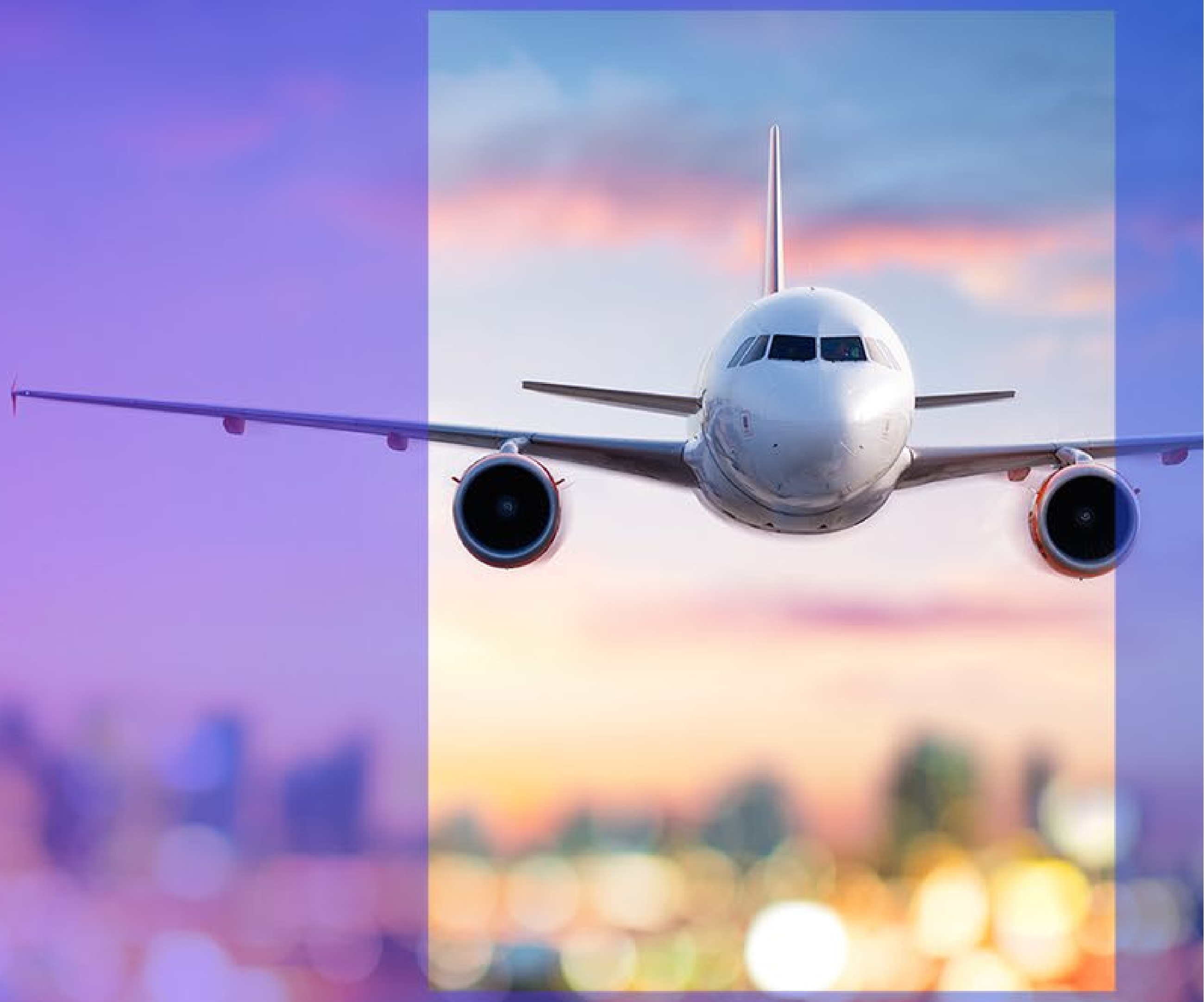
Thinking beyond borders: Management of extended business travelers - Kuwait



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KPMG

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Key message

Tax in Kuwait consists primarily of Corporate Income Tax, which is governed by Decree No. 3 of 1955 as amended by Law No. 2 of 2008 (the income tax law). The income tax law does not impose personal taxes on income earned by individuals irrespective of nationality. However, the existence of a representative of a foreign entity (non-Gulf Cooperation Council (GCC)) in relation to a business or contract in Kuwait may trigger the taxable presence of the company in Kuwait for corporate income tax purposes.

Social security contributions are however, required for employees having Kuwaiti and GCC nationality only.

The income tax law imposes tax on the income of any corporation, wherever incorporated, carrying on trade or conducting business in Kuwait. In practice, no income tax is imposed on companies incorporated in the GCC and entirely owned by citizens of the GCC as corporate income tax is only imposed on foreign corporations. However, depending on the nature of the incorporated vehicle, a Kuwaiti or a GCC entity with activities in Kuwait may be subject to certain other levies such as Zakat / National Labor Support Tax (NLST) and Kuwait Foundation of Advancement of Science (KFAS) by certain types of local entities.

1 Key message

The existence of a representative of a foreign entity in relation to a business or contract in Kuwait may trigger the taxable presence of the company in Kuwait for corporate income tax purposes.

02

Income tax

2 Income Tax

2.1 Liability for income tax

Kuwait does not impose income tax on income earned by individuals.

