

Council of Ministers

Legal Advice and Legislation

Project

Decree by Law No. () of 2024 Issuing the Tax Law on Business Profits

- After reviewing the Constitution,
- The Amiri Decree issued on 2 Dhul-Qi'dah, 1445 AH, corresponding to May 10, 2024,
- Decree No. (3) of 1955 on Kuwaiti Income Tax and its amended laws,
- The Penal Code issued by Law No. (16) of 1960 and its amended laws,
- The Code of Criminal Procedures and Trials issued by Law No. (17) of 1960 and its amended laws,
- The Kuwaiti Income Tax Law in the Designated Zone No. (23) of 1961,
- Law No. (8) of 1966 approving the agreement between Kuwait and the Kingdom of Saudi Arabia regarding the division of the Neutral Zone,
- Law No. (32) of 1968 concerning the Central Bank of Kuwait, regulation of the banking profession, and its amended laws,
- Decree No. (10) of 1978 exempting Arab and foreign airlines from taxes and amending Decree No. (53) of 1974,
- Law No. (31) of 1978 on the preparation of public budgets, their execution, and final accounts, and its amended laws,
- And the Civil and Commercial Procedures Law issued by Decree No. (38) of 1980 and its amended laws,
- And the Civil Code issued by Decree No. (67) of 1980 and its amendment by Law No. (15) of 1996,
- And the Commercial Law issued by Decree No. (68) of 1980 and its amended laws,
- And Decree No. (20) of 1981 regarding the establishment of the Administrative Circuit at the Court of First Instance and its amended laws,
- And Law No. (26) of 1995 regarding free zones,
- And Law No. (6) of 1999 regarding the issuance of the Industrial Law and its amended laws,
- And Law No. (19) of 2000 regarding the support of national labor and encouraging it to work in non-governmental bodies, and its amendment by Law No. (32) of 2003,
- And Law No. (35) of 2000 approving the agreement between Kuwait and the Kingdom of Saudi Arabia concerning the divided submerged zone,

- And Law No. (5) of 2003 approving the unified economic agreement between the member states of the Gulf Cooperation Council,
- And the Unified Customs Law for the Cooperation Council for the Arab States of the Gulf issued by Law No. (10) of 2003,
- And Law No. (46) of 2006 concerning Zakat and contributions of public shareholding companies in the state budget,
- And Law No. (22) of 2009 regarding approval of the unified industrial organization system for the member states of the Gulf Cooperation Council,
- And Law No. (7) of 2010 regarding the establishment of the Capital Markets Authority and regulating securities activities, and its amended laws,
- And Law No. (98) of 2013 regarding the National Fund for Small and Medium Enterprise Development, and its amended laws,
- And Law No. (106) of 2013 regarding combating money laundering and financing terrorism, and its amendment by Law No. (24) of 2021,
- And Law No. (111) of 2013 regarding the licensing of commercial shops,
- And Law No. (116) of 2013 regarding the promotion of direct investment in the State of Kuwait,
- And Law No. (20) of 2014 regarding electronic transactions,
- And Law No. (116) of 2014 regarding partnerships between the public and private sectors,
- And Law No. (109) of 2015 approving the agreement between the Government of the State of Kuwait and the Government of the United States of America to improve international tax compliance and implement the Foreign Account Tax Compliance Act (FATCA),
- And the Companies Law issued by Law No. (1) of 2016 and its amended laws,
- And Law No. (13) of 2016 regarding the regulation of commercial agencies,
- And Law No. (49) of 2016 regarding public tenders and its amended laws,
- And Law No. (76) of 2018 regarding the approval of the agreement on administrative assistance in tax matters,
- And Law No. (3) of 2019 regarding the practice of the profession of account monitoring,
- And Law No. (25) of 2019 regarding the regulation of insurance,
- And Law No. (1) of 2020 approving the annex to the agreement dividing the neutral zone and the submerged zone between the State of Kuwait and the Kingdom of Saudi Arabia,
- And Law No. (2) of 2020 approving the memorandum of understanding between the Government of the State of Kuwait and the Government of the Kingdom of Saudi Arabia,
- And Law No. (12) of 2020 concerning the right to access information,
- And the Bankruptcy Law issued by Law No. (71) of 2020,
- And Decree No. (4) of 2024 regarding the exchange of tax-related information,
- And based on the presentation by the Minister of Finance and the Minister of State for Economic Affairs and Investment,
- And after the approval of the Council of Ministers,

We issued the following decree:

Article One

The provisions of the attached law apply to:

1. Taxable persons with multiple nationalities for tax periods starting on or after January 1, 2023, except for those exempt under Article (21) of the attached law, which takes effect starting January 1, 2023.
2. All other taxpayers for tax periods starting on or after January 1, 2027.

Article Two

The provisions of the attached law and other legislation do not apply to the following:

1. Decree No. (3) of 1955 regarding income tax, starting January 1, 2023.
2. Law No. (23) of 1961 mentioned above.
3. Clause (1) of Article (2) and Paragraph (14) of Article (1) of Law No. (19) of 2000 mentioned above.
4. Law No. (46) of 2006 mentioned above.

Article Three

Taxable persons with multiple nationalities are granted a period of six months from the date this decree comes into effect to register with the tax administration, without being subject to the administrative penalty stipulated in Clause (1) of Article (33) of the attached law.

Article Four

The provisions of this decree shall apply in the event of a conflict between its provisions and the provisions of any other law.

Article Five

The application of the laws and provisions referred to in Article Two of this decree shall cease, effective January 1, 2027, for those still subject to the tax periods that began before this date.

Article Six

The executive regulations of the attached law shall be issued by a decision from the Minister within six months from the date of publication of this decree in the official gazette.

Article Seven

The Prime Minister and the Ministers, each within their jurisdiction, are tasked with implementing the provisions of this decree, which shall be published in the official gazette and shall come into effect starting January 1, 2025.

