, license and similar fees earned from Kuwait.
- Commissions or fees earned in cash or in kind from representation or brokerage agreements relating to Kuwait.
- Profit from any industrial or commercial activity in Kuwait.
- Profit from sale or transfer of assets including sale of shares in a company whose assets are principally formed of immovables in Kuwait (Profits from sale of listed shares is exempt).
- Income earned from lending of funds Kuwait.
- Profit from purchase and sale of goods or property in Kuwait.
- Income earned from having a permanent office in Kuwait where sale and purchase contracts are concluded.
- Profit from leasing of any movable or immovable property for use in Kuwait.
- Profit from rendering of services in Kuwait including fees from administrative, technical or consulting services (irrespective of whether the contract is wholly or partially performed in Kuwait or signed in Kuwait or abroad).

## Deductible expenses

Broadly, all expenses directly incurred in carrying out trade or business in Kuwait, subject to the limits specified in the tax law, are allowed as a deduction in computing taxable profit, subject to the satisfaction of the following conditions:

- The expense is necessary for earning the revenue;
- The expense is real and supported by proper documents; and
- The expense relates to the taxable period

However, in practice, the DIT tends to disallow expenses partially or wholly that are incurred / paid outside Kuwait or those paid in cash.

## Tax clearance certificate / Retention release letter

A tax clearance certificate / tax retention release letter is issued by the DIT in the following cases:
a) if an entity is not subject to tax or is exempted from tax or has incurred a loss; or
b) if an entity has settled all due taxes; or
c) if an entity has submitted an approved bank guarantee for the value of its tax retentions.

## Self-assessment

In early 2014, the DIT introduced the concept of “self-assessment”. Under Circular 1 of 2014, entities that received a tax assessment for 2009 onwards are required to file a self-assessment with the DIT within three months of filing the tax declaration.

In the self-assessment letter, the taxpayers are expected to make any necessary adjustments to the expenses claimed and provide certain additional details of the expenses / revenue reported. This applies to actual profit tax filing.

## Carry forward of losses

The losses arising in any tax period can be carried forward to be offset against future taxable profits, for a maximum period of three years, subject to certain prescribed conditions.

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## Double tax treaties

Kuwait has signed a number of double tax treaties. Under the Kuwait tax regulations even if an entity is exempt from Kuwait tax under the provisions of a particular double tax treaty, it is still required to file a tax declaration with the DIT.

## Statute of limitation

The statute of limitation is five years from the date of submitting tax declaration or the date from which the DIT becomes aware of any concealed tax liabilities. No statute of limitation applies for undisclosed income.

## Penalties for corporate income tax

Delay in the submission of the tax declaration is subject to tax penalties at the rate of 1% of the tax payable as per assessment for each 30 days delay or part thereof. Additionally, penalty is charged for any delay in payment of tax, at the rate of 1% of the tax due for each 30 days delay or part thereof.

## Social security

Social security is not applicable for expat employees. However, in case of employees who are Kuwaiti nationals, employers are required to contribute 11.5% and the national employees contribute 10.5% of the salary amount (subject to a maximum of KD 2,750).

## Zakat

Kuwaiti shareholding companies (public and closed) are required to pay 1% of net profit as Zakat.

## Contribution to Kuwait Foundation for the Advancement of Sciences (KFAS)

Kuwaiti shareholding companies (public and closed) are required to pay 1% of their profits after transfer to the statutory reserve and the offset of losses brought forward, to KFAS which supports scientific progress.

## National Labor Support Tax (NLST)

Shareholding companies listed on the Kuwait Stock Exchange are required to pay a 2.5% annual NLST on the net profits to support the employment of Kuwaitis in the private sector.

## Customs duty

GCC member states announced the formation of the Customs Union with effect from 1 January 2003 eliminating customs duties for trade within GCC states as well as removing regulations and procedures which restrict trade within GCC. The Customs Union results in unified customs duties.

The GCC states have approved a unified customs tariff of 5% on CIF invoice price subject to certain exceptions. There are certain equipment / goods that are exempt from customs duty. Certain equipment imported on temporary basis maybe entitled to a refund of customs duty paid.

## Personal taxation

There are currently no taxes on personal income, including salary income.

## Foreign Direct Investment

Kuwait Direct Investment Promotion Authority ("KDIPA") was set up to promote foreign investments in Kuwait.

Currently, foreign investors can enjoy the following benefits / incentives offered through KDIPA:

a) Setting up 100% foreign owned company, branch or representative office in Kuwait
b) Partial or full customs duty exemption
c) Income tax benefits
d) Freedom to repatriate profits outside Kuwait
e) Land at subsidized rates

In assessing applications for obtaining licenses and other incentives KDIPA considers the satisfaction of the prescribed criteria in the following areas:

a) Transfer and settlement of technology
b) Human capital
c) Market Development
d) Economic Diversification and
e) Sustainable development

The above criteria are further divided into 15 sub-criteria and in summary, licenses and incentives are approved based on the number of criteria satisfied by the applicant.

