Kuwait Tax Guide 2025

Foreword

This "Kuwait Tax Guide" has been prepared by RSM Kuwait. The information in this publication has been obtained from tax laws, circulars, executive rules, instructions and tax treaties, and based on current practices followed by the State of Kuwait Tax Department. It has been written to provide a summary of the State of Kuwait taxes, which are subject to changes at any time.

While the utmost care has been taken in compiling this publication, its contents are not intended to be a substitute for professional advice nor to serve as a basis for formulating business decisions. This publication is therefore intended for information purposes only and RSM Kuwait accepts no liability whatsoever for any direct or consequential losses arising from its use or for any errors or omissions contained herein. Readers must seek professional advice regarding specific issues before making any decision.

This publication reflects information current in June 2024.

We hope you find this guide helpful.

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1. Forms of Doing Business in Kuwait

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Foreign entities have the following options to carry out business in the State of Kuwait:

a. Direct Operations

As per newly amended Article 24 of Kuwait Commercial Law, foreign companies are allowed to operate in Kuwait without any Kuwaiti agent. However, detailed executive regulation for implementation of the Law is yet to be issued.

b. Sponsorship or Agency Agreement

A foreign company can operate in the State of Kuwait through an agency agreement where, a Kuwaiti merchant or entity will act as an agent of the foreign entity. Here, the business is carried out in the name of the Kuwaiti agent. The agency agreement setting out the authority and responsibility must be registered at the Ministry of Commerce and Industry.

c. Joint Ventures

A Joint Venture may be formed by two or more persons, who are jointly and severally liable. Its objectives, terms and conditions are usually set out in its Joint Venture agreement.

A Joint Venture agreement shall be binding on the joint venture partners and is not binding on third parties.

d. W.L.L. or K.S.C. Companies

Limited Liability (WLL) Companies require a minimum of 51% of Kuwaiti shareholding and a minimum of two partners, who can either be individuals or legal entities. Husband and wife are considered as one partner.

Kuwaiti Shareholding (KSC) Companies require a minimum of five shareholders. Capital requirement is based on the nature of the company's activities. KSC Companies are permitted to be listed on the State of Kuwait Stock Exchange subject to fulfilling the rules and regulations of the State of Kuwait Stock Exchange.

e. Foreign Direct Investment Law

The Foreign Direct Investment Law No. 116 of 2013 allows the following forms of investment:

- A Kuwaiti Company incorporated with foreign shareholding may be as high as 100% of the capital.
- A branch of a foreign company.
- A representation office to carry out studies and surveys.

A direct investment and promotion authority has been formed under the name of Kuwait Direct Investment Promotion Authority (KDIPA) to oversee the application and implementation of this law and its executive regulations.

2. Income Tax Compliance Laws and Practices

a. Registration Requirements

Registration with the tax department is mandatory within 30 days from the date of signing the contract in the State of Kuwait or from the date of starting activities. The company is free to choose any accounting period: however, they need to apply and obtain prior approval from the tax department. The period may not exceed 18 months. Upon completion of the registration, the company will be given a Tax identification number (Tax Card) and formal approval for the first period.

b. Filing Requirements

1. Who is liable for income tax?

Income tax liability in Kuwait applies exclusively to foreign companies conducting business within the state, in accordance with Income Tax Decree No. 3 of 1955 as amended by Law No. 2 of 2008. This legislation broadly encompasses all operational activities within Kuwait under its purview. Taxable profit for foreign shareholders in local enterprises is calculated based on their proportionate share of taxable income.

2. What types of operations are considered taxable?

The term "carrying on business or trade" mentioned under Article 2 of The Tax Law No. 2 of 2008 has been widely interpreted by the tax authorities in Kuwait to tax all income from Kuwaiti sources.

This includes income from any activity or business wholly or partially executed in the State of Kuwait, whether the contract has been concluded inside the State of Kuwait or abroad, as well as the income realized from the supply and sale of goods or from the provision of services.

3. What types of accounting records need to be maintained?

A corporate body in Kuwait is required to maintain books of accounts: General journal, Inventory sheets, General Ledger, expenses analysis journal and stock records (showing the quantities and values of materials received, materials issued, and party or project issued to).

In practice, the tax department expects to verify the revenues and costs disclosed in the tax declaration with a detailed general ledger together with original vouchers and supporting documents, including cash and bank statements, Computer-based accounts are accepted by the tax department.