Emir of Kuwait

Mishal Al-Ahmad Al-Jaber Al-Sabah

Prime Minister

Ahmad Al-Nawaf Al-Ahmad Al-Sabah

Minister of Finance
Minister of State for Economic Affairs and Investment
M. Noufra Sulaiman Salem Al-Hamad

Issued at Seif Palace:
Date:

Business Profits Tax Law
Chapter One
Preliminary Provisions

Article (1)
Definitions

For the purposes of implementing the provisions of this law, the following words and expressions shall have the meanings assigned to them unless the context indicates otherwise:

- **The State:** The State of Kuwait, including its rights in the divided zone and the submerged zone, shared with the Kingdom of Saudi Arabia.
- **The Divided Zone and the Submerged Zone:** The region comprising natural resources shared jointly between the State of Kuwait and the Kingdom of Saudi Arabia under agreements and memoranda of understanding in this regard.
- **The Ministry:** The Ministry of Finance.
- **The Minister:** The Minister of Finance.
- **Tax Law:** The law governing business profits.
- **Executive Regulations:** The executive regulations issued to implement the provisions of this law.
- **Tax Administration:** The authority responsible for implementing the provisions of the tax law.
- **Business Profits Tax:** The tax levied on the profits of a person generated from business activities within the State.
- **Withholding Tax:** The tax deducted at source from payments made to non-resident persons. The payer is responsible for deducting and remitting this tax to the Tax Administration on behalf of the non-resident payee.
- **Taxable Amount:** The amount of money payable by a person under the provisions of Article (6) of this law, which the Tax Administration calculates and collects.
- **Supplementary Tax:** The tax imposed on a group of multinational entities within the limits of the difference between the global minimum tax rate and the actual tax rate, if the latter is less than 15%, in accordance with the rules issued by the Organization for Economic Cooperation and Development (OECD) concerning the global minimum tax.

- **Effective Tax Rate:** The tax rate determined for a group of multinational entities, in accordance with the rules issued by the OECD regarding the global minimum tax. This rate must not exceed 15%, including any adjustments defined by the OECD.
- **Tax Obligation:** The tax due to be paid under this law, whether by the taxpayer or by deduction at source. This includes the offset of any applicable administrative penalties or interest under this law.
- **Person:** A natural person who conducts business either individually, through an office, or in any other form that engages in activity.
- **Legal Entity:**
 - Companies subject to the provisions of Law No. (1) of 2016 mentioned above.
 - Companies: Any form of corporate entity referred to in Law No. (1) of 2016, whose persons are individually or collectively responsible for the obligations incurred by the entity.
 - Any authority, public institution, fund, or legal entity established by law or decision.
- **Resident Entity:** A legal entity is considered a resident in the State if either of the following conditions is met:
 - a. If it is incorporated or established in the State.
 - b. If its main or effective management is located in the State.
- **Resident Individual:** A natural person is considered a resident in the State if either of the following conditions is met:
 - a. If they have a permanent residence in the State.
 - b. If they are present in the State for a period not less than 183 continuous or non-continuous days during the taxable period.
- **Activity:** Any trade in goods, services, industry, craft, profession, agency, or property development, or the exploitation of tangible or intangible assets, for commercial or investment purposes.
- **Taxable Person:** A person subject to tax in accordance with the provisions of this law, even if they enjoy tax exemptions.
- **Multinational Group:** A group of entities engaged in business activities across more than one country, including Kuwait. The group may operate through permanent establishments, subsidiaries, or any other legal form. Business profits are determined according to the rules issued by the Organization for Economic Cooperation and Development (OECD) concerning global minimum tax standards.
- **Government Entity:** An entity that meets all the following criteria:
 - 1. It is wholly owned by the government, regardless of its legal form.
 - 2. Its primary purpose is to perform a governmental function, manage government assets, or manage investments on behalf of the government without engaging in commercial activity.
 - 3. Its liabilities are fully guaranteed by the government.
 - 4. Its profits, if any, are distributed exclusively to the government or related parties.
- For the purposes of this clause, the government of the State of Kuwait and any other government are considered as such.

- **Non-Profit Entity:** Any entity established exclusively for charitable, scientific, literary, cultural, artistic, or sporting purposes, or for any other purpose that is not intended to generate profit.
- **Ultimate Parent Entity:** The entity within a group of multinational entities that holds a stake or controlling interest in another entity within the group and is not itself controlled by any other entity. This is determined in accordance with the rules issued by the Organization for Economic Cooperation and Development (OECD) regarding the global minimum tax.
- **Related Parties:** Individuals or entities that share a joint relationship or influence over one another, or where one party has effective control over the other, or multiple parties operate under shared control.
- **Income:** The actual revenues earned by the taxpayer during the taxable period after allowable deductions.
- **Business Profit:** Net revenues resulting from conducting business during the taxable period.
- **Taxable Disclosure:** The declaration that the taxpayer provides to the Tax Administration detailing revenues, expenses, and other information necessary for calculating the tax payable under this law.
- **Tax Base:** The amount subject to tax after deductions, exemptions, or adjustments, as determined in accordance with the provisions of this law.
- **Earnings:** Income derived from dividends or shares, whether distributed as profits, free shares, founding shares, or otherwise.
- **Partnership Shares:** Contributions of capital made by an individual or legal entity in return for ownership shares.
- **Royalties:** Income derived from the use or licensing of intellectual property rights, such as copyright, patents, trademarks, trade secrets, or specialized technical knowledge. This includes earnings from audiovisual productions, computer software, or industrial designs, as well as rights to commercial or technical data usage.
- **Interest:** Income derived from debt obligations of any kind, whether secured or unsecured, and whether it is related to participation in profit-sharing agreements or any other financial instruments.

Article (2)

Permanent Establishment

A permanent establishment is the fixed place where a non-resident person conducts their activity, wholly or partially. This includes the following cases:

1. A place of business such as a management office, branch, shop, workshop, factory, warehouse, mine, oil well, quarry, or any other location for the exploration and extraction of natural resources.

2. A construction site, assembly project, or installation project, or supervisory activities related to such projects, provided the duration of the project at the location exceeds six months within any 12-month period.
3. Providing services by a non-resident person, provided the activities of this type within the State continue for a period or periods exceeding six months within any 12-month period.
4. An agent.

The executive regulations may specify additional cases of permanent establishments and determine the necessary rules and controls for implementing the provisions of this article.

Chapter Two

Tax Obligations and Eligibility

Article (3)

Persons Subject to Business Profits Tax

Business profits tax applies to all of the following:

1. A legal entity resident in the State, whether the income is generated inside or outside the State.
2. A natural person resident in the State, whether the income is generated from activities inside or outside the State.
3. A permanent establishment operating within the State, for income generated inside the State.

