Preface

This book was prepared by Ernst & Young, Kuwait, a member firm of Ernst & Young. It was written to give the busy executive a quick overview of the investment climate, taxation, forms of business organization, and business and accounting practices in Kuwait. Making decisions about foreign operations is complex and requires an intimate knowledge of a country’s commercial climate, with a realization that the climate can change overnight. Companies doing business in Kuwait, or planning to do so, are advised to get current and detailed information from experienced professionals. This book reflects information current at 1 January 2012.
Doing Business in Kuwait

In the preparation of this guide, every effort has been made to offer current, correct and clearly expressed information. However, the information in the text is intended to afford general guidelines only. This publication is distributed with the understanding that Ernst & Young is not responsible for any actions taken on the basis of information in this publication, nor for any errors or omissions contained therein. Ernst & Young is not attempting through this book to render legal, accounting or tax advice. Readers are encouraged to consult with professional advisers for advice concerning specific matters before making any decision.

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Executive summary
A. Kuwait – Executive summary

A.1 Regulatory constraints and reliefs

Exchange controls
Kuwait has a stable currency and imposes no exchange controls.

Foreign ownership of business
Normally 51% Kuwaiti ownership is required in companies incorporated in Kuwait. Foreign ownership is allowed up to 49% of capital. The government however encourages foreign companies to do business in Kuwait if the business of such companies helps to broaden and diversify the industrial and commercial base of the country’s economy, provides employment and training opportunities for Kuwaitis, and reduces Kuwait’s dependence on oil revenues.

Under the terms of the Amiri Decree Law No 10 of 1999 concerning the direct investment by foreign capital in the State of Kuwait (the Foreign Capital Investment Law), foreign investors may now own up to 100% of business enterprises in Kuwait and there are tax and other incentives and protection for such foreign investment. (see section C2 for more information).

Other wholly foreign owned companies wishing to engage in government contract work must appoint Kuwaiti agents or sponsors.

A.2 Government attitude and incentives

The Kuwaiti government favors a free-market economy with little official intervention. However, under the government’s offset programme, foreign companies that obtain large contracts in the public sector may be required to invest an amount equivalent to the offset credit obligation (see section C2 for more information).

New industrial undertakings, including those having foreign participation, may benefit from certain incentives, including a 10 year tax holiday. Such incentives are extended and clarified in the new Foreign Capital Investment Law.

A.3 Tax system

Kuwait levies no personal income taxes but does levy corporate income tax on foreign incorporated bodies.

The Kuwait Tax Law (Decree 3 of 1955) was amended on 22 January 2008 through Law No. 2 of 2008 (Amended tax law). As per the amended tax law, effective from fiscal periods beginning after 3 February 2008, the tax rate has been reduced to flat 15% as against the old rates ranging from 5% to 55%.

There is no Corporate income tax on companies wholly owned by the nationals of Gulf Cooperation Council (GCC) and incorporated in the GCC. Corporate income tax is levied only on companies incorporated outside the GCC and non-GCC corporate shareholders in companies incorporated in the GCC operating in Kuwait.
Foreign companies carrying on a trade or business in the offshore area of the partitioned neutral zone under the control and administration of Saudi Arabia are subject to tax in Kuwait on 50% of the taxable profit under Law No. 23 of 1961. In practice, the tax department computes the tax on the total income of the taxpayer and expects that 50% of such tax should be settled in Kuwait. Many taxpayers are currently contesting this practice. The tax rates under Law No. 23 of 1961 are 20% for the profits up to KD 500,000 and 57% for the profits of KD 500,000 and above.

Other Taxes/Contributions:

- National Labour Support Tax (NLST): Kuwaiti companies quoted on the Kuwait Stock Exchange (KSE) are required to pay NLST @ 2.5% of the net annual profits
- Zakat: Kuwaiti Shareholding Companies are subject to Zakat @ 1% of the net annual profits on the share of profit of GCC shareholders
- Kuwait Foundation for Advancement of Sciences (KFAS): Kuwaiti Shareholding Companies are subject to KFAS @ 1% of the net annual profits

A.4 Financial reporting and audit requirements

Companies incorporated in Kuwait must have annual audits and comply with the standards promulgated by the International Accounting Standards Committee.

Foreign contractors must support their income tax filings by providing audited financial statements of their Kuwaiti operations.
Business environment
B. Business environment

B.1 Business and investment environment

Kuwait’s modern economic history began with the discovery of oil in 1938, and soon after the end of Second World War, Kuwait became a major oil exporter. Today, apart from the refining of oil and petrochemicals, there is only a limited manufacturing industry in Kuwait.

Following the quadrupling of the price of oil in 1973, Kuwait experienced a construction boom that lasted into the early 1980s. The boom provided opportunities for foreign contractors and investors, as substantial amounts were expended on the creation of a modern infrastructure.

Notwithstanding the setbacks caused by the Iraqi invasion in 1990, Kuwait now has up-to-date ports, an efficient network of roads, an international airport, an advanced telecommunication system, modern hospitals, schools, and universities.

The Kuwaiti government tends to give business preferences to Kuwaitis whenever possible. Consequently, the economy is dominated by locally owned companies. However, the government recognizes that the accomplishment of the objectives described above will require a significant amount of foreign investment and with this objective in mind promulgated the Foreign Capital Investment Law in June 1999 which should encourage foreign investors to engage in profitable operations in Kuwait.

Kuwait has recently embarked on an economic development plan involving an estimated spending of about KD31 billion (US$108 billion), which aims for making Kuwait a regional trade and financial hub through sustaining economic development, economic diversification and GDP growth. The plan is driven by government spending coupled with increased private sector participation.

B.2 Economic trends and performance

Kuwait enjoys a highly favorable balance of payments position because of its huge trade surpluses.

The government is committed to increasing overall economic efficiency. In addition, the government is considering the following measures: reduction of government provided services, including those provided under the generous welfare system and the reduction of subsidies. The government is also considering imposing personal income taxes in the foreseeable future. The success of the government’s strategy to reduce the government payroll bill depends on the private sector’s ability and willingness to absorb new Kuwaiti entrants into the labour market.

The government is focusing on increasing the participation of the Kuwait labour force in the private sector and reducing the dependence on expatriate labour.

Another major issue continuing to face the government is housing for Kuwaitis. This demand has not been met by previous institutional and policy solutions. The government is committed to tackle this issue, including allowing shareholding companies to buy and sell private real estate when the intention is to develop and facilitate the financing of private housing for Kuwaiti citizens.

B.3 Currency

The Kuwaiti unit of currency is the dinar (KD), which is divided into 1,000 units called fils. The dinar is freely convertible.

B.4 Economic structure

Government policy generally favors a free-market economy. However, the government accounts for a significant portion of Kuwait’s gross domestic product (GDP), and about 80% of Kuwaiti employees work for the government. The government intends to privatize certain industries.

The strength of the Kuwaiti economy has been derived almost entirely from oil and state investment revenues. Since 1973, when the price of oil on the world market increased four-fold, oil revenues enabled the country to accumulate huge overseas financial reserves. Before the Iraqi invasion, the revenues from these investments were approximately equal to, or even in excess of, annual oil revenues.
At least 10% of the country’s annual revenue is deposited in the Reserve Fund for Future Generations, which was formed in 1976. The amounts in the fund are invested in high-quality securities with an emphasis on long-term growth and stability. The Kuwait Investment Authority (KIA), which was established in 1982, manages both the Reserve Fund for Future Generations and the General Reserve. The KIA also manages all foreign debt of the government and runs the country’s privatization programme.

B.5 Relationship of government and business

General
Since 1970s, the government spent a large amount of money building the country’s infrastructure. The government is now encouraging the private sector to take greater responsibility for industrialization.

Privatization
The government accounts for a significant portion of Kuwait’s GDP, including all of the revenue from the oil sector. The government has privatized certain companies that it wholly or partly owns. In this context, it should be noted that privatization to date has been limited to the divestiture of government held shares in commercial companies and not the transfer of government enterprises to the private sector. The first example of such a transfer is the proposed privatization of Kuwait’s national airline, Kuwait Airways Corporation. Possible other candidates for privatization include companies engaged in postal services, telecommunications, energy production, health care and downstream oil activities. By privatizing, the government hopes to reduce the heavy government subsidization of certain industries, encourage Kuwaitis to invest in the local economy, stimulate competition and increase productivity.

The Partnerships Technical Bureau was established to facilitate the development of projects that can be implemented by establishing a partnership between the relevant public sector entities and interested parties from the private sector in accordance with the provisions of Law No. 7 of 2008, which regulates all Public Private Partnerships (PPP) projects in Kuwait.

Tendering for government contracts

General
Kuwait awards virtually all government contracts through tender, including certain of the country’s public works projects that are open to bids from foreign companies (see Foreign Bidders section). Under Tender Law No. 37 of 1964, which regulates public sector contracts, the Central Tenders Committee (CTC) oversees the tenders of contracts of almost all government departments. The CTC is independent of these departments and is directly responsible to the Council of Ministers. Tenders valued at more than KD 5,000 for the supply of goods, as well as all tenders related to the oil sector, fall under the jurisdiction of the CTC.