4. How is taxable income computed?

Taxable income is derived by deducting all costs, expenses and losses incurred in connection with carrying on trade or business in the State of Kuwait from gross revenue, and after adjustment for certain costs such as provision for staff indemnities, depreciation as per tax rates, head office administrative overhead allowance etc.

5. Are there any transfer pricing regulations?

There are no transfer pricing regulations: however, the tax regulations specify the maximum allowable costs as a percentage of revenue of imported materials, design and consultancy services. For materials and equipment, the maximum allowable costs range from 85% to 95% depending on whether they are imported from the head office, related parties or third parties. Similarly, for design and consultancy services, the maximum allowable costs range from 70% to 85% depending on the source of the services.

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6. What is the applicable tax rate?

Tax is applied at a flat rate of 15% of net taxable income.

7. How are losses treated?

Subject to certain conditions, losses can be carried forward for a maximum of three years; first year losses are carried forward to offset profits of the second year, the remaining losses are carried forward to offset profits of the third year. The balance loss cannot be carried forward beyond the third year.

8. What are tax declarations and payment obligations under Tax Laws?

The tax department requires the tax declaration, audited with detailed schedules and financial statements, to be certified by an accountant operating in the State of Kuwait who is registered with the Ministry of Commerce and Industry.

The tax declaration of each taxable period is required to be submitted within three and a half months of the end of the taxable period. It is possible to seek an extension for 30 days to 60 days in the filing of the tax declaration. It is at the discretion of the Director of Income Tax to grant an extension. Taxes must be paid in four equal installments on the 15th of the 4th, 6th, 9th and 12th months of the year end.

9. Are there any penalties for delays in filing declarations and payment of taxes?

Any delay in submission of the tax declaration is subject to tax penalties at the rate of 1% of the assessed tax for each 30 days delay or part thereof.

Additionally, a penalty is charged for any delay in payment of tax, at the rate of 1% of the assessed tax for each 30 days' delay or part thereof.

In the case of a tax assessment not disputed by the taxpayer, any additional tax must be paid within 30 days from the date of tax assessment. Failure to settle within 30 days will result in additional penalties at 1% for each period of 30 days or fraction thereof.

In cases where revenues are not disclosed or revenues are disclosed in the tax declaration, but tax exemption claimed, these additional revenues will be subject to taxes and penalties at 1% of such additional taxes.

10. Is it possible to file a revised tax declaration?

Yes. It is possible to file a revised tax declaration to correct an error or mistake; provided the original tax declaration was filed before the due date and a tax assessment is not issued for that year and prior approval has been obtained. However, there will be delay penalties due to the revised filing.

c. Tax Inspection and Assessment Procedures

The tax inspection is mandatory for all companies every year without exception. Tax inspector verifies revenues and costs with respective supporting documents and issues tax assessment.

1. What is the objection / Appeal procedure?

If the tax assessment is not acceptable to the taxpayer, the taxpayer has the option to file an objection within 60 days from the date of the tax assessment letter.

If the tax issue is not satisfactorily resolved within 90 days of raising the objection, the taxpayer has the right to have their case heard by the Tax Appeal Committee. The tax appeal has to be filed within 30 days from the date of the tax department's letter in response to the tax objection or, in the case of no response from the tax department, the tax appeal has to be filed within 30 days after the end of the 90-day period from the date the objection letter was filed.