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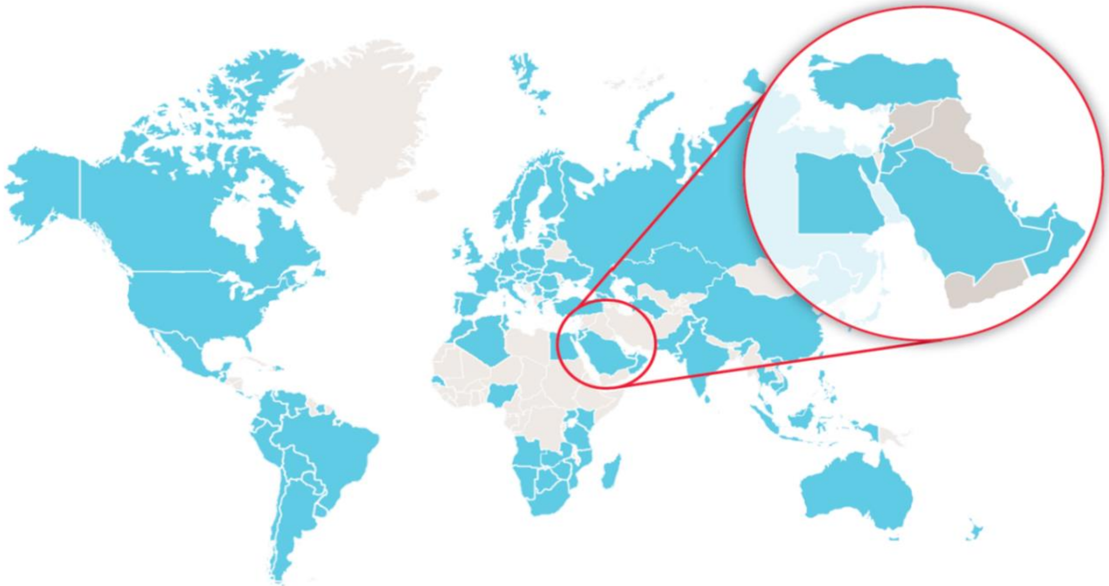
| Key indicators | Particulars |
|---|---|
| **Exchange controls regulations** | Not applicable |
| **Thin capitalization regulations** | Not applicable |
| **Withholding tax** | Not applicable.  However, there is a 5% tax retention requirement on payments made. |
| **Controlled Foreign Companies** | Not applicable |
| **Holding company regime** | Not applicable |
| **Participation exemption** | Not available in the domestic law |
| **Transfer pricing** | There are currently no transfer pricing regulations in Kuwait.<br><br>However, there are certain limits on deductibility of certain expenses incurred outside Kuwait, and such limits depend on location where cost is incurred (e.g. head office, related party, or third party)<br><br>• Imported material costs resold in Kuwait must not exceed 85% - 95% of the relevant revenues.<br>• Design costs incurred abroad must not exceed 75%-85% of the relevant revenues.<br>• Consultancy costs incurred abroad must not exceed 70%-80% of the relevant revenues.<br><br>Further, in practice, the tax department disallows a portion of expenses that are incurred / paid outside Kuwait. |
| **Double tax treaties** | Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Brunei, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Egypt, Ethiopia, France, Georgia, Germany, Greece, Hong Kong, Hungary, India, Indonesia, Iran, Ireland, Italy, Japan, Jordan, Korea, Laos, Latvia, Lebanon, Malaysia, Malta, Mauritius, Moldova, Morocco, Netherlands, Pakistan, Philip  pines, Poland, Portugal, Romania, Russian Federation, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Tajikistan, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, Ukraine, Uzbekistan, Venezuela, Vietnam, Yemen, Zimbabwe. |
| **Treaties awaiting conclusion or ratification** | Algeria, Bangladesh, Benin, Bosnia and Herzegovina, Guyana, Kenya, Lithuania, Luxembourg, Macedonia, Nigeria, Senegal, Seychelles, United Arab Emirates. |

# About BDO



## INTERNATIONAL

**5**
BDO is the world's fifth largest accountancy and advisory network

**97,292+**
Over 97,292 partners and staff worldwide

**$11.8 billion**
BDO's global revenues crossed the $11.8 billion mark in 2021

**1,728+**
More than 1,728 offices in 167 countries

## MIDDLE EAST

**16**
Presence in over 16 countries across the region

**20+**
Over 20 offices across MENA

**30+**
More than 30 years regional presence

**700**
700 regionally based partners and staff

# Our services

Audit | Consulting | Tax

BDO offers the following services:

- External audit
- Internal audit
- Corporate finance
- Transaction services
- Fraud risk management
- Corporate recovery
- Valuations

- Business advisory
- Mergers & acquisitions
- ISO services
- Investigations
- Human capital
- Training
- Outsourcing

- Corporate / International Tax
- VAT
- FATCA / CRS
- Transfer pricing
- Customs
- Regulatory compliance
- Business structuring

# WHAT MATTERS TO YOU, MATTERS TO US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