Article (4)

Business Profits Tax Rates

Business profits tax is imposed on the taxable income at a rate of 15%, with the following exceptions:

1. Income of legal entities wholly owned by the State, where the tax rate is zero.
2. Income from activities conducted in the Divided Zone or the Neutral Zone, where a tax of 20% is applicable on the total income derived from such activities. Tax collection rights are shared proportionally between the State and the Kingdom of Saudi Arabia, with 10% allocated to the State of Kuwait.

Article (5)

Supplementary Tax

A supplementary tax is imposed on the income of multinational entities, based on the difference between the actual tax rate and the global minimum tax rate of 15%, as determined by the OECD's global tax rules.

Article (6)

Withholding Tax

A withholding tax is imposed at a rate of 5% on gross amounts paid to a non-resident person from a source in the State, without deducting any associated costs, provided such amounts are not related to a permanent establishment within the State. These amounts include:

1. Interest.
2. Royalties.
3. Fees for technical, consulting, and administrative services.
4. Rental amounts, whether for tangible or intangible property.
5. Dividends paid on shares, excluding those from companies listed on the Kuwait Stock Exchange.
6. Payments related to sports and artistic activities conducted in the State.
7. Insurance premiums paid to providers outside the State.

The withholding tax must be deducted from the amounts subject to tax.

Article (7)

Determination of Income Source

The State shall be considered the source of income, particularly in the following cases:

1. Income derived from a permanent establishment in the State.
2. Income from sports and artistic activities performed within the State.
3. Income from the exploitation, sale, and disposal of property and related activities within the State.
4. Dividends paid to resident legal entities within the State.
5. Capital gains resulting from transactions in financial securities owned by resident legal entities within the State.
6. Interest paid by the government or by a resident person or a permanent establishment within the State.
7. Rental amounts, license fees, or royalties paid by the government or by a resident person or permanent establishment within the State.
8. Insurance premiums paid to cover risks within the State.
9. Income derived from any other activity conducted within the State.

Article (8)

Tax Period

The tax period is determined as 12 months, in accordance with the taxpayer's fiscal accounting year, as notified to the Tax Administration. If no notification is given, the initial tax year shall be the calendar year.

The Tax Administration may, upon the taxpayer's request, permit a change in the tax period, in accordance with the conditions and requirements specified in the executive regulations.

Article (9)

Determination of Taxable Income on Business Profits

The taxable income subject to business profits tax is calculated based on the total effective revenues after deducting all necessary costs incurred to conduct activities. The executive regulations will define the rules and conditions for applying this article.

Article (10)

Deductible and Non-Deductible Expenses

A taxpayer is allowed to deduct actual expenses incurred in generating taxable income from business profits, including but not limited to:

1. Amounts paid by the taxpayer to the Kuwait Foundation for the Advancement of Sciences, up to a maximum of 1% of the taxable income for the relevant tax period.
2. Selling and service costs necessary for the taxpayer's activities.
3. Wages and salaries.
4. Depreciation of assets, in accordance with the percentages and conditions specified in the executive regulations.
5. Any banking interest or other expenses determined as deductible by the executive regulations.

Non-deductible expenses include:

1. Expenses unrelated to the activity.
2. Expenses incurred without supporting documentation or not related to taxable business profits.
3. Administrative penalties.
4. Other expenses and costs as specified by the executive regulations.

The executive regulations shall set the documentation requirements, conditions, and rules for applying this article.

Article (11)

Transactions Between Related Parties

The Tax Administration may determine the taxable income based on the arm's length principle in cases of transactions between related parties. This includes establishing the commercial and financial terms that would apply between unrelated parties to prevent tax evasion,

underpayment, or improper transfer of income from a taxpayer to another related or unrelated party.

Article (12)

Loss Carryforward

A taxpayer may deduct losses incurred by the end of an accounting period from taxable income for subsequent tax periods. If a portion of the loss remains, it may be carried forward to the following tax periods, up to a maximum of five consecutive tax periods. Losses beyond this period cannot be carried forward.

In all cases, the total allowable losses for carryforward must not exceed 75% of taxable income for the relevant tax period.

The executive regulations shall specify the rules and conditions for applying this article.

Article (13)

Avoidance of International Tax Double-Taxation

To avoid international tax double-taxation, the taxable income of a resident person is reduced by foreign taxes paid on income earned outside the State, provided such taxes do not exceed the tax due in the State on the same income. The taxpayer must submit documentation of foreign taxes paid, as determined by the Tax Administration.

Article (14)

Exemptions

Without prejudice to exemptions stipulated by any other law, the following shall remain exempt from business profits tax:

1. Dividends received by a resident person from shares in a partnership owned by a resident person or shares owned by a resident legal entity, provided the ownership percentage does not fall below 10% for a period of at least 12 consecutive months prior to the dividend distribution. If this percentage is less than 10%, such dividends will be subject to taxation at the effective rate applicable to the resident person.
2. Capital gains earned by a resident person from the sale of shares in a partnership owned by a resident person or shares owned by a resident legal entity, provided the ownership percentage does not fall below 10% for a period of at least 12 consecutive months prior to the transaction. If this percentage is less than 10%, such gains will be subject to taxation at the effective rate applicable to the resident person.
3. Income earned by a non-resident person through a permanent establishment within the State from the operation of ships or aircraft in international transport activities, including:
 - a. International transport of passengers, goods, mail, or parcels.
 - b. Leasing of ships or aircraft, with or without crew.

c. Leasing of equipment used in the operation of ships or aircraft in international transport activities.

These exemptions apply provided the non-resident person conducting such activities in the State operates in a country that grants equivalent treatment to Kuwaiti residents performing the same activities in its territory.

Article (15)

Entities Exempt from Business Profits Tax

The following are exempt from business profits tax:

1. Government entities in Kuwait.
2. Non-profit Kuwaiti organizations.
3. Individuals subject to business profits tax under Article (3) of this law, provided their business revenue does not exceed one and a half million Kuwaiti Dinars during the tax period.

The executive regulations will establish the rules and conditions for applying the provisions of this article.

Article (16)

Entities Exempt from the Supplementary Tax

The following entities, whether Kuwaiti or non-Kuwaiti, are exempt from the supplementary tax:

1. Government entities.
2. Non-profit organizations.
3. International organizations.
4. Pension funds.
5. Investment funds that are non-terminal entities.
6. Real estate investment vehicles that are non-terminal entities.