The Ministry of Housing has its own committee, and the Ministry of Defence and the Ministry of the Interior, including its security forces, may also issue tenders independent of the CTC. In addition, a separate committee, the Consultants Selection Committee of the Ministry of Planning, has responsibility for issuing invitations to consultants, who must be registered at the ministry to be eligible for consideration. Consultants bidding for work in the oil sector are evaluated by the Consultants Selection Committee, but the final decision rests with the CTC.

Foreign bidders
Public works projects are classified as those reserved for Kuwaiti contractors and those open to international bidders. Qualified bidders are classified in four registers according to their financial and technical capabilities and work experience.
With certain exceptions, only a foreign company operating in Kuwait through a Kuwaiti agent or partner (see section D.5) may bid for a government contract. In addition, a foreign company must complete a process of prequalification each time it bids for a contract. This process involves the submission to the CTC of documentation establishing a company’s credentials for a given project. Such evidence includes company brochures, financial statements and information on a company’s prior experience, particularly in the Middle East. The Kuwaiti agent is normally responsible for obtaining tender documents, submitting the bid and monitoring its progress.

Tendering procedures and awards
The government department with jurisdiction over a project draws up the specifications for a tender. The CTC then places a notice in the Official Gazette (Kuwait al–Youm), briefly describing the project and inviting contractors to pre qualify.

If a project is especially important or technically complicated, the CTC may compile a short list of potential tenderers. This may occur following the issuance of formal invitations to pre qualify or after an informal solicitation of potential bidders.

Bids to the CTC must comply exactly with the tender requirements. Before suggesting variations, a bidder should first contact the CFC to determine whether variations will disqualify the entire bid. The CTC opens all bids at the specified time and publicly posts the prices quoted by bidders. The CTC generally accepts the lowest bid. Even when the CTC asks the ministry governing the bid project to assess the technical content of the proposals, cost is usually the overriding factor determining the choice of contractor.

Because lump-sum contracts are usually awarded, contractors must be prepared to assume full risk. A rate of 2.5% is typical for bid bonds, and a rate of 10% is typical for performance bonds after the contract is signed. These bonds are unconditional. Startup costs may be covered by an advance payment, for which a bond is also required.

In government supply contracts, locally produced goods enjoy a 10% price advantage over comparable imported items. As a result, locally produced goods will be ordered if their cost is no more than 10% higher than imported items, and goods produced in other Gulf Cooperation Council (GCC) states receive a 5% price advantage, unless Kuwait does not produce comparable goods, in which case GCC goods enjoy a 10% price advantage over foreign imports.

Government contracts often require contractors to ship all cargo in vessels which are either Kuwaiti–registered or owned by United Arab Shipping Company (UASC), which is owned by Kuwait and certain other Arab countries, or aircraft owned by Kuwait Airways. Similarly, personnel needed to carry out the contract are often required to travel to Kuwait either by Kuwait Airways or by their own national airlines.
B.6 Financial sector

Banking system

Central Bank
The Central Bank of Kuwait determines the country’s monetary policy and supervises the operations of commercial banks, investment companies and foreign exchange houses. It also directs relations with international financial institutions, functions as banker for the government and all other banks, and prints and issues the Kuwaiti currency.

Commercial banks
Commercial banks offer a full range of modern banking services – conventional as well as Islamic. As of December 2010, the Kuwaiti banking sector comprised:

- Six conventional banks
- Three Islamic banks (excluding one which is yet to commence operations)
- 10 foreign banks, represented by a branch office

Investment companies
A number of investment and finance companies including Islamic investment companies operate in Kuwait. These also include large companies engaged in Kuwait and abroad in activities such as floating and managing investment funds, loan syndication, bond issuance and property development.

Exchange houses
Several exchange houses operate in Kuwait, providing a full range of foreign-exchange services. The exchange houses, which are supervised by the central bank, principally engage in money changing, foreign currency remittances and the issuance of drafts and travelers cheques. Certain of them engage in bullion trading. Their relatively small fees and late-afternoon hours make them popular for retail transactions.

Unlike commercial banks, the exchange houses may not offer checking accounts or accept deposits.

Stock exchange
By the end of December 2011, there were 228 companies listed on the Kuwait Stock Exchange including around 216 Kuwaiti companies and other GCC companies. The number of companies on the stock exchange is growing, particularly as more closed shareholding companies apply for listings, and the exchange is one of the most active stock markets in the Arab world. The Kuwait Stock Exchange has signed cross-listing agreements with several stock exchanges.

Established in 1983, the stock exchange opened to non-Kuwaiti GCC citizens in 1989. On September 10, 2000, the Foreign Investment Law was issued by the Government to allow foreigners to invest in the Kuwait Stock Exchange, for the first time.

Kuwait has established Capital Market Authority (CMA) to regulating Kuwait Stock Exchange. The CMA has issued Executive Rules in connection with the companies listed and/or to be listed in Kuwait Stock Exchange. The rules cover the requirements for the companies to obtain listing in Kuwait Stock Exchange and other requirements to be complied with the companies listed in Kuwait Stock Exchange.
B.7 Essential industries

The oil sector is the largest industry in Kuwait. It accounts for nearly half of gross domestic product (GDP), 90 per cent of export revenues, and 70 per cent of government income.

Kuwait imports most foods and goods. The country is, however, self-sufficient in fish and produces its own tomatoes, cucumbers and melons, as well as certain other crops. Local dairy and poultry farms also operate successfully.

B.8 Energy, Minerals and other Natural resources

Oil

Kuwait is home to one of the world's richest oil-fields. Located in south-eastern Kuwait, the Burgan oil-field is the second largest in the world and contains about two-thirds of Kuwait's proven recoverable reserves, which are about 10% of the world's total proven recoverable reserves. The discovery of oil there in 1938 marked the beginning of Kuwait's modern economic history.

Commercial production of crude oil began in 1946 and peaked at 3.3 million barrels a day in 1972. The level of crude production at the time of the Iraqi invasion in 1990 was about 2.2 million barrels a day, including Divided Zone output. (The Divided Zone, previously known as the Neutral Zone, is an area on either side of the border between Kuwait and Saudi Arabia; each country has a half interest in the natural resources of the area.) In 2011, the average production of oil was about 3 million barrels a day.

The relative proximity of the oil fields and their shallow reservoirs make them easy to exploit. Consequently, production costs are extremely low.

In the last days of the Gulf War, the Iraqi army set fire to 70% of Kuwait’s oil wells. As a result, an estimated 1% to 2% of the total Kuwaiti reserves were lost. A drilling programme for new wells was implemented to restore Kuwait's oil production to pre-invasion levels as quickly as possible. A number of major international oil companies have technical service contracts with Kuwait Oil Company (the upstream arm of the government owned oil industry) with the objective of improving oil production. Discussions are ongoing with these companies and others on various forms of arrangements that would provide incentives for the major oil companies to invest in Kuwait without the government being seen to be relinquishing or sharing control of the country's principal natural resource.

Since 1975, Kuwait Petroleum Corporation (KPC), a wholly government-owned company, has owned all Kuwaiti companies operating in the oil industry. KPC, which has diversified into downstream operations throughout the world, is one of the giants of the international oil industry. The company has a significant overseas refining capacity and owns more than 6,500 petrol stations in Europe, which operate under the "Q8" logo. KPC expects to increase investments overseas, particularly in Asia, Africa and Eastern Europe.
Petrochemicals

During the 1990s, Kuwait revived plans interrupted by the Gulf War to build a petrochemical complex that would take advantage of the country’s readily available supply of natural gas. The Shuaiba Petrochemical complex was completed in 1997 by Equate, a company in which the Kuwaiti government, certain US firms and the Kuwaiti public also hold interest.

Expansion continues on an aromatics complex using naphtha feedstock from domestic refineries. In the petrochemical industry, aromatics are solvents and other hydrocarbon chemical compounds. The aromatics, Kuwait intends to produce are benzene, xylene and paraxylene.

B.9 Foreign trade leading

Imports and exports

Kuwait derives approximately 95% of its export revenue from oil. Its major imports are machinery and transport equipment, manufactured goods and food and live animals.

Trading partners

Kuwait’s principal import trading partners are Japan, United States of America, Germany, Saudi Arabia and the United Kingdom.

Regional and international trade associations

Kuwait is one of six countries belonging to the GCC. The other member countries of the GCC are Bahrain, Oman, Qatar, Saudi Arabia and the United Arab Emirates. Formed in 1981, the GCC promotes economic and industrial co-operation among members. Customs duties among GCC members are not levied on products produced in the Gulf, and cross border ownership of shares is permitted. Nationals of GCC countries may move freely among other member countries without visas and may also work in other GCC countries.
Foreign investment
C. Foreign investment

C.1 Exchange controls and debt-to-equity requirements

Exchange controls
Kuwait imposes no foreign-exchange controls. Equity and loan capital, interest, dividends, branch profits, royalties, management and technical services fees, and personal savings are freely remittable out of the country.

