Kuwait Tax Alert

May 2023

Recent Developments in the Kuwait Tax Landscape

Changes Made to the Tax Inspection Process by the Kuwait Tax Authority (“KTA”)

The Kuwait Ministry of Finance (MOF) currently performs a detailed tax inspection for each annual tax declaration submitted by all taxpayers. The completion of the tax inspection process is key for taxpayers to then obtain the release of 5% tax retentions which should be applied by their Kuwait customers. In order to simplify and speed up the tax inspection process, MOF issued Ministerial Order No. 24 of 2023 on 2 April 2023 (“Ministerial Order”) which covers the tax inspection of taxpayers subject to the following tax laws:

- Decree No. 3 of 1955 as amended by Law No. 2 of 2008;
- Law No. 23 of 1961 ("Partitioned Neutral Zone Law");
- Law No. 46 of 2006 ("Zakat Law"); and
- Law No. 19 of 2000 ("National Labour Support Tax Law").

According to the Ministerial Order, KTA would potentially seek to move to a sample-basis inspection methodology after reviewing the data and information provided within the tax declarations submitted by taxpayers for each year. The Ministerial Order sets out the following routes that the KTA may then undertake:

Type	Our Comments
Comprehensive Inspection	Detailed review of accounting books and records. This is likely to continue to cover large taxpayers, first year / final period tax filings, companies declaring losses in the tax declaration and where tax treaty application requires a review by KTA.
Targeted Inspection	Examination of specific items within the tax filings but not as detailed as the above-mentioned Comprehensive Inspection. Likely to apply to medium and small taxpayers filing on actual basis reporting profit in their tax declaration.
Deemed Profit Inspection	Taxpayers filing tax declarations on a deemed profit basis whereby the tax authority will verify revenue earned to supporting documents and application of treaty relief.
Acceptance of filed tax declarations	The tax declaration may be accepted without making any tax adjustments. These may be where the taxpayer has filed their tax declaration on a deemed profit basis in line with the latest tax assessment and has no material change in activities or level of operations from the prior year. We understand that a confirmation of revenue from the Kuwait customers reconciling to the amounts reported in the tax declaration is a key element here. In addition, taxpayers should not have any final outstanding tax due.
* Please note that the above-mentioned comments are set out based on our understanding of the potential MOF practices and are, therefore, subject to the issuance of further guidance by KTA.	

We await Executive Rules providing further guidance from KTA on the above matters. Therefore, it appears that KTA may continue current practices until the effective date for the above has been announced.

Release of Tax Retentions by Specified KDIPA Licensed Entity

Currently, all taxpayers are required to complete all tax compliance obligations prior to being able to obtain a letter for the release of tax retentions from KTA, including completion of the tax inspection process.

During a webinar held jointly by KTA and Kuwait Direct Investment Promotion Authority ("KDIPA"), details were provided on the updated procedures for the release of tax retentions limited to the entities licensed by KDIPA.

Moving forward, entities that have been licensed by KDIPA and have received approved corporate tax incentives from KDIPA will be able to obtain a No Objection Letter from KTA for the release of partial tax retentions from their contract owners before completion of the tax inspection process and issuance of the annual tax assessment.

Moving forward, entities that have been licensed by KDIPA and have received approved corporate tax incentives from KDIPA will be able to obtain a No Objection Letter from KTA for the release of partial tax retentions from their contract owners before completion of the tax inspection process and issuance of the annual tax assessment. However, the release of tax retentions would be restricted to 80% (i.e. 4% of the 5% retention) of the retained amount reported in the tax declaration for the respective year. The remaining 20% would be released once the tax assessment is issued by KTA for the relevant year in line with the current normal process.

We have started supporting clients who meet the above-mentioned criteria in seeking the early release of partial tax retentions, and KTA is processing the requests.

The Way Forward

This is a welcome collaboration between KDIPA and KTA, allowing the release of trapped cash in the form of tax retention to taxpayers.

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