Income Tax in Kuwait

Income Tax Law Amended

The Kuwait National Assembly passed a law on 26 December 2007 that amends several provisions of Income Tax Decree No. 3 of 1955 (Decree).

The changes which are designed to attract foreign investment and clarify certain existing rules. will be effective from the taxable period following the date the amendments are published in the official gazette

Company Income Tax Rate and Taxable Income

The most important change is a reduction in the income tax rate on net profits of entities operating in Kuwait. The amendments set a flat rate of 15% (instead of the current a range of 0% up to 55%, which are not progressive rates).

A 15% tax will be levied on the income of any body corporate carrying on a trade or business in Kuwait, regardless of where the company is incorporated. The new flat tax rate will result in a substantial decrease in the tax liability of foreign entities.

The following types of income will be subject to tax:

- Profits derived from a contract executed in whole or in part in Kuwait;
- Income derived from the sale, lease or grant of a concession for the use or exploitation of a trademark, patent or copyright;
- Commissions due or received from representations or trade brokerage
- Profits derived from industrial and commercial activities;
- Gains derived from the disposal of assets;
- Profits derived from the purchase and sale of goods or property or rights thereto and from the opening of a permanent office in Kuwait where contracts of sale and purchase are executed
- Profits from the leasing of property; and
- Profits derived from the provision of services

Further, the amendments clarify that gains derived by foreign entities from the sale of shares on the Kuwait Stock Exchange (KSE) will be exempt from tax in Kuwait.

Determination of Taxable Income

The taxable income is determined after deducting all expenses and costs incurred, including the following:

- Salaries, wages, bonuses and end-of-service indemnity, etc.
- Taxes and fees, except for income tax due under the law;
- Depreciation of assets in accordance with the rates specified in the executive regulation;
- Grants, donations and subsidies paid to public or licensed private
- Kuwaiti entities according to the rates specified in the executive regulation; and Head office expenses as specified in the executive regulation.

The following are non-deductible:

- Personal and private expenses and any charges not related to the taxable activities or not for the purpose of generating profits;
- Punitive fines; and Reimbursed losses.
- The tax authorities may request that the entity re-examine any expenses deemed to be overstated and to provide documentation supporting such expenses
- The authorities have discretion to approve, adjust or disregard the expenses.
- Loss Carry forwards

The new law limits the carry forward of net operating losses to three years and no carry forward will be available if the entity ceases to carry out its activities (unless such cessation of activities is mandatory under the law).

Compliance

Current Legislation does not contain specific provisions regarding the statute of limitations, so the tax authorities have been relying on the civil code, which provides that no claim for taxes or other annual charges due to the state may be enforced after a period of five years.

Therefore, a new amendment has been introduced specifying that the government will be entitled to challenge a tax return for up to five years from the date a return was filed, or five years from the date the authorities were notified of activities not stated in the return where the authorities become aware of any undisclosed information affecting the tax liability of the entity.

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