

Update to 5% Tax Retention Rules for MNE groups subject to DMTT Law and for other taxpayers

Kuwait Tax Alert
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Background

With effect from 1 January 2025, multinational enterprise (MNE) groups that fall within the scope of the Domestic Minimum Top up Tax Law (DMTT Law) – Decree Law No. 157 of 2024 and its Executive Bylaws under Ministerial Order No. 55 of 2025 dated 29 June 2025 – will no longer be subject to the following tax laws:

- Corporate Income Tax Law – Decree No. 3 of 1955 and its amendments, including Law No. 2 of 2008; (Legacy Tax Law)
- Zakat Law – Law No. 46 of 2006; and
- Partitioned Neutral Zone Tax Law – Law No. 23 of 1961.

The National Labour Support Tax Law – Law No. 19 of 2000 on Kuwait shareholding companies (NLST) – is expected to remain in force, with the exclusion of Paragraph (1) of Article (12) and Paragraph (2) of Article (14).

While the DMTT Law effectively replaces the legacy income tax regime for in scope MNE groups, the application of the tax retention mechanism remained unclear for entities falling under the DMTT.

To address this and certain other matters, the Kuwait Ministry of Finance (MOF) has issued **updated Budget Executive Regulations for FY 2026/2027, which:**

- Clarify the interaction between the DMTT regime under Decree Law No. 157 of 2024; and
- Provide further guidance on the long standing 5% tax retention mechanism applied by ministries, authorities and public institutions.

These updates are directed to Kuwaiti Government entities via the Budget Executive Regulations for FY 2026/2027¹ and set out how the 5% tax retention should be applied going forward.

The updated guidance appears to aim towards alignment of the traditional 5% retention rules with the new DMTT framework, and to avoid duplicate or unnecessary withholding where entities are already within the DMTT regime and remain compliant with their tax obligations.

This is a positive step for entities contracting directly with the Government entities.

Effective Date

While the MOF Rules does not explicitly state a retroactive date, it is understood and expected that these rules should apply from the date of issuance i.e., 29 March 2026.

Therefore, it is expected that all payments and contract administrative services processed after this date must comply with the new retention and exemption framework.

¹https://www.mof.gov.kw/MofBudget/PDF/T2027_2026.pdf

In scope entities

Ministries, authorities and public institutions (Government Entities) are required to apply:

- **The 5% Retention Rule:** Apply the 5% retention on contracts and payments, except where a valid exemption (DMTT or NLST) is clearly demonstrated with a tax card.
- **The "Five-Year" Rule:** If a retained amount is held for five years without the contractor claiming it (via a tax clearance certificate), the entity must transfer those funds directly to the MOF. This would apply irrespective of whether the contractor is in scope of DMTT or not
- **Service Prohibition:** Government bodies are prohibited from providing services to Kuwaiti Public and Closed Shareholding Companies unless they produce a valid Tax Clearance Certificate (TCC).

- Government bodies must withhold 5%; and
- Retained amounts will only be released upon submission of a TCC.

Other Matters

Contractual Prohibition on Tax Bearing/Exemption Clauses

The MoF has reiterated that:

- Government contracts must not include clauses, whereby Government:
 - Bears income tax on behalf of companies, or
 - Exempts companies from income tax.

Taxpayers' Category and Tax Retentions Rule

The updated rules apply to multiple categories of taxpayers and counterparties:

Entities subject to Kuwait DMTT Law

- MNE groups in scope of DMTT and properly registered under the DMTT Law are exempt from the 5% retention when contracting with Government entities i.e., Ministries, Authorities and Public Institutions.
- This exemption is conditional upon presenting a valid tax card that evidence registration and confirms that the entity is subject to the DMTT.

Entities subject to the National Labour Support Tax (Law No. 19 of 2000)

- Entities subject to the NLST are also exempt from the 5% retention, subject to:
 - Providing evidence of registration, and
 - Presenting a valid tax card to the respective government entity.

Other contractors and suppliers

- Contractors and suppliers not subject to DMTT Law or NLST remain fully subject to the 5% retention regime.
- For this category of entities:

Concluding remarks

Positive Impact on Liquidity: This update from the MOF is a welcome development. By clarifying the release of the 5% tax retention for entities subject to DMTT and NLST, the MOF is directly addressing the practical cash flow challenges that arose following the initial implementation of the DMTT Law.

Strengthened Enforcement: On the flip side, the rules place a heavy emphasis on the accountability of government entities in applying rules. The mandatory transfer of retained funds to the MOF within five years ensures that the State effectively collects tax revenue that might otherwise remain stagnant in administrative accounts.

Proactive Compliance for Shareholding Companies: Kuwaiti Public and Closed Shareholding Companies must prioritize obtaining their TCC. Without this, their ability to continue providing services to the government may be legally restricted.

Contractual Health Check: Entities currently operating under contracts that include tax exemption or gross-up clauses must revisit these agreements immediately, legal counsel advice should be sought in this matter. Under the new directive, such clauses are prohibited in government dealings and may be deemed invalid.

How KPMG in Kuwait Can Help

KPMG in Kuwait can support you in managing the impact of these developments through:

- DMTT impact assessment and registration support.
- DMTT registration and ensuring your tax card reflects the correct status.
- 5% retention review and optimization.
- Support with tax clearance and dealing with authorities.
- Training and awareness.

Reach out to us

If you would like to discuss how these developments may affect your organisation, please contact your usual KPMG contact or any of the following:



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