2.2 Tax trigger points for employment income

There is no personal tax in the state of Kuwait. Furthermore, the Kuwait tax law does not define the concept of resident/non-resident and permanent establishment (PE). Accordingly, there may be corporate tax implications where representatives/employees of the supplying/invoicing foreign entities are present in Kuwait. In practice, the Kuwait Tax Authority (KTA) considers even a single day's visit in Kuwait to create a taxable presence in the absence of a double tax treaty between the corporation's country/territory of tax residence and Kuwait.

2.3 Types of taxable income

There is no personal tax in the state of Kuwait. However, there is corporate tax applicable to foreign bodies corporate in Kuwait.

2.4 Tax rates

Not applicable.

03

Social security

3 Social security

3.1 Liability for social security

Social security contributions are only required for employees having Kuwaiti and GCC nationality. Rates for social security contributions for Kuwaiti nationals are as follows.

Employer's contribution	11.5%
Employee's contribution	10.5%
Monthly ceiling in Kuwait dinar (KWD) for employee's contribution	KWD 2,750

Source: KPMG in Kuwait, 2024

Rates for social security contributions for GCC nationals are vary and depend on the countries/territories' rates.

04

Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

There are no compliance obligations for employees in Kuwait.

4.2 Employer reporting and withholding requirements

There are no compliance obligations for employers in Kuwait in respect of personal tax.

05

Immigration

5 Immigration

5.1 Work permit/visa requirements

A visa must be applied for before an individual enters Kuwait. However, certain nationalities can obtain visit visas upon arrival at Kuwait International Airport. The type of visa required will depend on the purpose of the individual's entry into Kuwait.

06

Other issues

6 Other issues

6.1 Double taxation treaties

Kuwait's network of double tax treaties (ratified only) includes: Austria, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Cyprus, the Czech Republic, France, Germany, Georgia, Hong Kong, Hungary, Indonesia, Italy, India, Jordan, Japan, the Republic of Korea, Lebanon, Malta, Mauritius, Morocco, the Netherlands, Pakistan, Philippines, Poland, Romania, Russia, Singapore, Spain, Sri Lanka, Sudan, Switzerland, Syria, Tunisia, Turkey, Serbia and the Ukraine, and the United Kingdom.

6.2 Permanent establishment implications

As stated earlier, there is no personal tax in the state of Kuwait. Accordingly, there is no tax implication for individuals in Kuwait, except for the existence of a representative of a foreign corporation in relation to a business contract, which may lead to tax compliance requirements for the foreign entity.

Where a double tax treaty exists between Kuwait and the foreign corporation's country/territory of tax residence (depending on the period specified in the treaty) a presence of less than the period signified in the treaty may not create a PE. However, the compliance process is still required even where treaty exemptions are available.

6.3 Indirect taxes

There are no indirect taxes in Kuwait that are applicable to business travelers, except for customs duties on goods imported. Exceptions may be granted for used personal effects.

6.4 Withholding Taxes

There is no withholding tax in Kuwait. However, in respect of business entities, compliance with Law No. 2 of 2008 is enforced by the Ministerial Order No. 44 of 1985 (MO 44) issued by the Ministry of Finance (MOF) in Kuwait which is supplemented by Article 16 and 37 of the Executive Bylaw of Law No. 2 of 2008.

Under MO 44 and provisions of Law No. 2 of 2008, every business entity, authority and ministry operating in Kuwait should inform the MOF of companies they are doing business with, provide a copy of the related contract(s) to the MOF and retain 5 percent from all invoices paid to the contractor(s) or service provider(s).

These amounts are normally retained with the contract owners and released only when the contractor(s), sub-contractor(s), service provider(s) or any kind of beneficiary, provides a tax clearance certificate or No Objection Letter issued by the KTA authorizing the contract owner to release amounts retained. And when requested in writing by the tax authorities, the contract owner must remit the tax and penalties due on contractors as a reduction from the retention deducted.

6.5 Value added Tax

Currently, value added tax (VAT) is not levied in Kuwait. Based on local media, there are reports that VAT could be introduced in Kuwait in future. However, the government has not yet announced a firm date or issued regulations.

6.6 Transfer pricing

There are no explicit transfer pricing rules in Kuwait. However, in practice, the KTA closely scrutinizes all inter-group transactions at the time of tax inspection.

Accordingly, KTA may disallow a portion of inter-group transactions if it does not consider the transaction to have been conducted on an arms-length basis. Furthermore, depending on the nature of the relationship between the supplier/service provider and the acquirer with respect to a transaction, the KTA deems a certain percentage of the costs or services rendered outside Kuwait as inadmissible.

6.7 Local data privacy requirements

Data protection is dealt with under the Constitution of Kuwait and under the Civil and Commercial Procedure (Law No. 38/1980). Banks and their customers are specifically protected under the Central Bank of Kuwait Law (Law No. 32/1968).

6.8 Exchange control

Currently, Kuwait does not enforce any exchange controls.

6.9 Non-deductible costs for assignees

Non-deductible costs are not applicable as there is no personal tax in Kuwait.

For employers (foreign body corporate), costs incurred in relation to Kuwait operations may generally be claimed as a deduction. However, the KTA may in practice disallow a certain percentage of costs incurred outside of Kuwait.

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