

Kuwait proposes to have a level-playing field for taxation

The State of Kuwait has proposed to introduce a new Tax Law on Business Profits, effective January 1, 2025, i.e., Business Profits Tax (BPT). BPT is proposed to be applied on 2 phases, which are as follows:

- **Phase 1** : Effective 1 January 2025, Multinational Enterprises (MNEs) with an annual revenue exceeding Euro 750 million (i.e., approximately KWD 241 million) will be subject to 15 percent BPT
- **Phase 2** : Effective 1 January 2027, all Enterprises, including natural persons carrying out activities with a turnover exceeding Euro 4.67 million (i.e., KWD 1.5 million) will be subject to 15 percent BPT

Currently, the law is in draft stage and yet to be approved by government authorities (awaiting publication in Kuwait's Official Gazette), and the Executive Regulations are expected to be published to clarify the details of the proposed new Tax Law. Meanwhile, let us look at the key points within the proposed BPT for further consideration:

Key points	Proposed scenario
MNEs	<ul style="list-style-type: none"> • Includes Kuwaiti MNEs and MNEs with a Permanent Establishment (PE) in Kuwait
Persons	<ul style="list-style-type: none"> • Legal person: all forms of entities incorporated under Kuwait Company Law, including unincorporated partnerships, institutions, funds, etc • Natural person : a person who carries out activities through a sole proprietorship, professional office, or practice, or any other form of business
Taxable Persons	<ul style="list-style-type: none"> • Legal persons resident in Kuwait • Natural persons resident in Kuwait who carries out commercial or investment activities • PE of an MNE in Kuwait
Tax residency	<ul style="list-style-type: none"> • A legal person is deemed to be a tax resident of Kuwait, if it is incorporated in Kuwait or is effectively managed in Kuwait • A natural person becomes a tax resident of Kuwait if he/ she has a permanent place of residence in Kuwait or is physically present in Kuwait for a period exceeding 183 days during a taxable period
Scope	<ul style="list-style-type: none"> • Residents would be taxed on worldwide income • Non-Residents would be taxed on sourced-income from Kuwait
Tax rates	<ul style="list-style-type: none"> • 15 percent BPT is proposed to be applied on the profits of Taxable Persons, unless exempted • MNEs in-scope for Pillar Two will be subject to a Supplementary Tax in Kuwait, if the ETR, as per Pillar Two rules, is below 15 percent • Business income from Entities operating in the Neutral Zone of Kuwait and Saudi Arabia will be subject to a flat tax rate of 30 percent, of which 50 percent will be payable to Kuwait. However, entities must prove that the remaining 50 percent of the taxes are paid in Saudi Arabia; otherwise, the entire 30 percent will become payable in Kuwait
Exemption	<ul style="list-style-type: none"> • Entities wholly owned by the Kuwait government • Kuwaiti not-for-profit entities • Taxable Persons whose turnover does not exceed KWD 1.5 million in the taxable year



Key points	Proposed scenario
Supplementary Tax	MNEs with consolidated revenue exceeding Euro 750 million, with operations both inside and outside Kuwait, would be subject to a Supplementary Tax if the Effective Tax Rate (ETR) is below 15 percent (to ensure the ETR is 15 percent, in line with Pillar Two rules)
Withholding tax	5 percent withholding tax on payments made to non-resident entities for Dividends (from non-listed entities), interest, royalties, technical and consultancy services, leasing arrangements, payment to artists, sportsperson, etc.
Other key aspects	<ul style="list-style-type: none"> • A proposal to include participation exemption on Dividends and Capital Gains income • Transfer pricing documentation/ disclosures requirements may be included • Anti-avoidance rules are proposed to be included • Foreign tax credits can be claimed, subject to satisfying conditions • Kuwaiti MNE's may not be subject to Zakat or NLST, effective from 1 January 2025 • Foreign MNEs with PE in Kuwait will not be subject to existing tax laws, effective 1 January 2025, as BPT would be applied • Business Loss can be carried forward for 5 years, subject to conditions on utilization of losses on a yearly basis • Tax compliances will be due as follow: <ul style="list-style-type: none"> ➢ In general, tax declaration would be due by 6th month from the of taxable year end ➢ In case of supplementary tax applicability, tax declaration will be due by 15th month from the end of taxable year end ➢ Advance tax - quarterly payments may apply for selected large taxpayers, subject to threshold applicability

How we can support:

- Support in assessing your business and perform an impact assessment on the proposed BPT
- Support in performing health check review of existing contracts, accounting systems
- Support in maintaining adequate books of accounts for Kuwaiti MNEs and MNEs with PE in Kuwait
- Support in performing a workshop or training sessions to stakeholders in creating awareness
- Support in creating tax policy, procedures and creating in-house tax function or outsourcing facility
- Support in being prepared for adopting the level playing field for taxation in Kuwait



Fouad Hourani
Office Managing Partner
fouad.hourani@kw.Andersen.com



Ranjith Pathiyil
Managing Director – Tax
ranjith.pathiyil@kw.Andersen.com



Walid Ghaly
Managing Director - Bookkeeping
Walid.ghaly@kw.Andersen.com



Talal Ben Khadra
Tax Consultant
Talal.khadra@kw.Andersen.com