Shareholding (joint stock) or limited liability companies may distribute any amount of profit as dividends after transferring a sum equal to 10% of their annual profits to a statutory reserve, until the reserve reaches at least 50% of paid-up capital. Joint stock companies must also make contributions to the Kuwait Foundation for the Advancement of Sciences (see section F7) before distributing profits.

In addition, Law No. 19 of 2000 requires Shareholding Companies listed on Kuwait Stock Exchange to pay 2.5% of their annual net profit after certain adjustments as stated in the law as National Labour Support Tax.

Further, effective from 10 December 2007, the Government of Kuwait passed Law No 46 of 2006, for imposition of Zakat in Kuwait. The salient features of the Zakat law are:

- Kuwaiti Shareholding Companies (KSC) both public and closed are liable to pay the Zakat annually, which is computed at 1% of their annual net profit
- Every KSC are required to submit a Zakat declaration annually

Debt-to-equity rules
Kuwait imposes no statutory debt-to-equity requirements.

C.2 Restrictions on foreign investment

General
The Kuwaiti government encourages foreign investment and, with few exceptions, treats foreign investors as local investors. Exceptions include the taxation of profits and the requirement that Kuwaitis have a majority ownership in companies with foreign participation.

The Council of Ministers approved the implementing regulations for its new Direct Foreign Capital Investment Law-Law number 8/2001-passed by the National Assembly on 11 March 2001, through Resolution number 1006/1/2003 on 1 November 2003. The legislation authorizes foreign majority ownership and 100 percent foreign ownership in certain industries including: infrastructure projects, investment and exchange companies, insurance companies, information technology and software development, hospitals and pharmaceuticals, air, land and sea freight, tourism, hotels and entertainment, housing projects and urban development. Projects involving oil and gas production are not authorized for foreign investments and must be approved by a separate law. (Source: U.S. and Foreign Commercial Services and U.S. Department of State, 2006)

Kuwait grants certain privileges, including ownership of land and locally traded company shares, to nationals of other GCC countries on a reciprocal basis.

Although the oil industry is entirely government-owned, the government-owned oil company contracts with foreign oil companies for certain specialist expertise. Such arrangements generally have been short-term, but Kuwait is considering longer term arrangements with these specialists in order to benefit from transfers of technology.
Offset programme

Kuwait has designed a counter trade offset programme to meet the objectives of its economic development plan. The offset programme derives from the government’s concern that the long-term benefits from job creation and capital accumulation resulting from government contracts with foreign suppliers unfairly accrue to the suppliers, at the expense of Kuwaiti companies and citizens. The objective of the offset programme is to remedy this problem by encouraging collaborative business ventures between foreign contractors and the Kuwaiti private sector. Accordingly the offset programme has been established with the following objectives:

- Promoting sustainable economic development in Kuwait, by the assimilation of modern technology and know-how in the local economy
- Supporting projects that generate high skilled jobs for Kuwaiti nationals
- Attract foreign investment capital to facilitate economic development in Kuwait

All matters regarding offset obligations are currently handled by the National Offset Company (NOC), special Company formed by the Ministry of Finance to handle the Offset Program.

As per the guidelines issued for Offset Program the offset obligations are applicable to the following:

- On Civil Contracts with the value of KD 10 Million or above;
- On Defense Contracts with the value of KD 3 Million or above

In practice, the offset obligations are enforced only on:

- Civil contracts of value greater than KD 10 million signed with the Ministry of Electricity and Water (MEW);
- Contracts with Ministry of Defense (MOD) exceeding KD 3 million

There is a possibility that the offset obligations may be enforced on all civil contracts which exceed KD 10 million and may include offset in their contract clauses

The offset obligation is calculated at 35% of the monetary value of the contract after deducting certain items described in the guidelines. Amount to be invested to comply with the obligations shall depend on the following:

- Value of the contract subject to offset obligations;
- Value of subcontracts assigned to Kuwaiti Companies as predefined in the contract;
- Value of locally procured goods and/or services as predefined in the contract; and
- Multiplier assigned by the NOC to the project selected for investment by the obligors

Contractors (Obligors) covered by the offset obligation must provide unconditional, irrevocable bank guarantees issued by Kuwaiti banks to the NOC equal to 6% of the contract price. The bank guarantee value is reduced gradually based on the following:

- actual execution of local subcontracts and locally procured goods and/or services; and
- actual execution of the offset project approved by the NOC

The NOC has the right to cash the bank guarantee if the obligors fail to comply with their obligation.

Criteria for granting multiplier by the NOC for the projects proposed by obligors:

- Transfer of technology;
- Job creation for Kuwaitis; and
- Provision of educational and training opportunities for Kuwaitis

Offset projects in manufacturing, health, education, environment, social programs and services receive higher multiplier values.
Multiplier for projects range from 1.75 to 5.5 depending on the extent to which the project satisfies the Offset program objectives and the criteria stated above.

Under the guidelines, the following options are available for companies with Offset Obligations:
- Equity participation in an approved Offset Business Venture (direct participation in a project company);
- Contribution of cash and/or In-Kind Technical support;
- Investment in an offset Fund managed by certain Banks/Investment companies in Kuwait;
- Procurement of the products which are manufactured in Kuwait (Petrochemical products such as Paraxylene)

The NOC currently requires that every offset venture should have a local equity partner and has also issued guidelines in this respect.

Offset process
The offset process consists of four stages leading to the implementation of the offset obligation.

For the obligors who proposed their own project to complete the Offset obligations the following process need to be followed:
- Identify the project and submit the Concept Paper to the NOC for its approval of the proposed project
- Upon approval of the project by the NOC, the NOC will put public notification on the approved project and request for the local companies to participate in the approved project through an Offset Business Venture (OBV)
- Upon receiving the response from the local companies the obligors could select the suitable local partner for the OBV and get approval from the NOC for the formation of the OBV
- Upon formation of the OBV the obligors and the OBV should present the Business Plan for approval by the NOC;
- Once the Business Plan is approved by the NOC, the OBV is required to agree a detailed action plan with the NOC for implementation and/or execution of the approved project

We understand that upon selecting the project already approved by the NOC or approval of the project proposed by the obligors the following action would be taken for the implementation of the project per the NOC current approach:
- NOC will put public notification on the approved project and request for the local companies to participate in the approved project through an Offset Business Venture (OBV)
- Upon receiving the response from the local companies the obligors could select the suitable local partner for the OBV and get approval from the NOC for the formation of the OBV
- Upon formation of the OBV the obligors and the OBV should present the Business Plan for approval by the NOC;
- Once the Business Plan is approved by the NOC the OBV is required to agree the detailed action plan with the NOC for implementation of the approved project

C.3 Investment incentives
As part of the government’s drive to encourage foreign investments in Kuwait, the following concession are provided to the investors under Law No. 8 of 2001 which regulates direct foreign capital investment in Kuwait:
- Exemption from income tax or any other taxes for a period up to ten years from the start of the operations as well as exemptions for subsequent investments made by the investor
- Benefit from the privileges provided under double taxation agreements as well as investment encouragement and protection agreements
• Total or partial exemption from customs duties on the following import:
  • Machinery, equipment and spare parts required for construction, expansion and development
  • Raw material, semi-processed goods, wrapping and packing material and such other material required for production purposes.
• Allotment of land and real estates required for investment purposes in accordance with the laws and regulations applicable in state of Kuwait
• Recruitment of required foreign labour in accordance with the laws and regulations applicable in the country
These concessions will be provided to the foreign investors subject to employing Kuwaiti employees as per the regulations and the project being in line with the economic development plan of Kuwait.

The government has setup two entities namely Foreign Capital Investment Committee and Kuwait Foreign Investment Bureau (KFIB), which would facilitate foreign investments in Kuwait. The responsibilities of the two entities are as follows:

The foreign capital investment committee
The responsibilities of the committee are to:
• Study applications for investment, and submit recommendations thereof
• Promote investment opportunities in Kuwait and take the initiative to attract foreign investments
• Grant privileges to encourage the foreign investor and Kuwaiti private sector to make investment with the competent authorities, with special emphasis on encouraging the Kuwaiti private sector
• Facilitate the enterprise's license and registration process
• Impose methods for monitoring, follow-up and assessing the performance of foreign investments, identify any obstacles facing such investments and to surmount the same
• Investigate the complaints raised by foreign investors and other concerned parties as a result of implementing the provisions of this law, and submit its reports thereon to competent authority

Kuwait foreign investment bureau
The responsibilities of the bureau are:
• Inform international markets about the enterprises placed for investment and highlight the benefits enjoyed by the foreign capital investors
• Provide all necessary information, clarifications and statistics requested by foreign investors
• Follow up execution of licensed enterprises and eliminate the obstacles and difficulties which may confront such enterprises
• Coordinate with the concerned authorities in order to facilitate the foreign investor's entry and residence in the country as well as dealers having business connections with him.

