Kuwait Tax Alert

Executive Bylaws

Kuwait MOF issues Executive Bylaws on DMTT Law

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Further to Decree Law No. 157 of 2024 ("DMTT Law"), the Ministry of Finance (MOF) has now issued Ministerial Order No. 55 of 2025, on 29TH June 2025 setting out the Executive Bylaws of DMTT Law ("the Bylaws").

The Bylaws comprise 116 Articles providing additional details and clarity on the definition, computation method, compliance process and administrative matters.

We are reviewing the Bylaws in detail to assess their implications on foreign and Kuwaiti multinationals doing business in or from Kuwait to be covered in a more detailed alert.

Meanwhile, we outline certain initial highlights, which includes codifying an expansion of Permanent Establishment definition and introduction of Transfer Pricing regulations requiring the set up of Master and Local files.

Framework and application

The Bylaws are generally in line with the OECD's Global Anti-Base Erosion Model Rules (Pillar Two) or Globe Rules, except for some deviations. It is clarified that application of the rules shall be interpreted and applied in accordance with Globe Rules, its consolidated commentary and its amendments.

Applies to multinational entities (Kuwaiti or foreign companies) operating in more than one country (even through a Permanent Establishment) whose total revenues meet or exceed annual revenues of EUR 750 million in the consolidated financial statements of the ultimate parent entity for at least two of the four tax periods immediately preceding FY 2025.

MOF may issue rules, executive instructions and explanatory guidance regarding the application of the DMTT Law and the Bylaws.

Registration and Filing Requirements

The Bylaws provide detailed procedure on the tax registration process requiring each in-scope taxable entity to register, however, provides flexibility to appoint a designated entity in the group to fulfill tax compliance to reduce the administrative burden. The processes and conditions for de-registration are also detailed.

Entities are required to prepare and submit tax filings based on IFRS-compliant financial statements. This promotes consistency and transparency in financial reporting, aligning with global best practices. The tax return should be signed off by a tax advisor approved by the MOF.

MNEs should register by 30 September 2025.

Tax return (English or Arabic) together with the audited financial statement to be submitted within 15-month from year end, even if the tax is Zero

Registration deadline for the MNEs

30.09.2025

The Bylaws provides for single payment of taxes payable together with the return (i.e. no advance tax requirements or installments).

Permanent Establishment (“PE”)

While the DMTT law provided the definition of PE, the Bylaws have further amplified it to cover various types of PE and their respective thresholds including Fixed place PE, Construction PE, Service PE, Dependent Agent PE etc. and certain exclusions for preparatory and auxiliary services.

It is relevant to note that while the PE definition is generally in line with the OECD model, in some cases it has deviated to include within the definition certain common local practices, for example including the Virtual PE concept.

A Virtual PE is created where nonresident is rendering services for more than 6 months within any 12 months period without requiring in country presence.

Transfer Pricing

In line with international standards, the Bylaws mandate adherence to transfer pricing rules. Transactions between related entities must reflect arm’s length pricing, akin to dealings between unrelated parties. This will require the companies subject to DMTT to prepare a master file and local file in line with transfer pricing rules/methodologies.

Tax retentions

There is no clarification on application of tax retentions. These were covered in the legacy corporate income tax law (CIT) as part of the respective Executive Bylaws and it was expected that the DMTT Bylaws would provide guidance in this matter.

As companies subject to the DMTT Law are not subject to the CIT, it appears that the companies subject to DMTT may argue that tax retentions should no longer be applicable. Clarification on this from MOF would be required on the application and mechanics for the release of tax retentions suffered.

Other key items

- Provides additional definitions not included in the DMTT Law
- Clarified that once the entity is subject to DMTT the tax is imposed on total taxable income regardless of the percentage of ownership shares in the taxable entity held directly or indirectly by the ultimate parent entity of the multinational group of entities.
- Detailed adjustments to determine taxable income include qualified refundable tax credits as part of Globe / taxable income
- Computation of the effective tax rates, top up taxes and rules on substance based income exclusions including qualified salary costs and eligible tangible assets
- Additional guidance on the transition rule and Safe harbor rules
- Impact of restructuring of companies and holding entities
- Provision to be applied by Ultimate Parent in case of merger

How we can help?

KPMG Kuwait's multi-disciplinary team possesses in-depth expertise in tax, audit and advisory services, Our experienced experts are networked worldwide and have access to industrial services know-how. Together, we benefit from the transfer of knowledge from projects with similar requirements.

- BEPS Pillar 2 - Identification of gaps, design and implementation of Pillar 2 calculation with automated data collection and custom data gathering and reporting templates and risk assessment analytics.
- Transfer pricing solutions
- Country-by-Country Reporting (CbCR) including alignment with regulatory requirements on (Public) CbCR. Qualified CbCR for Pillar 2
- Tax compliance and tax inspection (audit) services

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Learn more about Kuwait's DMTT Law