The executive regulations may add or remove other exempt entities in accordance with updates to the rules issued by the Organization for Economic Cooperation and Development (OECD) regarding the global minimum tax.

Chapter Four

Taxpayer Obligations

Article (17)

Registration and Deregistration

The taxpayer must register with the Tax Administration within thirty days of starting an activity. If the taxpayer fails to register within this period, the Tax Administration has the right to register the taxpayer based on available information and notify the taxpayer of this by any means.

The taxpayer must also notify the Tax Administration of any changes to their activities or registration details within thirty days of the occurrence of such changes.

Additionally, the taxpayer must apply for deregistration if their activities cease permanently, within thirty days of stopping the activity.

The executive regulations will define the registration process, notification mechanisms, and all related rules for implementing the provisions of this article.

Article (18)

Submission of Tax Returns

The taxpayer is required to submit a tax return to the Tax Administration for business profits tax, along with audited financial statements verified by an accredited auditing office, within twelve months from the end of the tax period.

The taxpayer subject to the supplementary tax is required to submit a tax return for the supplementary tax, including financial data verified by an accredited auditing office, within fifteen months from the end of the tax period.

The taxpayer subject to withholding tax must submit a withholding tax return to the Tax Administration within fifteen days from the end of the month in which the tax was deducted.

Article (19)

Amendment of Tax Returns

The taxpayer or withholding agent has the right to submit an amended tax return if a material or accounting error is discovered in the original tax return, provided this is done within five years from the due date of the original return. However, this is conditional on the amended return not being related to a tax assessment for the period in question or to penalties or fines as stipulated by this law.

Article (20)

Payment and Refund of Tax

The taxpayer or withholding agent must pay or refund the tax due to the Tax Administration within the deadlines for filing the tax return. The taxpayer or withholding agent who has paid excess tax may request a refund of the surplus amount after settling the amounts owed.

Article (21)

Advance Payment System

A taxpayer whose income exceeds the threshold specified in the executive regulations must pay the estimated tax in four advance installments. Each installment is due three months after the end of the tax period and is calculated based on quarterly financial data. The taxpayer must submit the required supporting documents specified in the executive regulations.

Amounts paid in advance are reconciled during the submission of the tax return, with the taxpayer being required to settle any remaining tax or apply for a refund of excess payments.

The advance payment system is mandatory for eligible taxpayers.

Article (22)

Retention of Books and Records

The taxpayer is required to retain books, records, and documentation containing information relevant to their activities and necessary for preparing financial statements and determining tax liabilities. This retention must be maintained for a period of 15 years starting from the end of the tax period to which the records pertain.

In the event of non-compliance with the provisions of this article, the Tax Administration has the right to assess the tax liability of the taxpayer based on the available information. This will be done without prejudice to the imposition of fines and penalties as stipulated in this law.

Chapter Five

Tax Examination, Assessment, and Anti-Avoidance

Article (23)

Tax Examination Procedures

Tax returns are examined in accordance with the rules and instructions issued by the Tax Administration, which may include sample-based examination.

The taxpayer is obligated to enable the Tax Administration to carry out its functions, including providing access to and facilitating the review, examination, and oversight related to the implementation of this law.

Article (24)

Tax Assessment

Tax assessment is based on taxable income when the Tax Administration has not previously assessed the tax, or if there is an error in the assessment. The Tax Administration may reassess the taxpayer and notify them of the amended assessment within the statute of limitations for tax liability.

The executive regulations will define the rules and procedures for implementing the provisions of this article.

Article (25)

Anti-Tax Avoidance

Any agreement or transaction is disregarded if it is evident that the primary purpose or one of its purposes is to reduce or evade taxes, or to obtain exemptions improperly. The assessment is based on the true commercial or economic substance of the agreement or transaction.

The executive regulations will define the conditions and criteria under which agreements, exemptions, or transactions are considered to reduce or evade taxes.

Article (26)

Objections, Complaints, and Appeals

A taxpayer has the right to object, complain, and appeal against tax assessments and assessments of tax liabilities in accordance with the following procedures:

1. The taxpayer may object to the tax assessment within two years from the date of notification or awareness by any means. The taxpayer must specify the reasons for the objection and submit supporting documents to the Tax Administration.
2. The Tax Administration must decide on the objection and provide a response within 90 days from the date of submission. If the Tax Administration fails to respond within this period, the objection is considered denied.
3. In the event of rejection of the objection, the taxpayer has the right to appeal the Tax Administration's decision to the Tax Appeals Committee, as stipulated in Article (27) of this law. This appeal must be filed within 60 days from the date of notification or awareness of the decision, provided the granted period for objection has expired without resolution.
4. Appeals to the Tax Appeals Committee must be resolved within 90 days from the date of submission. The committee may extend this period by an additional 60 days upon the taxpayer's request and with the Tax Administration's approval.
5. The taxpayer or the Tax Administration may appeal the decision of the Tax Appeals Committee to the specialized tax court within two years from the date of notification of the decision or awareness of the decision by any means, without prejudice to the ability to proceed with the appeal.

Article (27)

Tax Appeals Committee

The Minister shall issue a decision to form one or more committees called the "Tax Appeals Committee." These committees shall be chaired by a representative of the Ministry of Finance, with at least six members as follows:

- a. Three members from the employees of the Tax Administration.
- b. Two experts in tax matters, nominated by the Minister, in coordination with the relevant authorities, provided they are not employees of the Tax Administration or affiliated auditing firms, or persons involved in tax disputes or appeals.
- c. A member from the Legal Advice and Legislation Department, not lower than the rank of Legal Advisor, nominated by the Head of the Legal Advice and Legislation Department.

The committee is responsible for adjudicating tax disputes. The committee may only convene if the majority of its members are present, including the Chairman or their deputy. At least one member must be an employee of the Tax Administration. The committee's decisions are issued by a majority vote of those present. In case of a tie, the Chairman or their deputy has the deciding vote.

The decision forming the committee will outline its rules, procedures, operations, and competencies.