The following privileges, however, are granted to Kuwaitis only:
• Participation in government contracts, other than those opened to international bidding;
• Ownership of real estate, with some limited exceptions
The government has established a free-trade zone in the vicinity of the Shuwaikh port. Businesses set up in the zone are exempt from taxes on operations conducted in the zone and foreign entities can own 100% of such businesses.
Law No. 12 of 1998 allows formation of investment and leasing companies with foreign or Kuwaiti share-holding having their principal place of business within the state of Kuwait. This law provides for a five-year income tax holiday to non-Kuwaiti founders or shareholders from the date of the formation of such companies.

C.4 Sources of finance for foreign investors
Kuwait’s domestic commercial banks are the country’s primary sources for short-term financing of business enterprises. Specialized financial institutions provide medium and long-term financing. The Industrial Bank of Kuwait, owned jointly by the Kuwaiti government, the Central Bank of Kuwait and Kuwait’s commercial banks, finances industrial and agricultural projects that meet the objectives of government planning. The Industrial Bank tailors the terms and conditions of its loans to each project, but in general, interest is payable at subsidized rates, and the bank finances the projects on the following basis:

- New Projects: Maximum loan of 50% of the total project cost for the projects costing less than KD1 Million
- New Projects: Maximum loan of 65% of the total project cost for the projects costing more than KD1 Million
- Expansion Projects: Loan up to 100% of the total project cost

C.5 Importing and exporting
Restrictions
Companies and individuals are required to obtain an import license to import goods into Kuwait. Companies that import goods or act as commercial agencies (see section D.4) may obtain such license if they satisfy the following conditions:

- They are registered in the commercial register of the Ministry of Commerce and Industry as well as with the Kuwait Chamber of Commerce and Industry
- Kuwaiti shareholders own at least 51% of the company

Certificates of origin are required to enable goods to enter the country. Kuwait follows Arab boycott rules, which forbid the import of goods from Israel. In addition, the government also bans the import of pork products and alcohol because these items are prohibited by Islamic rules and beliefs. Documents for goods exported to Kuwait must be authenticated by a Kuwait embassy or other authorized government agency.

Certain classes of goods, such as firearms, explosives and drugs, require special import licenses. Restrictions also apply to the use of certain additives and chemical products used in the preparation of foodstuffs. All foodstuffs are subject to strict regulations with respect to packaging, labeling, description of contents, dates of manufacture and expiration. When imported, foods, including samples, are subject to examination at the municipality’s public health laboratories. Pharmaceutical products must be registered with the Ministry of Public Health.

With the exception of a few items, Kuwait does not restrict the export of any goods. Foreign contractors must obtain no-objection certificates from the Director of Income Taxes to send plant and machinery out of Kuwait.
Customs duties and procedures

The six member states of the Gulf Cooperation Council have entered into a GCC Customs Union. Under the terms of the Customs Union, member states have agreed to unify the regional customs tariffs at 5% on all taxable foreign imports, down from individual country rates that ranged between 4 and 15 percent, as of 1 January 2003.

In general, after landing in Kuwait, goods may be cleared through customs within two weeks if documentation is completely in order. Customs examination is rigorous for all imported goods. This also applies to containerized cargoes arriving at the two main ports, Shuwaikh and Shuaiba. Lorries may be off-loaded on a random basis at a special inspection point in Kuwait City. Customs accepts no responsibility for damage, delays or losses. The Department of Standards and Metrology has established a large number of minimum-quality standards, based on a combination of American, British, German and other national standards.

C.6 Registration of intellectual property

Kuwait is a member of the World Trade Organisation (WTO) and plans to be in compliance with its obligations under the Trade Related Aspects of Intellectual Property (TRIPS) Agreement. Kuwait joined the World Intellectual Property Organisation (WIPO) in April 1998.

Patents

A system patent registration protects inventions and ideas from unauthorized use or copying. Patents are registered for an initial period of 10 years and may be registered for a further five years only. Food and drug manufacturing processes may be patented for only 10 years. A nominal fee is required to register a patent. Patents may be licensed.

Trademarks

Trademarks are one of the most valuable and widely used forms of intellectual property in Kuwait. A trademark may be registered for 10 years and may be renewed indefinitely for further 10-year periods. The registration process takes about three weeks to complete, and a nominal fees is charged for registration.

Registration gives an owner the exclusive right to use a trademark on the goods for which a trademark is registered. The owner may prevent other parties from using the trademark on competing products.

If a trademark has not been effectively used for a five-year period, an interested party may apply to the courts to have it cancelled.

Copyrights

Under Kuwaiti laws, original literary or artistic works, including computer software, and video and audio tapes, are protected.
Structure of business entities
D. Structure of business entities

D.1 Companies

Companies in Kuwait are established under the Commercial Companies Law. For each of the three forms of companies described below, the liability of a shareholder is limited to the capital invested by the shareholder in the enterprise.

Shareholding companies

Under Kuwaiti company law, a shareholding (joint stock) company (KSC) incorporated in Kuwait must be of Kuwaiti nationality and its registered office must be located in Kuwait. An Amiri Decree is required to incorporate such a company. However, except for companies set up in the free trade zone or projects approved under the Foreign Capital Investment Law, up to 49% (40% for banks and insurance companies) of the capital may be held by non-Kuwaitis if the non-Kuwaitis supply a need for capital or expertise. Non-Kuwaitis can hold up to 100% of the capital in companies established in the free trade zone or projects approved under the Foreign Capital Investment Law. The approval of the Ministry of Commerce and Industry must be obtained before registration procedures for a KSC in which foreigners will own shares may be begun. Shares of KSCs are freely transferable, subject to the requirement of Kuwaiti ownership of at least 51%.

The company must notify the Kuwait Stock Exchange when the shareholding of any single shareholder reaches 5% of the total issued capital and when the shareholding subsequently changes.

Kuwait has established Capital Market Authority (CMA) to regulating Kuwait Stock Exchange. The CMA has issued Executive Rules in connection with the companies listed and/or to be listed in Kuwait Stock Exchange. The rules cover the requirements for the companies to obtain listing in Kuwait Stock Exchange and other requirements to be complied with the companies listed in Kuwait Stock Exchange.

Closed shareholding companies

Closed shareholding companies (KSC(c)s) should not issue their shares to the public. Except for companies set up in the free trade zone or projects approved under Foreign Capital Investment Law, at least 51% of the shares of the company must be owned by Kuwaitis. Shares of KSC(c)s are freely transferable, subject to the requirement of Kuwaiti ownership of at least 51%. There is no requirement of an Amiri Decree to incorporate such a company.

Limited liability companies

Limited liability companies, which are known in Kuwait as WLLs (“with limited liability”), are the most commonly used corporate entities in Kuwait. They are the equivalent of French SARLs, German GmbHs or private companies in the United Kingdom.

The following are significant aspects of WLLs:

- WLLs cannot engage in banking, insurance or investment on behalf of others;
- Except for companies set up in the free trade zone or projects approved under the Foreign Capital Investment Law, at least 51% of the capital must be owned by Kuwaitis;
- Ownership interests are represented by shares.

In general, shares of WLLs must be offered to the other partners before they can be transferred to outside parties.

The major differences between KSCs and WLLs are that KSC(c)s take longer to set up, they are more closely regulated by the Ministry of Commerce and Industry, and they must pay a 1% contribution to the Kuwait Foundation for the Advancement of Sciences, Zakat and the National Labour Support Tax (if they are listed).
D.2 Partnerships

Under Kuwait’s Commercial Companies Law, both general and limited partnerships may be formed. A company cannot be a partner in a Kuwaiti partnership.

A general partnership is an association of two or more persons who are jointly liable for partnership debts to the extent of their entire personal wealth. It is a separate legal entity and may transact business in its own name.

A limited partnership has two types of partners — general partners, who have unlimited liability; and limited partners, who are liable for the debts of their partnership only to the extent of their investment in the partnership.

Although Kuwaitis, particularly family members, often use general and limited partnerships to engage in business, these entities are not appropriate for use by foreign investors because the liability of general partners is not limited.

D.3 Joint ventures

A joint venture is an entity formed by two or more natural or legal persons who are jointly and severally liable. A joint venture has no legal existence and need not be recorded in the commercial register of the Ministry of Commerce and Industry, but the partners of the joint venture must be separately registered in their own names. A contract generally defines the objects and terms of the joint venture. Joint ventures are often used to carry out construction projects, such as the construction of power plants or roads, either at the contractor or consultant level.

If a joint venture involves a foreign partner, the entity conducts operations through the trade license of the Kuwaiti member of the joint venture.

Foreign contractors involved jointly in major projects often form joint ventures or consortia (joint ventures involving more than two parties) among themselves.