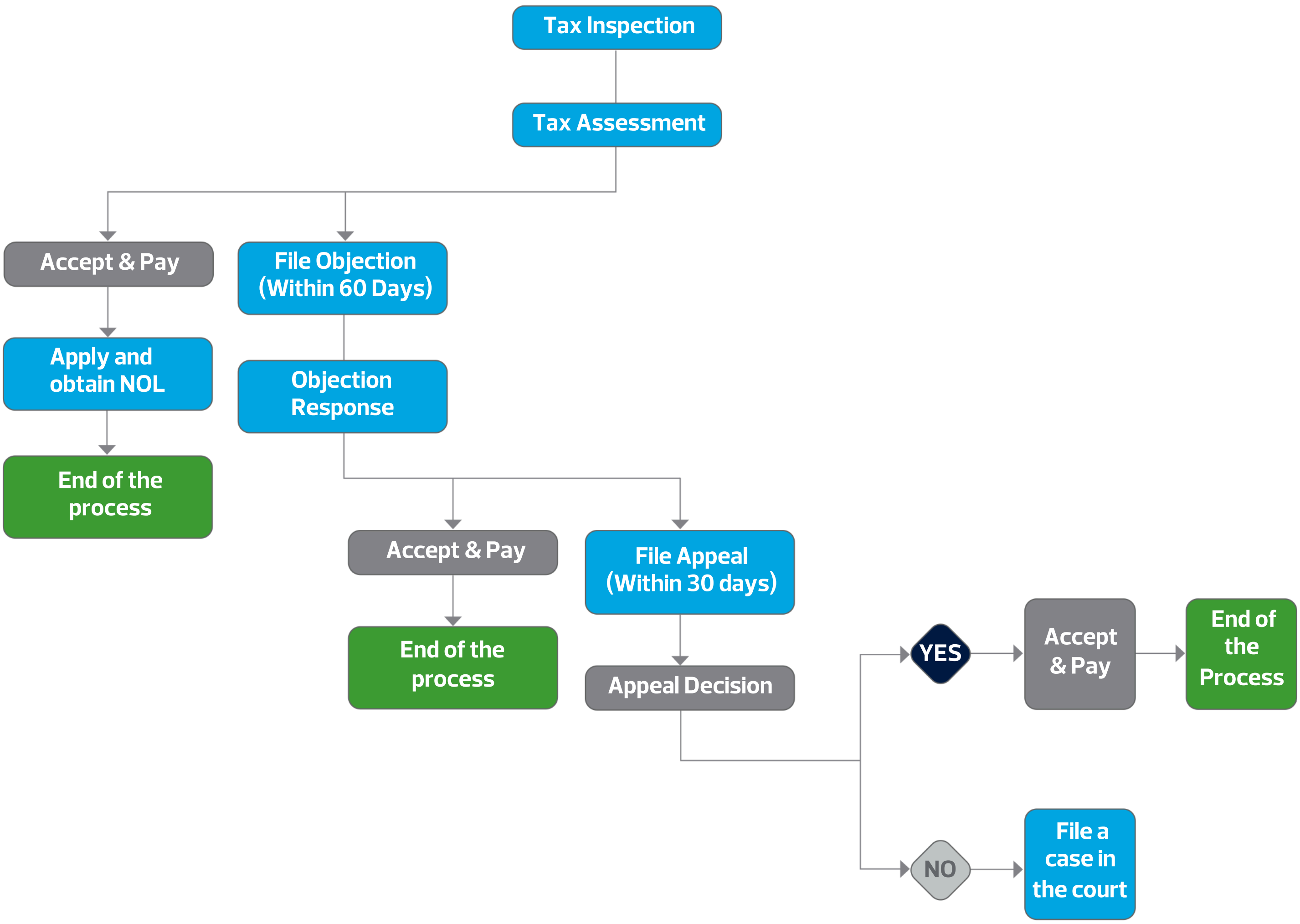
If the taxpayer is not satisfied with the outcome of the Appeal Committee's decision, they then have the right to pursue their tax dispute through civil courts for adjudication within 60 days from the date of rejection by the Tax Appeal Committee decision.

2. When may the tax department re-issue the tax assessment?

The tax department shall have the right to re-issue the tax assessment to the taxpayer in respect of the previously assessed years to rectify any mistakes or errors.

3. Are there any withholding taxes?

There are no withholding taxes applicable in Kuwait.



4. What are tax retention obligations?

Under Article 37 of Law No. 2 of 2008, all ministries, authorities, public institutions, companies and private entities or natural persons that are contracted with any corporate body, whether through contracts, agreements or any transactions shall retain 5% of the contract, agreement, or transaction value or from each payment to the corporate body, or inform listing of all subcontractors.

These retentions shall not be released unless there is a tax clearance letter, or no objection letter is received from the tax department to release these tax retentions. The payments to subcontractors will be disallowed as a cost in case 5% retentions are not retained.

Further, the tax department has the right to request by letter to transfer 5% retained by the companies.

5. Are there any double taxation treaties signed by the State of Kuwait?

The State of Kuwait has signed and ratified double taxation treaties with 72 countries.

6. What are the pros and cons of double taxation treaties?

Pros:

- Short-term projects, for a period from six months to one year, depending on the specific treaty, are exempt from income tax.
- Profits made merely out of supply of materials and design services from outside Kuwait are exempt in certain treaties.
- Dividend, interest and royalties are subjected to lesser tax rates in certain countries with which the State of Kuwait has signed a double taxation treaty.