Article (28)

Final Tax Liability

The tax liability becomes final in the following cases:

- 1. If the taxpayer fails to submit a tax return.
- 2. If the deadlines for objecting to the tax assessment lapse without an objection being filed.
- 3. If the objection is rejected, and the deadline for filing an appeal before the Tax Appeals Committee lapses without filing an appeal.
- 4. If an appeal is partially or wholly rejected, and the deadlines for further appeal before the Tax Appeals Committee lapse without filing further appeals.
- 5. If the Tax Appeals Committee's decision is final and no further appeal is filed.
- 6. If any further appeal before the specialized tax court lapses without filing an appeal, or if the court upholds the tax assessment.
- 7. If the taxpayer agrees to the tax liability in accordance with the rules and conditions set forth in the executive regulations.
- 8. If a final judicial decision is issued regarding the tax liability.

Article (29)

Precautionary Seizure

The Tax Administration, if it finds that the tax debt is at risk of being unrecoverable, may request the Director of the Enforcement Department at the competent court to issue an order for precautionary seizure on the taxpayer's movable assets, whether in their possession or in the possession of others, and the Enforcement Department will carry out the seizure.

The seizure may be lifted by a decision from the Director of the Enforcement Department if the taxpayer provides sufficient guarantees to cover the tax debt or if the Tax Administration requests lifting the seizure.

Article (30)

Late Submission of Tax Returns

A fine of not less than 1,000 Kuwaiti Dinars is imposed for each delay in submitting the tax return specified in Article (18) of this law, as follows:

1. 5% of the final tax liability if the delay is less than one month.
2. 10% of the final tax liability if the delay is more than one month and less than three months.
3. 15% of the final tax liability if the delay is more than three months and less than one year.
4. 20% of the final tax liability if the delay exceeds one year and occurs before the issuance of the tax assessment.

An additional fine of 25% of the final tax liability, with a minimum of 5,000 Kuwaiti Dinars, is imposed if the taxpayer fails to submit the return before the tax assessment is issued.

These fines do not affect the penalties for late payment, as specified in Article (31) of this law.

Article (31)

Late Payment of Tax Due

The taxpayer or withholding agent is subject to a fine of 1% of the unpaid amount or unremitted tax for each 30 days or part thereof, in the following cases:

1. If the taxpayer fails to pay the due tax within the legal deadlines for submitting the tax return. This fine applies starting from the day following the end of the deadline for submitting the return.

Article (32)

Submission of Incorrect Tax Returns

If the taxpayer or withholding agent submits an incorrect tax return, and the difference between the actual tax liability and the declared tax exceeds 10% of the declared liability, a fine equal to

25% of the difference is imposed. If the taxpayer or withholding agent voluntarily corrects the error before its discovery by the Tax Administration, this fine is reduced to 15%.

The provisions of this article do not affect the late payment penalties specified in Article (31) of this law.

Article (33)

Other Administrative Violations

A fine of 3,000 Kuwaiti Dinars is imposed on anyone who commits any of the following acts:

1. Failing to register within the specified deadlines as stated in this law.
2. Failing to notify the Tax Administration of any changes to registration details or activity within the specified deadlines as stated in this law.
3. Failing to provide any information requested by the Tax Administration.
4. Preventing or obstructing Tax Administration employees from performing their duties.
5. Failing to retain books, records, and accounting documents for the period specified in Article (22) of this law.
6. Violating the prohibitions stated in Article (40) of this law.

Article (34)

Imposition and Collection of Administrative Penalties

Administrative penalties stipulated in this chapter are imposed and collected based on a decision issued by the Minister or their authorized representative. This decision is considered an executive order.

Chapter Seven: Tax Evasion

Article (35)

Tax Evasion

Without prejudice to any more severe penalty stipulated by another law, a penalty of imprisonment for a period not exceeding three years and a fine not exceeding three times the evaded tax amount, or either of these penalties, shall be imposed on any person who commits or assists in committing any of the following acts of tax evasion:

1. Falsifying, concealing, or destroying books, records, or documents that impact the calculation of the due tax amounts.
2. Using fraudulent methods to obtain, deduct, exempt, or recover tax improperly.

In cases of repeat offenses within five years of the execution of the penalty or its dismissal, the penalty shall be imprisonment for a period not exceeding five years and a fine not exceeding five times the evaded tax amount, or either of these penalties.

The responsibility for acts of evasion lies with the legal representatives, responsible partners, or managers of legal entities. These include the Chairman of the Board, the Vice-Chairman, the Chief Executive Officer, or any other individuals with effective control over management in these circumstances.

Article (36)

Investigation and Settlement of Tax Evasion Crimes

The Public Prosecution is exclusively responsible for investigating and prosecuting tax evasion crimes as stipulated in this law. The prosecution of such cases cannot be initiated without the approval of the Minister or their authorized representative.

The Tax Administration may agree to settle such crimes in exchange for the payment of the due tax, fines, and administrative penalties. If a settlement is reached after the return of evaded amounts, the settlement payment must equal double the amount of the evaded tax and associated fines.

The Minister's approval of the settlement is binding and precludes further criminal prosecution related to the same case.

The executive regulations specify the procedures and controls for applying this article.

Chapter Eight: Final Provisions

Article (37)

Tax Statute of Limitations

The Tax Administration's right to claim unpaid taxes lapses after the expiration of fifteen years from the date the tax return was filed, or from the date the Tax Administration became aware of tax-related information or undeclared activities by the taxpayer.

The statute of limitations is interrupted by the issuance of notices, demands for payment, objections, appeals, or decisions from the Tax Appeals Committee. It is also interrupted by any enforcement action or written acknowledgement of the tax debt by the taxpayer, such as partial payments or a settlement agreement.

Article (38)

Access to Information

The Tax Administration has the right to access all necessary information and documents for registration, assessment, tax linkage, and verification purposes. This applies regardless of

whether the information is held by the taxpayer, a representative, or another entity. No one may refuse to provide such information to the Tax Administration without valid justification.

Article (39)

Judicial Authority

Certain Tax Administration employees, as designated by the Minister in agreement with the Minister of Justice, are granted judicial authority. These employees have the right to access premises where taxpayers conduct activities, review records and documents, and examine and detect tax violations. They may seek police assistance to perform their duties.

Article (40)

Confidentiality

It is prohibited for anyone, by virtue of their job or duties, to disclose any information related to tax assessments or tax collections as stipulated in this law. This includes information regarding disputes or data related to taxpayers, except in cases explicitly permitted by law.

