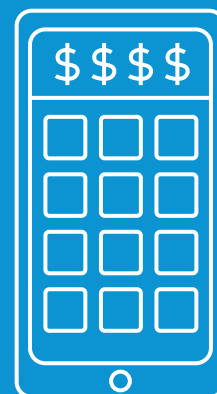
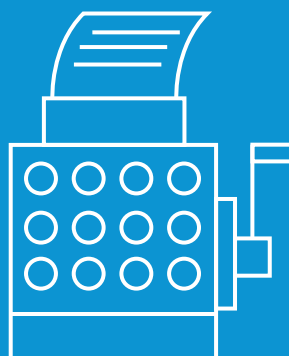
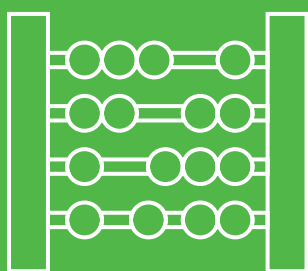
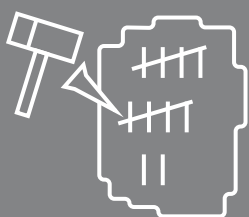


KUWAIT TAX FLASH

Kuwait Tax Flash for January 2016 is prepared from the article published in Al Rai News paper on Monday, 4 January 2016.





1. Entities that are liable to the new proposed draft income tax law

Limited Liability or Shareholding or Partnership (Limited or General) companies, including Financial and Insurance Institutions (a more comprehensive definition is included), Sole Partnerships, Joint Ventures/Consortiums or any other entity classified as a "company" under the Kuwaiti Companies Law No. 25 of 2012 or is similar in nature to the above established under the laws of a foreign country, Fiduciary Trusts or any establishments or other entities of a similar nature that have been established under the laws of Kuwait or a foreign country and any establishment, body or a company subject to the Kuwait Government's control or supervision.

2. Nature of Business subject to the new tax Law

Any activity which has been carried out continuously or for a short period of time, including trading in goods or rendering of services or manufacturing or professional or commissioning or representation or real estate development or leasing of any immovable or movable properties or brokerage or speculation or any activity of commercial nature that includes some risk, without the inclusion of any activities carried out by an individual as an employee (salaries are not subjected to income tax).

3. Applicable types of tax

follows: The new tax law has proposed two types of taxes as

a. Income tax

imposed on annual basis as per the rates mentioned The income tax as per the draft law shall be on all companies and entities (as stated below) which have been carrying out business and earning net profits during the taxable period.

b. Withholding tax

Withholding tax is introduced through the draft Law (Article 3) to be imposed on any amounts defined as royalties, interest payments, professional fees, insurance premiums payable to non-resident entities. Withholding tax shall not be imposed on exempted income and any amounts related

to a business carried out by a non-resident individual through a shall be subject to the corporate income tax, permanent establishment in Kuwait. The amounts

4. Applicable tax ratesa. Income tax

I. For companies, it will be a flat rate of 10% of the The following tax rates shall be imposed: net taxable profit. II. For entities (individuals (other than companies) who are carrying out business or works), it will be as follows: - For the net taxable income ranging from NIL to KD 50,000 - 0% - For the net taxable income greater than KD 50,000 - 10%

b. Withholding tax

I. 5% against insurance premiums. II. 10% against royalties, interest and technical fees.

5. Total revenues

Defined as any income earned by the taxable entity from carrying out business, including the capital gain on sale of properties or any fees earned from the rendering of services, commission, agency or interest or royalties. accepted costs or losses or debts. This also includes the reversal of any previously income or amounts subject to withholding tax and paid The total revenues shall not include any exempted to non-residents.

6. Exempted income

per the Draft Law:

The following items shall be considered as exempted as

- Dividends income paid by a resident company to another resident company other than financial institutions.
- Dividends income paid by non-resident (other than non-resident companies residing in a tax sanctuary) to a resident company which owns 10 % or more of the capital shares available with voting rights of the non-resident company.
- Gains realized by a resident company from the disposal of participating shares of a resident or a non-resident company (other than non-resident companies residing in a tax sanctuary),



KUWAIT TAX FLASH

JANUARY 2016

provided that the resident company owns participating shares of another company equivalent to 10 % or more of the capital shares available with voting rights.

d. Profits or interests related to financial securities (stocks) or gains realized from the disposal of financial securities by an individual from carrying out a long-term investment.

e. The income and gain realized for the following entities:

- Charities;
- Central Bank of Kuwait (CBK);
- Other government authorities.

f. Income or gain exempted from taxes in accordance with a tax treaty or any other convention/agreement signed between the governments of Kuwait and of a foreign country or any international organization.

g. Interests paid for loans granted to a resident company through the international monetary markets in accordance with the relevant executive rule.

h. Income realized by a non-resident company involved in the operation of airlines and air travel into Kuwait, if the income realized by resident company involved in the same activities is treated the same in the country of the non-resident company.

7. Non-deductible cost

a. Expenses or losses of a personal nature or incurred. The following expenses are not allowed as deductible costs: in relation to the exempted income.

b. Dividends income or any amounts distributed in relation to the profits earned.

c. Any amounts transferred to reserves or booked as provisions in the taxable entity's accounting books and records against any future costs or losses.

d. Any expenses or losses reversed or can be reversed as per the insurance documentation or compensation or guarantee or bail.

e. Salaries, compensation and others paid or to be paid to a related party.

f. Interest paid or due to be paid by the taxpayer to a related party, unless such amounts are included in the total taxable revenues of the related party or as per Article (3).

g. Corporate income tax and any taxes paid abroad or any relevant penalties or interests.

h. Any penalties or sanctions imposed for the violation of any laws or regulations.

i. Any amounts paid or due to be paid to a related party which is a resident of or has a permanent establishment in one of the tax sanctuary countries, unless such amounts are included in the total taxable revenues of the related party or as per Article (3).

Limitations will be imposed through the executive rules to be issued by the tax authority for the maximum allowable entertainment expenses related to the business. Also the tax authority has the right to reject the taxpayer's claim for the deductibility or inclusion of any costs or assets in case of failure to provide the relevant supporting document. However the executive rules to be issued by the tax authority will cover the deductibility of any bank reserves and reserves for unexpired risks booked by insurance companies (except for life insurance) and the computation of the net taxable income earned by life insurance companies.

8. Carried forward losses

The net losses computed as per the provisions of draft Law and the executive rules to be issued by the tax authority shall be carried forward for a maximum of five years after the end of the first taxable period during which the loss has been incurred, provided that the following conditions are fulfilled:

a. The taxpayer did not cease its operations through a formal notification to the tax authority.

b. The taxpayer did not file a tax declaration for the taxable period showing no taxable revenues have been earned from the taxpayer's main activities. stoppage of operations beyond the taxpayer's control. In case a change has occurred in the original shareholding equivalent to more than 50% of the relevant capital, there are certain conditions to be fulfilled for the carrying forward of the losses incurred during the previous taxable periods.

Conclusion and way forward

This draft income tax law is still yet to be approved by the Kuwait Parliament and it will be subject to changes before final income tax law is ratified and published in the official Gazette. We will keep you informed of any developments in this regard as soon as we hear from the Ministry of Finance, Tax Department.

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