Kuwaiti companies with foreign participation are often referred to loosely by the business community as “joint-venture companies.”

D.4 Operations of foreign companies

Branches

Except for businesses established in the free trade zone, Kuwait does not permit foreign companies to establish registered branch offices in Kuwait. Foreign companies that do not want to operate through a participation in a shareholding company or a limited liability company (see section D1) may engage in business in Kuwait only through a Kuwaiti commercial agent or a Kuwaiti service agent (see Agencies below), which may be either a natural person or a legal entity. Business is then carried out in Kuwait in the name of the agent.

Although a branch is not the legal form of an agency arrangement, it is the substance of the arrangement. Consequently, in practice, for tax filing purposes and certain other purposes, it is convenient to refer to a foreign company’s operations in Kuwait as being those of a branch.

Agencies

Law No. 36 of 1964 governs commercial agencies and is the basis for all existing agency agreements. A new agency law, currently in draft form, is pending and expected to clarify many issues.
It is not known when the final version of this law will be issued. Law No. 36 regulates the following:

- Commercial agents, which undertake to promote a product for a principal, negotiate deals on behalf of this principal, and possibly conclude such deals and carry them out.
- Distributors, which promote, import and distribute of the principal.
- Service agents or sponsors, which, under Article 24 of Law of Commerce No. 68 of 1980, must be appointed by foreign companies that want to engage in government contract work (see section B.5).

Agency or sponsorship agreements between Kuwaiti and foreign companies must be registered with the Ministry of Commerce and Industry, which then issues a registration certificate (see Appendix 7, for the documentation required for registration). The registration of an agency should not take more than two weeks from the time the documents are available in Arabic. The existence of an agency is published in the Official Gazette.

The responsibilities of the principal and Kuwaiti agent are recorded in an agency agreement. Such responsibilities may vary greatly, and legal advice is required to determine the detailed obligations of an agent, the extent of an agent’s legal liability, and the extent to which a principal is legally bound by any acts carried out by an agent. An agency agreement must be carefully drafted and should even define those obligations of the parties that are already set out in the commercial law.

The remuneration of an agent is a matter of agreement between the agent and principal. In general, an agent is paid either a fixed fee or a commission.

Principals that terminate an agency agreement without cause must compensate the terminated agent for the damage suffered, which may entail incurring substantial costs.

Consultants and other professionals

No general rules apply in Kuwait to the practice of various professions by non-Kuwaitis, and the requirements and procedures involved differ for each profession. However, most foreign professional firms are either required by law to have a Kuwaiti partner, or find that having a Kuwaiti partner is advantageous for commercial reasons.

To receive consideration for government-sponsored projects, consultants must register with the Consultants and Physical Planning Department of the Ministry of Planning and should regularly update their registrations. Although foreign consultants are not legally required to form an association with a local consulting firm, the Kuwait government has shown an increasing tendency to favour consultancy bids made on a joint basis. In addition, the government often requires that bids should be made by local consultants in association with international firms. Foreign consultants commonly associate themselves with a local practice on a project-by-project basis.

D.5 Structures used by foreign investors

Because licences to trade in Kuwait through commercial or trading establishments are granted only to Kuwaiti individuals or Kuwaiti companies, foreigners in Kuwait must conduct operations by establishing a Kuwaiti company (KSC(c) or WLL) or through a Kuwaiti agent who has the necessary trade licence.

KSC(c)s and WLLs are the most appropriate vehicles for long-term foreign investors in Kuwait. These forms are attractive because they are regulated entities, have limited liability and offer investment security. Foreign participation is restricted to 49% of the capital of these entities. However, the new Foreign Capital Investment Law provides possibility of investment in excess of 49% (up to 100%) in Kuwaiti Companies by non-Kuwaitis. It is also possible for non-Kuwaitis to hold an investment in excess of 49% in companies established in the free trade zone. For further details concerning these companies, see section D1.
However, a foreign company may enter into an agreement with an agent in Kuwait. Operations under such agreement are effectively the same as branch operations in Kuwait (see section D.4).

Foreign companies performing major projects jointly with Kuwaiti companies often form joint ventures or consortia, which are not registered entities in Kuwait (see section D.3).

Certain special considerations apply to other GCC nationals. In addition, some small retail businesses may operate without a Kuwaiti partner, although no new licenses are currently being issued for these businesses.

Appendix 7, illustrates the various methods of operation available to foreign companies that engage in activities in Kuwait.

D.6 Establishing a corporation

Registration procedures

Under Article 95 of the Commercial Companies Law, before a KSC(c) may exist as a legal entity and begin business, it must be registered in the commercial register of the Ministry of Commerce and Industry, and the official instrument establishing the company must be published in the Official Gazette. A KSC(c) may be formed without the issuance of a decree if an official written instrument is signed by all of its members. The formation of a KSC requires an Amiri Decree.

The official instrument establishing the company must include the company’s memorandum and articles, as well as a declaration by the founders, which should include a statement that they have taken up and paid for the shares for which they subscribed and that the paid-in capital has been deposited in the company’s account with a designated bank. The company’s memorandum and articles must contain the following:

- The name of the company
- The place of the company’s registered office
- The objects for which the company is incorporated
- The names of the company’s founders
- The amount of the company’s paid-in capital and the number of shares into which it is divided
- A description of every payment made for shares, other than payments made in cash, including the name of the person who purchased these shares and the terms of the purchase, as well as any concessions and mortgage rights attached to these payments
- Privileges accorded to the founders and the reasons for those privileges
- A statement of estimated expenses, charges and costs paid, or undertaken to be paid, by the company towards incorporation

The formalities for incorporation and operation of a WLL are similar to those for a KSC(c) but are less extensive.

Time required

If a license is granted, incorporation of KSC or KSC(c) takes about six months. A WLL may be set up more quickly. During the time period before incorporation a company may operate under an authorized shareholders agreement.
Number of founders
At least five founders are required to form a KSC or KSC(c). The foundation of a WLL requires two founders; a husband and wife are considered one founder. Other than the requirement that foreigners may not own more than 49% (the Foreign Capital Investment Law now allows for investment in Kuwaiti companies up to 100%) of a Kuwaiti company, no nationality requirements apply to founders of KSCs, KSC(c)s or WLLs.

Permissible types of shares
The company law provides for common shares, preferred equity shares and convertible bonds.

Shareholders
KSCs or KSC(c)s must have at least five shareholders, and WLLs must have at least two members, but no more than 30 for WLLs.

In general, Kuwaitis must own at least 51% of shareholding companies or WLLs. For companies engaged in businesses established in the free trade zone or in projects approved under the Foreign Capital Investment Law, it is possible for non-Kuwaitis to own shareholding in excess of 51% in such companies.

Initial capital requirements
Capital required to establish a KSC, KSCC or WLL varies depending on the company’s activities. The Ministry of Commerce publishes a list detailing the capital requirements based on the activities of the company. In the case of Investment companies the minimum capital limit as prescribed by Central Bank of Kuwait is KD 15 million. The required capital must be deposited with a bank in the company’s name before the company seeks registration.

Shareholders may provide additional financing in the form of loans, which may be repaid or repatriated at any time without restriction. Non-Kuwaiti corporate shareholders are taxed on any interest received on such loans (see section F2).

Board of directors
A KSC or KSC(c) must have a board of directors, consisting of at least three persons. Shareholders elect the board at the annual meeting.

A WLL must be managed by one or more managers, who need not be members of the company. Managers are generally appointed in the articles of the company.

D.7 Annual requirements for corporations
Income tax filing
Foreign companies must file tax declarations on or before the fifteenth day of the fourth month following the end of the tax year.

Shareholding companies are not required to file their annual financial statements with the tax authorities. However, a foreign entity holding an interest in a Kuwaiti company must file the company’s statements in support of its tax declaration.

For further details concerning tax filings, see section F1.
Audit requirements
Shareholding companies and WLLs are required to have an annual audit.

Annual shareholders’ meetings
Shareholding companies must hold annual general meetings of shareholders. A representative of the Ministry of Commerce and Industry must be present at the annual general meeting. The Commercial Companies Law also requires WLLs to conduct such meetings, but this requirement is not enforced in practice and such meetings are uncommon.

Filing of financial statements
KSCs and KSC(c)s must file audited financial statements with the Ministry of Commerce and Industry within three months of the financial year end. There is no right of public access to these filings. Quoted companies must also file annual and quarterly financial statements with the Kuwait Stock Exchange – copies of these can be obtained from the Stock Exchange for a small fee. Most quoted companies publish annual financial statements in English and Arabic and make these freely available on their websites. Banks and Investment companies must obtain CBK approval of their audited accounts before filing the same with Ministry of Commerce and Kuwait Stock Exchange.

The statutory requirement for WLLs to file audited financial statements with the Ministry of Commerce and Industry is not, as a rule, complied with by WLL companies and is not enforced by the authorities. Audited financial statements must, however, be provided to certain government departments when applying for or renewing commercial licenses etc., The is no right of public access to these documents.