Explanatory Memorandum

Draft Decree-Law No. (...) of 2024 Issuing the Law on Corporate Income Tax

The Economic Cooperation and Development Organization launched a global initiative for tax reform under the name of "Pillar Two." It aims specifically at addressing the practices of multinational corporations that operate across various countries and shift profits to low-tax jurisdictions.

The rules of Pillar Two aim to ensure that multinational corporations with annual revenues exceeding EUR 750 million pay a minimum effective tax rate of 15% in all jurisdictions where they operate. A judicial authority in each country will oversee the enforcement of this measure. This enforcement prevents revenue loss and enhances the integrity of global tax practices.

For Kuwait, this global practice requires alignment with the introduction of a structured tax framework. The comprehensive framework should incorporate income tax laws and align them with the principles of international taxation. The Ministry of Finance has emphasized the importance of enacting a corporate income tax law to address loopholes and adhere to global standards.

Given Kuwait's taxation framework and its aim to develop a structured tax system aligned with international standards and best global practices, the proposed law incorporates necessary provisions for transitioning into the global taxation model.

This proposed law ensures that tax segments beginning from January 1, 2025, will primarily target individuals in the group of multinational entities as defined in the legislation. The law also prescribes sufficient preparation time for taxpayers to fulfill necessary requirements, with flexibility in implementing transitional tax payments as stated in the provisions.

Clause (1) of the draft law specifies the start date of taxation segments for multinational entities, ensuring compatibility with legislative expectations and global compliance standards. It highlights the procedural groundwork for entities subject to these requirements starting from January 2027.

Clause (2) emphasizes the inclusion of entities based on extensive criteria under "Pillar Two," expanding legislative structures to support compliance while maintaining clarity and fairness for taxpayers.

Clause (3) provides leeway for taxpayers under transitional regulations to submit filings without penalty for an extended period, ensuring seamless implementation.

The law applies to those subject to its provisions starting January 1, 2027, or after, as indicated earlier in Article (1). Article (4) affirms the priority of applying the provisions of this law in case of conflict with any other law.

Article (5) repeals the existing tax laws effective January 1, 2027, with consideration of the provisions under Law No. 19 of 2000 regarding the support of national labor. It also abolishes all laws related to taxation that fall outside governmental bodies, particularly laws that provide exceptions for private entities, ensuring that no new obligations arise from previous laws prior to this repeal.

Article (6) requires the Minister of Finance to issue executive regulations for this law within six months of its publication in the official gazette.

Article (7) obligates the Prime Minister and ministers to implement the provisions of this law starting January 1, 2025.

The accompanying draft law on taxing profits from businesses includes Article (8), which divides the law into chapters covering different topics.

The **First Chapter**, comprising two articles, includes:

1. **Definitions and Terms:** Article (1) provides specific definitions for terms used in the law, ensuring clarity. Article (2) specifies the rules for determining "permanent establishments," which include instances such as activities undertaken by non-residents in Kuwait.

This draft law establishes a clear framework for business taxation provisions.

The second chapter addresses the rules and provisions related to tax obligations and the eligibility criteria under this law. It clarifies the following:

Article (3): Taxable Persons

- **Legal Entities:** Any entity subject to tax for income generated from activities conducted within or outside Kuwait.
- **Natural Persons:** Non-residents who carry out business activities in Kuwait or derive income from activities related to Kuwait.
- Permanent establishments, regardless of where income is generated, are subject to tax.

Article (4): Tax Rates for Business Profits

- The basic tax rate is set at **15%** of the taxable income. Exceptions apply to public and government-owned entities, where the rate may be **zero percent**.
- Institutions and organizations owned fully or partially by the government may qualify for specific exemptions or reduced rates.
- Entities operating in the **Partitioned Zone** (Neutral Zone shared with Saudi Arabia) are subject to special regulations, where tax is calculated on the basis of shared agreements between the two countries.

Article (5): Supplementary Taxation

- This article focuses on preventing double taxation or tax evasion. Supplementary tax applies to multinational entities whose operations span multiple jurisdictions. These companies are taxed based on a global income threshold of **750 million euros**, in line with international agreements under the OECD framework.

Article (5): Total Taxable Amount

The total taxable income is subject to a fixed tax rate of 1%. The article highlights the application of this rate to all taxable income without exemptions unless specified by other applicable tax rules and provisions for supplementary taxation. It also emphasizes that taxes on income for individuals with multiple nationalities must not be less than 1%.

Article (6): Rules for Withholding Tax

This article outlines withholding tax rules applicable to non-residents earning income in Kuwait. These include amounts paid for:

- Dividends, royalties, or fees for technical and consulting services.

- Other earnings from sports activities or insurance premiums.

Withholding tax is set at 5% of the gross amount, without deducting any expenses. Payments related to services linked to permanent establishments are included.

Article (7): Source of Income

Defines income sourced within Kuwait to include:

- Profits derived from goods or services sold or rendered within Kuwait.
- Rent or leasing income from assets located in Kuwait.
- Other revenues tied to permanent establishments within Kuwait.

Article (8): Tax Period

The tax period is determined annually, aligning with the taxpayer's fiscal year. In cases where the fiscal year is less than twelve months due to the commencement or termination of the activity, the tax is calculated proportionally based on the actual period.

Article (9): Taxable Income Calculation

Details the process for determining taxable income, which includes the deduction of allowable and non-allowable expenses:

- Allowable expenses include costs directly related to business operations.
- Non-allowable expenses, such as fines or personal expenses, cannot be deducted.

It is essential to assess these based on financial and operational documentation to ensure accuracy and compliance with taxation regulations.

The law specifies examples of costs that are non-deductible, such as expenses not directly related to activities, costs not linked to taxable income, penalties, and fines. The implementing regulations shall define the applicable conditions and requirements to differentiate between deductible and non-deductible expenses, ensuring clarity. It also permits the issuance of additional specifications for any costs deemed non-deductible that violate the conditions set forth.

Article (11): Transactions Between Related Parties

This article addresses transactions between related parties and specifies that if terms and conditions differ from those applicable to unrelated parties, the Tax Authority has the right to adjust these terms. The authority may recalculate taxable income based on arm's-length pricing

rules or fair market value, ensuring no tax avoidance through manipulated pricing between related entities.

