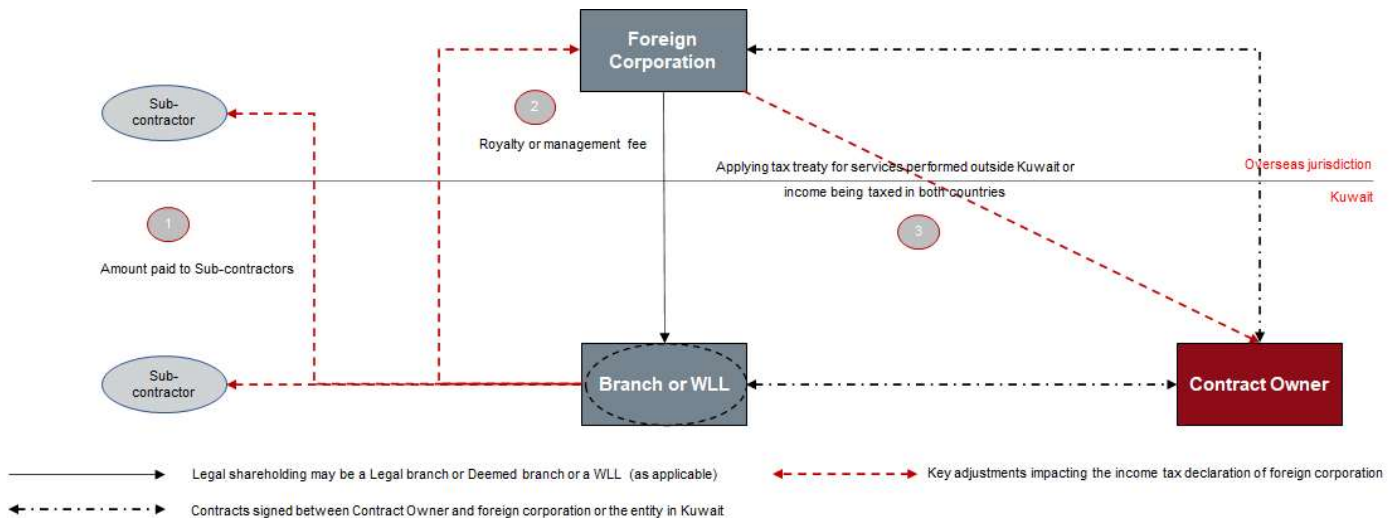


Kuwait Tax Alert - 2021

Do you have subcontractor or royalty or management service arrangements and understand the compliance requirements, including for availing tax treaties

In continuation to our series of alerts on key tax adjustments for foreign corporations filing income tax declaration in Kuwait, this alert covers a schematic diagram and analysis on key aspects for subcontractor or royalty or management service arrangements, including points to avail the beneficial provisions of tax treaties (where applicable):



1. Sub-contractor's costs

Any foreign corporation operating in Kuwait is required to comply with the following

- notifying names and addresses of contractors & subcontractors with the tax authorities ;
- submit copies of all contracts & subcontracts with tax authorities; and
- retain 5 percent of the contract or subcontract values from the payments due, until such time a valid tax clearance certificate or no objection letter is issued by the tax authorities

Amounts paid to local or overseas sub-contractors being a third party or affiliates or any beneficiary, shall be allowed as costs within income tax declaration of foreign corporations, subject to satisfying following conditions

- work performed should be related to main contract;
- sub-contract costs should not exceed the revenue from such work (refer note for formulae);
- submit supporting documents (e.g., copy of contract, invoices, and settlement documents); and
- an official written approval from the contracting owner is necessary, in case of sale or assignment of existing arrangement

During the tax audit process, the tax inspector may disallow such costs, if the above-mentioned details for subcontractor's are not included and/ or failed to retain 5 percent tax retention on each payment

Note: Value of sub-contractor's revenue may be determined by using following formulae:

$$\text{Sub-contractor's Revenue} = \frac{\text{Subcontractor Costs}}{\text{Total costs of the year}} * \text{Contract revenue}$$



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2. Royalty & management service fees

Foreign corporations having arrangement with a third party or affiliates or head office (i.e., beneficiary), leading to payment of royalty (for use of any trademark or design or patent or copyrights etc) will be allowed to claim as costs, provided the “beneficiary” entity offers the royalty amount received to tax in Kuwait with a limited costs of 1.5 percent head office expenses (with an exception only in case of hotel activities, which is 15 percent expenses).

However, in case of management fee payment, the amount paid will be allowed as costs, provided the “beneficiary” entity offers 100 percent of management fee amount to tax in Kuwait (subject to exception at the discretion of tax inspector).

3. Availing tax treaties for exemption

In case of exemption scenario, detailed revenue & cost related to the exemption amount should be reported within income tax declaration (as a separate schedules) along with the supporting documents providing defense for the exemption claimed.

Further, the direct expenses related to the exempted revenue, including a portion of agents fee or head office expense or insurance costs and indirect expense (i.e., general and administrative expense, within 20 percent related to exempted revenue) may be disallowed against the exempted revenue.

How we can help :

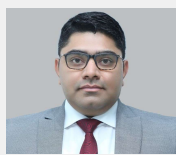
- Make you understand the intention and objective of the above-mentioned provisions;
- Review if adequate supporting information and documents are available for submitting the tax declaration;
- Support you by reviewing the tax declaration, including the tax adjustments (if any); and
- Support you in coordinating with the tax authorities in Kuwait

Contact:



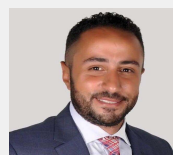
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