Cons:

- For exempt companies and companies claiming double taxation treaty benefits, 20% of indirect expenses (general and administrative expenses) are disallowed, treating such costs as they are related to exempt revenues as per tax regulations.
- In the case of companies claiming double taxation treaty benefits, a portion of direct costs, agent's commission and head office expenses are disallowed as they are related to exempted revenues.

7. Are there any tax incentives?

Under the Foreign Direct Investment Law No. 116 of 2013, the foreign entities are entitled to tax credits under a tax credit incentive system. KDIPA has issued detailed regulations for granting such tax credits based on technology transfer, job creation for nationals and stimulation of local market. The tax credits granted are reduced from the total tax liability of the company.

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8. How are Neutral Zone Operations taxed?

Profits from the neutral zone (the shared marine area between the State of Kuwait and the Kingdom of Saudi Arabia) are taxed as per Law No. 23 of 1961.

3. Other Taxes or Duties

1. Custom Duties

The GCC states have approved a unified customs tariff of 5% on CIF invoice price subject to certain exceptions.

2. Contribution to the State of Kuwait Foundation for the Advancement of Sciences (KFAS)

Kuwait Shareholding Companies (KSC) and Kuwait Shareholding Companies (Closed) [KSCs(C)] are required to contribute 1% of net profits after transfer to the statutory reserve and the offset of losses brought forward to KFAS, which supports scientific progress.

3. National Labour Support Tax Laws (NLST)

The National Labour Support Tax Laws are applicable for all companies listed in the State of Kuwait Stock Exchange. NLST is computed at 2.5% of annual net profit before the Board of Directors' remuneration, contribution to the State of Kuwait Foundation for Advancement of Sciences, donations, grants, Zakat and NLST.

4. Zakat law

Zakat law is applicable for all Kuwaiti closed and listed shareholding companies, Zakat is computed at 1% of annual net profit before Board of Directors' remuneration, contribution to Kuwait Foundation for Advancement of Sciences, donations, grants, Zakat and National Labour Support Tax (NLST).

5. Personal taxation

There is currently no tax on the personal income of individuals including the salary income of employees.

6. Stamp duty, Property tax, and VAT/Sales tax

There is no stamp duty, property tax, VAT or sales tax in the State of Kuwait.

7. Social Security

Social insurance for Kuwaiti employees is payable by both employer and employee based on the employee's salary (up to a ceiling of KD 2,750 per month). The contribution rates for social insurance are 11% and 8% of the employee's salary for employer and employee respectively, required to be deducted by the employer and paid monthly. Apart from these contributions, employees are also required to contribute an additional 2.5% of monthly salary towards social insurance, up to KD 1500 a month.

8. Capital Gains/ Losses Treatment

Any capital gains or losses are treated as normal business income.

About RSM Global

RSM Global is a network of independent assurance, tax and consulting firms which currently has more than 175 dedicated professionals in its office in Kuwait, well positioned to serve its clients. The staff composition, with their tenures spanning over years, reflects our firm's policy of blending innovative thoughts and ideas with extensive experience. The firm has 15 partners and several executive managers holding a diverse range of experience in the US, Canada, the Middle East and India to serve our clients.

About RSM Kuwait

RSM Kuwait was established as Kuwait Auditing Office – Bader Al Bazie & Co. in 1963 by Mr. Bader Al Bazie who was allotted Auditor Registration Number 1-A.
The Firm has steadily grown, since then, to become one of the largest professional services firm in the State of Kuwait by offering assurance/audit, tax and advisory.

RSM Global Highlights

65000 People Worldwide

900 Offices

120 Countries

Revenue growth of 6% to US$10 bn in 2024

The Firm International Associations

Over the years, the Firm has associated with International Firms from time to time, below is a timeline of our international associations.

- Established in **1963** – Kuwait Auditing Office – **Bader Al Bazie & Co.**
- **1969** to **1990** – Member of **Arthur Young**
- **1990** to **2002** – Member of **Arthur Andersen**
- **2003** to **date** – Member of **RSM Global**

Our Tax services in the State of Kuwait include:

- Advance tax planning and implementation.
- Audit of financial statements for tax purposes.
- Preparation, review and filing of tax declarations and identification of tax exposures prior to filing the tax declarations.
- Attending tax inspections, obtaining tax assessments, assisting in the tax objection and tax appeal process and assisting in the settlement of taxes.
- Obtaining tax clearance letters from the Ministry of Finance.

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