Article (12): Carryforward of Losses

This article outlines the rules for carrying forward losses from a taxable period. Losses are deductible from taxable income for subsequent tax periods up to a maximum of 5 years. However, if losses are not utilized within this period, they cannot be carried forward further. Furthermore, the amount of losses deducted must not exceed 75% of taxable income in any given year.

Article (13): Prevention of International Tax Avoidance

This article emphasizes avoiding international tax avoidance by preventing residents from benefiting from lower tax rates in other jurisdictions. Taxable income derived from activities performed outside Kuwait, but attributable to Kuwait, must still be declared and taxed according to Kuwaiti tax laws, unless valid supporting documentation is provided.

Chapter 3: Tax Exemptions

The chapter addresses cases of tax exemptions. It highlights the continuation of previously granted exemptions under applicable laws and discusses scenarios where exemptions may be introduced or removed under certain conditions.

Profits from the business tax on shares apply to the dividends derived from participation in joint ventures owned by an individual who is a non-resident or a legal entity that is not a tax resident. The exemption is subject to a condition where the shareholding of the participating individual must not exceed 10% for a duration of no less than 18 months prior to the distribution of profits. Additionally, the distribution must not be from a non-taxable state or a state with a tax rate below 15%.

The article also exempts realized capital gains from the disposal of shares within a joint venture owned by a non-resident individual or non-resident legal entity. The exemption is subject to the same conditions as outlined above—ownership of less than 10% for a minimum period of 18 months prior to the disposal. The exemption only applies to shareholdings taxed at a minimum effective tax rate of 15%.

The article further exempts income generated by a non-resident through permanent establishments in Kuwait if such income results from activities in international transportation. This includes activities such as passenger and cargo transportation through maritime vessels, airplanes, or related equipment. Leasing essential equipment for such transportation is also covered under the exemption. The exemption is contingent upon the income being solely derived from these activities and not related to other forms of income in Kuwait.

Article (15): Exempt Entities from Business Tax

This article specifies entities that are exempt from business tax on profits. These include Kuwaiti government entities, Kuwaiti non-profit organizations, and public benefit institutions, as well as taxpayers whose annual income does not exceed one and a half million Kuwaiti Dinars during the taxable period.

Article (16): Entities Exempt from Supplementary Tax

This article lists entities exempt from supplementary tax, including Kuwaiti government entities, non-profit organizations, international organizations, pension funds, investment funds, and real estate investment entities, whether established in Kuwait or abroad. These exemptions apply to Kuwaiti and non-Kuwaiti entities alike.

The list of exempt entities may be updated according to regulations issued by the Organization for Economic Cooperation and Development (OECD) regarding Base Erosion and Profit Shifting (BEPS). The article further states that amendments to this exemption list may occur as per international economic and developmental changes.

The executive regulations may amend the list of exempt entities by deleting or adding other entities in light of applicable amendments, ensuring compliance with the updated list.

Chapter Four: Obligations of Taxpayers

This chapter emphasizes that taxpayers must submit their tax registration application to the tax authority within 30 days from the commencement of their activity. Failure to comply will subject the taxpayer to penalties outlined in the law. Moreover, any changes to taxpayer information or cessation of activity must be reported to the tax authority within 30 days of such change. Additionally, taxpayers may request to cancel their registration within the same period if their activity ceases.

Article (18) highlights the obligation of taxpayers to submit tax returns within the prescribed deadlines and in accordance with established regulations.

Article (19) grants taxpayers the right to file an amended tax return within five years from the original submission date in the event of errors in accounting or minor mistakes. The amended return will only be accepted if no prior tax assessments or administrative decisions have been issued regarding the original return.

Article (20) requires taxpayers to pay the due taxes or refunds within the specified deadlines established by the tax authority. Failure to do so may result in penalties and forfeiture of any refunds.

The **advance payment system** mentioned in Article (20) is introduced as a means of providing financial guarantees and reducing the burden on taxpayers by allowing the settlement of large due amounts through installments. This system is governed by specific standards and criteria outlined in the executive regulations.

This system requires taxpayers to calculate the due tax at the beginning of the quarter and submit the financial data. The taxpayer is then granted up to four months to settle the payable tax within the respective tax period, ensuring compliance with the rules. The same rules apply to subsequent quarters throughout the fiscal year.

When filing tax returns and settling the due amounts, the taxpayer is expected to calculate the payable tax for the entire period, including adjusting any prior installment payments or discrepancies. This ensures alignment with the total tax obligation. If a taxpayer has paid part of the amount due, the installments are adjusted accordingly to reflect the balance due for the period.

For taxpayers looking to benefit from this system, the article outlines the flexibility in adopting the installment system, which is optional for them.

Article (22) stipulates that taxpayers must retain records, documentation, and relevant information for at least 10 years from the date of the fiscal period's conclusion. In cases of non-compliance, the tax authority has the right to assess the taxpayer's obligations and impose penalties or fines as specified in the law.

Chapter Five: Examination, Tax Audits, and Precautionary Seizure

The provisions of this chapter, as outlined in **Article (23)**, allow the tax authority to review and examine the financial records submitted by taxpayers. This examination ensures the accuracy of the declarations and compliance with tax regulations.

Article (24) governs the tax assessment process. Should the tax authority discover discrepancies in tax assessments or find errors in previously declared returns, it has the authority to reassess based on proper standards. In such cases, revised assessments will be issued.

Article (24): The article references the authority of the tax administration to reassess taxpayers' accounts, including the ability to correct or adjust tax assessments. This reassessment applies in cases where it is determined that a tax error has occurred or where there is evidence of discrepancies. Such adjustments are carried out while adhering to the legal frameworks outlined in **Article (37)** of this law.

Article (25): This article emphasizes the strict measures aimed at combating tax evasion. It explicitly states that if there is evidence of manipulation in agreements or transactions intended to evade or reduce taxes, the tax authority is entitled to invalidate such actions. The aim is to prevent any artificial or deliberate reduction in tax liabilities. The tax authority has the right to make necessary adjustments based on the actual economic essence of the transaction.

Article (26): The article outlines procedures for objections, grievances, and appeals. It facilitates taxpayers in resolving tax disputes fairly and transparently. Taxpayers may submit an objection against tax assessments or related decisions within **30 days** of notification. Such objections must include supporting documentation and the reasons for the disagreement. The tax authority is obligated to respond to these objections within **90 days**. Failure to respond

within this timeframe will be considered an implicit rejection, allowing the taxpayer to pursue further legal recourse.