D.8 Mergers and reorganisations
Although relatively few mergers of companies in Kuwait have taken place in recent years, they may become more common, particularly among financial institutions. Amendments made to the Commercial Companies Law in 1992 treat a merger either as an acquisition or a pooling of interests.

The appropriate government authority must approve proposed mergers. For example, mergers of banks or investment companies require the approval of the Central Bank of Kuwait.
Labour force
E. Labour force

E.1 Availability of skilled workers
A substantial portion of the workforce is made up of expatriate labour – mainly South Asians, South East Asians and Non-Kuwaiti Middle Easterners and Westerns. Private sector are obliged by a decree to employ a certain percentage of Kuwait Nationals, the requirement varies from 1% to 60% depending on business sector.

Labour legislation
The Ministry of Social Affairs and Labour administers Law No. 6 of 2010, which sets out detailed legislation on terms of employment, including hours of work, leave, termination of employment and workplace safety for private sector. This law does not cover domestic servants as ministry of social affairs shall issue resolution concerning their affairs setting forth the rules that organize their relation with their employers.

Working week
The law defines a working week as six days with a maximum of eight hours a day or 48 hours per week, and one rest day with pay per week. The current practice in Government entities, banks and the majority of the companies is one day off and one rest day per week (Friday and Saturday).

Overtime pay
Overtime is payable at a rate of 125% of normal pay, except on Fridays (Off), when the rate is 150%, and on public holidays, when the rate is 200%.

Remuneration
Remuneration includes basic salary, housing allowance, transport allowance, car allowance, incentives, commission, obligatory bonuses, gratuities from third parties and other allowances. Payment of a bonus is obligatory if it is stipulated in the contract of employment or in the policies of the firm or if it has been paid in the same amount for 2 successive years. Salary payment must be through bank transfer to the employee bank account in Kuwait.

Leaves
The annual minimum paid leave is 30 days.
Maternity leave is 70 days, (30 before delivery and 40 days after delivery)
Sick leave is 15 days with full pay, 10 days with 75% pay, 10 days with 50% pay and 10 days with 25% pay. 30 days without pay.

Holidays
The Labour Law recognizes 13 days of Public Holidays per year including the Liberation Day.

Termination of employment
Maximum probation period in Kuwait is 100, during which employment may be terminated without notice.
For indefinite employment contracts either party may terminate the contract by giving a notice period (3) three months.
For fixed term contracts, the party who break the contract, and if this is not due to a cause recognized by the labor law, shall indemnify the other party to a maximum of the remaining period of the contract.

The company must obtain a clearance statement from a departing employee confirming that he or she has received all entitlements.

The terminal benefit payment is calculated as 15 days’ wage per year for the first five years of service and one month’s wage per year thereafter, unless a higher rate is provided in the employment contract. The calculation is based on the latest salary. The total amount paid cannot exceed one and one-half years’ remuneration based on final gross salary.

The worker shall be entitled to half of the EOSB End Of Service Benefits in the event where he/she terminates the contract which has an indefinite term and the period of service reaches not less than 3 years and not more than 5 years in the event where the period of service reaches 5 years and less than 10 years, the worker will be entitled to two third of the benefit. If the period of service exceeds 10 years the worker will be entitled to entire benefits.

Trade union and dispute resolution
The Kuwaiti Constitution permits trade unions but the formation and activities of trade unions are strictly controlled. Although full membership is limited to Kuwaiti nationals, non-Kuwaitis may have non-voting status. Union membership is not a requirement in either the public or private sector. Only one union may be established for workers of any form or profession and a person cannot join more than one union.

The Ministry of Social Affairs and Labour plays an active role in settling disputes between employers and employees. Work strikes in Kuwait are almost non-existent.

E.2 Social security
Employers and Kuwaiti employees are required to make monthly social security contributions, based on monthly salaries. Under the 1977 Social Security Law, the employer’s contribution is 11% and the employee’s is 7.5% on the gross salary plus the government contribution. The employee contribution is deducted from salary. Social security contributions are not required for expatriate workers in Kuwait.

E.3 Payroll taxes
Kuwait levies no payroll taxes.

E.4 Special requirements for foreign nationals
(very much hypothetic statement)
Most employers provide foreign employees with furnished accommodations or housing allowances, and usually give round-trip air fares to their foreign employees and accompanying family members for their annual vacation.
Taxation
F. Taxation

F.1 Principal taxes introduction

Corporate income tax is levied only on income of foreign companies operating in Kuwait. Kuwaiti companies wholly owned by Kuwaitis and companies incorporated in GCC countries (see section B.9) that are wholly owned by GCC citizens are not subject to income tax.

No personal income tax is levied in Kuwait either on salaries or on income from commercial activities.

KSCs and KSC(c)s are required to make annual contributions to the Kuwait Foundation for the Advancement of Sciences (see section F.7). In addition, Law 19 of 2000 requires Shareholding Companies quoted on the Kuwait Stock Exchange (KSE) to contribute 2.5% of their net profit as National Labour Support Tax (NLST). Also, Law No. 46 of 2006 requires both KSCs and KSC(c)s to contribute 1% if their net profits towards Zakat.

Companies are required to make social security contributions with respect to Kuwaiti employees (see section E.2). No other significant taxes are imposed, such as sales or value-added taxes, or estate or gift taxes.

F.2 Taxes on corporate income and gains

Recent amendment to Kuwait Income Tax law:

On 22 January 2008, His Highness, the Amir of Kuwait approved the issuance of Law No. 2 of 2008 (Law No. 2), amending Decree No. 3 of 1955 (the original tax law). The Law No. 2 became effective for the fiscal periods commencing after 3 February 2008 (the date of publishing of the law in the official gazette).

Subsequently, the Ministry of Finance issued the Executive Bylaws and Rules and Executive Regulations (the Bylaws) for the implementation of Decree No. 3 and amendments approved under Law No. 2. The key changes approved under Law No. 2 and the Bylaws are:

- Reduction of tax rate to flat 15% as against the existing maximum rate of tax of 55%;
- The profits earned by body corporates from trading in securities listed on the Kuwait Stock Exchange either directly or through mutual funds shall not be taxable in Kuwait
- The losses shall be allowed to be carried forward for a maximum period of three years provided the entity has not ceased its operations in Kuwait. The original tax law provided for a possibility of carry forward of losses for an unlimited period of time
- A Statute of Limitation period of 5 years has been approved and inserted in the tax law. This provision although inconsistently applied in practice by the tax department was earlier not included in the tax law
- The law includes a definition of an agent, which states that an agent shall be a person authorized by the principal to carry out business, trade or any activities stipulated in Article one of the law or to conclude binding agreement with third party on behalf and for the account of his principal. Accordingly, a foreign principal carrying on business in Kuwait through an agent (as defined above) shall be considered subject to tax in Kuwait

Corporate Income Tax

Foreign “bodies corporate” are subject to tax in Kuwait if they carry on a trade or business either directly or through an agent in Kuwait, in the islands of Kubr, Qaru, and Umm Al Maradim or in the offshore area of the partitioned neutral zone under the control and administration of Saudi Arabia. Kuwaiti-registered companies wholly owned by Kuwaitis and companies incorporated in Gulf Cooperation Council (GCC) countries that are wholly owned by GCC citizens are not subject to Income tax. The members of the GCC are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia
and United Arab Emirates.

The term “body corporate” refers to an association that is formed and registered under the laws of any country or state and is recognized as having a legal existence entirely separate from that of its individual members. Partnerships fall within this definition.

Until the Commercial Companies Law was amended in 1995, a shareholding in a WLL could only be held in the name of an individual (see section D1). Consequently, a foreign company could invest in a WLL through a nominee arrangement. Because individuals are not subject to tax in Kuwait, this method appeared prima facie to be a method of avoiding Kuwaiti taxation by foreign companies. Although the Director of Income Taxes has not yet challenged such an arrangement, he has indicated that if he becomes aware of a foreign company’s beneficial interest in a WLL, he will look through the nominee, and tax the foreign interest.

Law No. 2 includes a definition of an “agent.” Under this definition, an “agent” is a person authorized by the principal to carry out business, trade or any activities stipulated in Article 1 of the law or to enter into binding agreements with third parties on behalf and for the account of the person’s principal. A foreign principal carrying on business in Kuwait through an agent (as defined in the preceding sentence) is subject to tax in Kuwait.

Foreign companies carrying on a trade or business in Kuwait are subject to income tax under Amiri Decree No. 3 of 1955 as amended by Law No. 2.

Foreign companies carrying on a trade or business in the offshore area of the partitioned neutral zone under the control and administration of Saudi Arabia are subject to tax in Kuwait on 50% of the taxable profit under Law No. 23 of 1961. In practice, the tax department computes the tax on the total income of the taxpayer and expects that 50% of such tax should be settled in Kuwait. Many taxpayers are currently contesting this practice. Amiri Decree No. 3 of 1955 and Law No. 23 of 1961 differ primarily with respect to tax rates.

Foreign companies can operate in Kuwait either through an agent or as a minority shareholder in a locally registered company. In principle, the method of calculating tax is the same for companies operating through an agent and for minority shareholders. For minority shareholders, tax is levied on the foreign company’s share of the profits (whether or not distributed by the Kuwaiti company) plus any amounts receivable for any other income in Kuwait, for example, interest, royalties, technical services and management fees.

Tax rates

According to Law No. 2 of 2008, the tax rate has been reduced to flat 15% effective from fiscal periods beginning after 3 February 2008.

Accordingly, a company currently registered with the Department of Inspections and Tax Claims (DIT) and normally paying tax for the fiscal year ending in 31 December, the new law would be applicable for the fiscal year beginning from 1 January 2009 and ending on 31 December 2009. The Law would not apply to the fiscal year ending on 31 December 2008.
Prior to this the following tax rates are applicable under Amiri Decree No. 3 of 1955

<table>
<thead>
<tr>
<th>Taxable Amount</th>
<th>Rate (%)</th>
<th>Marginal Relief Ceases At (KD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeding (KD)</td>
<td>Not exceeding (KD)</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>5,250</td>
<td>0</td>
</tr>
<tr>
<td>5,250</td>
<td>18,750</td>
<td>5</td>
</tr>
<tr>
<td>18,750</td>
<td>37,500</td>
<td>10</td>
</tr>
<tr>
<td>37,500</td>
<td>56,250</td>
<td>15</td>
</tr>
<tr>
<td>56,250</td>
<td>75,000</td>
<td>20</td>
</tr>
<tr>
<td>75,000</td>
<td>112,500</td>
<td>25</td>
</tr>
<tr>
<td>112,500</td>
<td>150,000</td>
<td>30</td>
</tr>
<tr>
<td>150,000</td>
<td>225,000</td>
<td>35</td>
</tr>
<tr>
<td>225,000</td>
<td>300,000</td>
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</tr>
<tr>
<td>300,000</td>
<td>375,000</td>
<td>45</td>
</tr>
<tr>
<td>375,000</td>
<td>500,000</td>
<td>55</td>
</tr>
</tbody>
</table>

The following are the tax rates under Law No. 23 of 1961.

<table>
<thead>
<tr>
<th>Exceeding (KD)</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>20</td>
</tr>
<tr>
<td>500,000</td>
<td>57</td>
</tr>
</tbody>
</table>

Kuwaiti income tax is not progressive; consequently, total profit is taxed at the appropriate rate from the table above. If taxable profit is only marginally higher than the previous limit, tax is calculated by adding the actual excess to the amount payable on the previous limit. For example, on KD 38,000 of taxable income derived in Kuwait, the tax is KD 37,500 at 10% = KD 3,750, plus KD 500, resulting in total tax of KD 4,250.

See Appendix 4 for a sample corporate income tax calculation for a foreign shareholder in a locally registered company.

Territoriality

Tax is imposed on Kuwaiti-source income only. The source of income is considered to be in Kuwait if the place of performance of the services is within Kuwait. This includes work carried out outside Kuwait (offshore activity) under a contract that also involves activity in Kuwait (onshore activity). For example, in supply and installation contracts, the taxpayer is required to account to the Kuwaiti tax authorities for the full amount received under the contract, including the offshore supply element.

Income subject to tax

Tax liability is generally computed on the basis of profits disclosed in audited financial statements, adjusted for tax depreciation, provisions and any other items disallowed by the tax inspector on review.

Incorporation

Gross income includes income from a trade or business, dividends, interest, discounts, rents, royalties and premiums, as well as any other gains or profits of an income or of a capital nature.

Profits on royalties and license fees are generally considered to be 98.5% of the gross payment, after deducting the usual head office overhead allowance (see Deductions, below).

For contract work, tax is assessed on progress billings (excluding advances) for work performed during an accounting period, less the cost of work incurred. The authorities do not accept the completed-contract or percentage-of-completion methods of accounting.
Capital gains

Capital gains on the sale of assets and shares by a foreign shareholder are treated as normal business profits and are subject to tax at the rates stated above.

Trading in securities listed in Kuwait Stock Exchange

Article 1 of Law No. 2 and Article 8 of the Bylaws provide for a possible tax exemption of profits generated from dealing in securities on the Kuwait Stock Exchange (KSE), whether directly or through investment portfolios. No further clarification has however been provided with regards to the definition of profits or dealing.

Income subject to tax

As per the amended tax law, Law No. 2 of 2008, no tax shall arise on capital gains arising from trading in securities listed in the KSE. The Ministry of Finance (MOF) has, however, not indicated whether their aforementioned view towards capital gains arising from trading in securities listed in the KSE would differ if the shareholding of a foreign investor in company listed on the KSE were to exceed a certain threshold or a certain period of time

It has been the practice of the MOF to consider that long term investment in Kuwaiti entity creates a taxable presence for the foreign entity. Accordingly, capital gains arising from the sale of these shares have been subject to tax in Kuwait

It is, therefore, uncertain if profit on disposal of a long term strategic investment in listed securities would be exempted from being subject to tax

According to Law No. 2 of 2008, dividend income will be subject to a 15% withholding tax. The tax shall be required to be withheld by the foreign investor’s custodian/broker in Kuwait

Tax compliance procedures

The MOF requires the local custodian/broker of the foreign investor to provide information about the foreign investor, deduct 15% tax on payments of dividends to the foreign investor and deposit the tax with the MOF

The MOF has recently approached the major banks/custodians operating in Kuwait to implement tax withholding requirements of 15% on dividends from securities listed in the KSE

100% GCC investors may also be subject to withholding tax in Kuwait by local brokers/custodians until they are able to obtain tax clearance certificate indicating that they are not subject to tax in Kuwait

The MOF has recently issued forms to allow 100% GCC owned investors and investors from countries with which Kuwait has double tax treaty to obtain a tax clearance certificate for exemption/reduction of withholding tax on dividends received from companies listed on the KSE

Any entity wishing to claim a lower withholding tax rate in line with a tax treaty would need to approach the MOF and apply for a refund.

Article 46 of the Bylaws states that investment companies or banks which manage portfolios or funds or act as custodians of listed shares for foreign entities are required to deduct corporate tax due from any payment due to such foreign entities. Tax payment should be made within 30 days from the date of deduction of tax together with a list showing names of the foreign entities and corporate tax deduction
• Forms recently issued by MOF
• 100% GCC Investors
   The MOF has recently issued forms to allow 100% GCC owned investors to obtain a tax clearance certificate for exemption of withholding tax on dividends received from companies listed on the KSE.
   The GCC investor is required to write a letter to the MOF requesting a tax clearance certificate together with making certain declarations. Details of any investors for which the GCC Company is acting on behalf of are also required.
   The request should be accompanied by copies of the company’s Articles of Association and Commercial Registration.
• Non-GCC investors
   The local custodian/broker would be required to deduct 15% of dividend payments to foreign investors irrespective of whether the investor is incorporated in a country which has a tax treaty with Kuwait. Any entity wishing to claim a lower withholding tax rate in line with a tax treaty would need to approach the MOF and apply for a refund.
   No advance approval of the reduced tax treaty rates would be available
   The MOF has recently issued the relevant forms for foreign investors from countries which have a tax treaty with Kuwait to claim a refund for withholding taxes suffered on dividends from companies listed on the KSE.
   Based on the issuance of this form and our unofficial discussions with officials in the tax treaty department at the MOF, it would appear that foreign investors from countries which have a tax treaty with Kuwait would not be required to submit a tax declaration in order to obtain treaty benefits in respect of obtaining a refund for withholding tax rates on dividend income.

The form requires some basic information regarding the foreign investor together with details of the withholding taxes suffered. Moreover, the form requires the tax authorities in the home county of the investor to confirm that the investor is a tax resident.

Undistributed profits and other income
The treatment for tax purposes of undistributed profits of companies listed in KSE is not addressed in Law No. 2 and has also not been fully clarified in the Bylaws.
   However, Article 13 of the Bylaws states that the investment funds, investment trustees and companies that manage the portfolios of the corporations subject to the income tax decree are required to provide the tax department with a statement including all the profits resulting from dividend of listed shares that are managed or held as custodian on behalf of a corporation or any profit resulting from carrying out any activity subject to tax in portfolios or investment funds.
   It appears from the above, that where a foreign investor holds shares in a KSE listed Kuwaiti company, the foreign investor may also be subject to tax on its share of the undistributed taxable profit of the Kuwaiti company.
   This matter is, however, being further studied by the DIT and an official pronouncement in this regard is awaited.