Appeals Rights: Taxpayers are granted the right to appeal any explicit or implicit rejection of their objections to the Tax Grievance Committee within **60 days**. These appeals are processed in accordance with the laws governing tax disputes and the committee's framework.

Grievance Committee Deadlines: The article specifies that the Grievance Committee must issue its decision within **90 days** of receiving an appeal. Extensions may be granted under specific circumstances, depending on requests from either the taxpayer or the tax administration.

The article regulates the procedures for appeals before the judiciary, allowing taxpayers to challenge decisions made by the Tax Grievance Committee before the competent court within **60 days** from the date of being notified of the committee's decision or the date of the committee's implied rejection of the appeal due to the expiration of the set timeframe without a decision.

Article (27): Establishes the Tax Grievance Committee and defines its scope of authority. The committee is entrusted with determining rules, working procedures, and penalties associated with tax-related grievances under the directives of the Minister of Finance.

Article (28): Lists cases where the finalized due taxes cannot be contested in court. In such cases, the tax authority's decisions become binding without the need for judicial intervention. This includes situations where taxes were finalized through a settlement agreement between the taxpayer and the tax authority, formalized in a signed memorandum. The agreement becomes enforceable following the resolution of the disputes outlined in the tax memorandum.

To reduce tax-related disputes, the article emphasizes that the finalized tax amount cannot be contested if the tax debt was resolved through mutual agreement or documented within the signed memorandum.

Article (29): Governs precautionary measures for tax debt recovery, allowing the tax authority to request precautionary seizure of a taxpayer's assets when there is evidence of unpaid taxes or if the taxpayer attempts to evade payment. The measure can be enacted upon court approval and applies to assets that are movable or immovable. The precautionary seizure order can be lifted if the taxpayer provides adequate guarantees for the tax debt or if the tax authority itself requests the removal of the order.

The sixth chapter addresses administrative penalties imposed to ensure taxpayers' compliance and the proper functioning of the tax system. **Article (30)** specifies fines for delays in submitting tax declarations, calculated based on the delay period. However, the fines are imposed only in cases where a minimum amount of **1,000 Kuwaiti Dinars** is involved. If the fine exceeds this amount, the tax authority has the discretion to impose higher fines as stipulated.

In the case of **Article (31)**, delays in submitting tax declarations result in a minimum fine of **5,000 Kuwaiti Dinars**, which increases if the taxpayer does not meet the submission deadlines. The article specifies that these fines cannot be reduced under any circumstances.

Article (32) outlines the penalties for delays in paying due taxes. These are calculated for each day of delay beyond 30 days at a rate of **1%** of the unpaid tax amount. Penalties apply until the taxpayer fulfills their payment obligations within the legally defined timeframe.

Article (33) covers cases where taxpayers submit inaccurate tax declarations. If the discrepancy between the final tax assessment and the declared tax amount exceeds **10%**, a penalty of **2.5%** of the discrepancy is imposed. However, if the tax authority discovers and corrects the error before the taxpayer files an amended declaration, the fine is reduced to **1.5%**. This article specifies that these penalties are in addition to late payment fines stipulated in **Article (31)**.

Article (33) stipulates that a fine of **3,000 Kuwaiti Dinars** or more shall be imposed for administrative violations that may negatively impact the proper functioning and structure of the tax system.

Article (34) authorizes the Minister of Finance or their representative to impose and collect administrative penalties outlined in this law. These penalties can be enforced without the need for judicial procedures if a ministerial resolution is issued to execute and implement the penalties directly.

Chapter Seven addresses the provisions related to **tax evasion**, as stipulated in **Article (35)**. It specifies imprisonment for up to **three years** or a fine not exceeding **three times the value of evaded taxes** for individuals who commit any of the following actions:

- Fabricating, concealing, or destroying records, documents, or evidence related to taxable amounts in a manner that disrupts accurate tax assessment.
- Engaging in any fraudulent schemes or actions aimed at evading, reducing, or illegally reclaiming tax amounts.

The article further emphasizes stricter penalties for repeat offenders. For individuals who recommit tax evasion within **five years** from the date of completing their original sentence, the imprisonment penalty can extend to **five years**, and the fine can reach up to **five times the amount of evaded taxes**.

Additionally, the article specifies that **legal responsibility for tax evasion** lies with individuals directly involved in the act. They will face consequences under the prescribed legal frameworks.

Article (36) delegates the **Public Prosecution** with the authority to investigate, prosecute, and adjudicate tax evasion crimes as per the provisions of this law. The article also allows for settlement and reconciliation procedures, provided:

- The settlement includes the full payment of taxes owed and related administrative penalties.
- This settlement process must be approved by the Minister of Finance and is contingent upon the individual agreeing to pay the due amounts in full.

The article states that reconciliation may only occur before formal legal action or prosecution is initiated. Once reconciliation is finalized, all related criminal proceedings will be dropped.

Chapter Eight discusses the final provisions of the law, as outlined in **Article (37)**, which regulates the statute of limitations for tax debts. It establishes that the right to claim tax obligations shall expire **10 years** from the date of the tax declaration or the date the tax authority became aware of the taxable activities that were not disclosed by the taxpayer. This includes any adjustments or amendments made to the original tax filings. Additionally, it specifies that in the event of interruptions caused by legal actions, the statute of limitations shall restart. The article also notes that taxpayers lose the right to reclaim overpaid taxes after **5 years** from the date of payment if no claim has been made.

Article (38) emphasizes the authority of the tax administration to access all necessary information and documents required for tax registration, assessment, and audit purposes. It also states that no individual or entity may withhold such information under any pretext, ensuring the protection of public financial rights.

Article (39) grants specific tax administration officials, designated by the Minister of Justice in coordination with the Minister of Finance, the legal status of judicial officers. These individuals are authorized to enter premises where taxable activities are conducted, inspect records and documents, and detect tax violations. They may also seek assistance from law enforcement if required.

Article (40) establishes strict confidentiality obligations, prohibiting any person entrusted with tax-related responsibilities from disclosing taxpayer-related information, except as legally permitted. This ensures the protection of taxpayer data and confidentiality.