Administration

Registration
The Bylaws to Law No. 2 require that every corporate body should register with the DIT within 30 days of commencing its activities or signing the contract in Kuwait and enclose the following documents:
• The company’s name and address inside and outside of Kuwait
• The date of commencement of its activities or contract in Kuwait
The registration form requires the taxpayer to state the fiscal year selected for tax filings in Kuwait. A taxpayer can select any year-end comprising consecutive 12 Gregorian months. For tax declarations covering the first and last periods in Kuwait, it is possible to obtain approval for a period shorter or longer than 12 months up to a maximum of 18 months.

Accounting records should be kept in Kuwait, and it is normal practice for the tax authorities to insist on inspecting the books of account (which may be in English) and supporting documentation before agreeing to the tax liability.

**Tax Cards**

As per the Bylaws, a new system of tax cards has been introduced and all tax payers would be issued with tax cards which would be renewed annually. All government departments and public authorities would be prohibited from dealing with companies that do not hold an active tax card.

The information required to be completed in the tax card application form broadly contains information that is provided to the DIT at the time of registration and during the course of annual tax filings and tax inspections by the DIT. The following documents are required to be submitted to the DIT together with the tax card application form:

- A copy of the Articles of Association of the company and amendments, if any
- A copy of your agreement with the sponsor in Kuwait together with a certificate of registration of the agency with the Kuwait Ministry of Commerce
- Copies of all contracts entered into in Kuwait (We have been informally advised by a DIT official that copies of only new contracts that have so far not been reported would need to be provided)
- A copy of the exemption form, if applicable (We understand that this information is only applicable if the company has been granted relief from tax under a special law such as tax holiday under Foreign Direct Investment Law)
- Letter of authority for appointment of a firm of accountants or tax advisors
- Evidence of the authorization given to the authorized signatory signing the form (e.g. Power of attorney or any other official document authorizing the company’s official to represent the company in Kuwait)

**Tax filing**

A tax declaration must be filed on or before the fifteenth day of the fourth month following the end of the taxable period (for example, 15 April in the case of a 31 December year-end). Tax is payable in four equal installments on the fifteenth day of the fourth, sixth, ninth and twelfth months following the end of the taxable period, if the declaration is submitted within the original due date.

Article 13 of the Bylaws provides that companies which may not be subject to tax due to the application of any of the tax laws or other statutes or treaties for Avoidance of Double Taxation (tax treaty) with various countries would be required to submit their tax declarations in Kuwait.

**Extension in time for filing tax declaration**

Bylaws provide that a request for extension in time for filing the tax declaration should be submitted to the DIT by the 15th day of the second month (previously the third month) after the fiscal year end. The maximum extension in time to be granted will be 60 days (it was 75 days previously). If such an extension is granted, no tax payment is necessary until the tax declaration is filed, and payment must then be in one lump sum and not in installments. Tax is payable in Kuwaiti dinars with a certified cheque drawn on a bank in Kuwait.
Penalties
In the event of a failure to file a tax declaration by the due date, a penalty is payable equal to 1% of the tax for each 30 days or fraction thereof during which the failure continues. In addition, in the event of a failure to pay tax by the due date, a penalty is payable equal to 1% of the tax payment for each period of 30 days or fraction thereof from the due date to the date of the settlement of the tax due.

The tax payer is required to settle agreed amount of tax within 30 days of the date of the assessment.

Filing of objections and appeals against tax assessments
If the tax payer does not agree with the assessment then the tax payer has the right to file an objection against the tax assessment within sixty days from the date of issue of the tax assessment. The time limit for resolution of the objection is ninety days from the date of filing the objection to the DIT. A revised tax assessment is issued by the DIT after resolution of the objection filed by the tax payer. Tax payable per the revised assessment is then required to be settled within thirty days of issue of the revised assessment.

The tax payer has also a right of appeal against the revised tax assessment to the Tax Appeal Committee (TAC). The appeal should be filed with the TAC within thirty days of issue of the revised assessment (or thirty days from the expiry of ninety days following submission of an objection, if a revised assessment is not issued). The matter is resolved through appeal hearings and the final revised assessment issued, based on the decision of the TAC. Tax payable per the revised assessment is then required to be settled within thirty days of issue of the revised assessment.

In cases of dispute with the DIT regarding the tax assessment, after rejection of appeal with the TAC, the company might resort to administrative court in an attempt to protect itself from the DIT to recover the disputed amount of tax claim.

The company can then escalate this matter to the civil courts, or reach a settlement under Ministerial Resolution No. 10, under which the Under-secretary of the Ministry of Finance, may reconsider the assessment.

Under Ministerial Resolution No. 10, dated 28 March 2004, which was issued by the Ministry of Finance, on submission of a request by a taxpayer, the Assistant Undersecretary to the Ministry of Finance may reconsider the final assessment issued by the DIT if errors of fact exist. The DIT issues its decision based on the opinion received from the Undersecretary of the Ministry of Finance within 60 days of the date of submission of the request of the taxpayer.

Revision of tax declaration
Under the original tax law, provided an assessment of tax was not issued by the DIT, it was possible to revise the tax declaration for a fiscal period by simply submitting a letter to the DIT giving details of the proposed amendments and their impact on the taxable results. The Bylaws for Law No 2 of 2008 provide for companies being able to submit a revised tax declaration. The Executive Rules issued by the DIT states that the companies could file the tax declaration if the assessment for that fiscal year is not issued by the DIT. Furthermore, it states that the companies should obtain a written approval from the DIT for submission of the revised declaration by officially requesting the DIT.

If the DIT accepts the amended tax declaration, the date of filing of the revised tax declaration is considered as the actual date of filing the declaration for the purpose of imposing delay penalties.

Statute of limitation
Law No. 2 of 2008 has introduced a statute of limitation period of five years into the tax law. The prior Kuwait tax law did not provide a statute of limitations for tax. However, under Article No. 441 of the Kuwait Civil Law, any claims for taxes
due to Kuwait or applications for tax refunds may not be made after the lapse of five years from the date on which the taxpayer is notified that tax or a refund is due.

Dividends
Under the original tax law, no tax was imposed on dividends paid to foreign shareholders by Kuwaiti companies.

Tax is assessed on the share of profits attributable to the foreign shareholder according to the audited financial statements of a company, adjusted for tax purposes.

Please refer to our comments in the Capital Gains section above on the treatment of dividend or distribution of profits from companies listed on the Kuwait Stock Exchange.

Determination of trading income

General
Tax liabilities are generally computed on the basis of profits disclosed in audited financial statements, adjusted for tax depreciation and any items disallowed by the tax inspector on review.

The tax declaration, supporting schedules and financial statements, all of which must be in Arabic, are to be certified by an accountant in practice in Kuwait who is registered with the Ministry of Commerce and Industry.

Design expenses
Under Executive Rule No. 25 of 2010, the following percentages of Design revenues are acceptable as costs for Design work carried out outside Kuwait:

• If design work is carried out in the head office, 75% to 80% of the design revenue is allowed as costs
• If design work is carried out by an associated company, 80% to 85% of the design revenue is allowed as costs, provided the company complies with the regulations for 5% retention on payments and submission of the contract with the associated company to the DIT
• If design work is carried out by a third party, 85% to 90% of the design revenue is allowed as costs, provided the company complies with the regulations relating to 5% retention and submission of the contract with the third party to the DIT

Where the design revenue is not specified in the contract but design work is considered necessary to be executed outside Kuwait, the following basis may be applied by the tax authorities to determine the revenue:

<table>
<thead>
<tr>
<th>Design revenue for the year</th>
<th>Design costs for the year X Yearly contract revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total direct costs for the year</td>
</tr>
</tbody>
</table>

Consultancy Costs
Under Executive Rule No. 25 of 2010, the following percentages of consultancy revenues are acceptable as costs for consultancy work carried out outside Kuwait:

• If consultancy work is carried out in the head office, 70% to 75% of the consultancy revenue is allowed as costs
• If consultancy work is carried out by an associated company, 75% to 80% of the consultancy revenue is allowed as costs provided the company complies with the regulations for 5% retention on payments and submission of the contract with the associated company to the DIT
• If consultancy work is carried out by a third party, 80% to 85% of the consultancy revenue is allowed as costs provided the company complies with the regulations relating to 5% retention and submission of the contract with the third party to the DIT
If the consultancy revenue is not specified in the contract, but consultancy work needs to be executed outside Kuwait, the following formula may be used by the tax authorities to determine the revenue:

\[
\text{Consultancy revenue for the year} = \frac{\text{Consultancy costs for the year} \times \text{annual contract revenue}}{\text{Total direct costs for the year}}
\]

**Interest paid to banks**

Interest paid to local banks relating to amounts borrowed for operations (working capital) in Kuwait may normally be deducted. Interest paid to banks or financial institutions outside Kuwait is disallowed unless it is proven that the funds were specifically borrowed to finance the working capital needs of operations in Kuwait. In practice, it is difficult to claim deductions for interest expenses incurred outside Kuwait. Interest paid to the head office or agent is disallowed. Interest that is directly attributable to the acquisition, construction or production of an asset is capitalized as part of the cost of the asset if it is paid to a local bank.

**Leasing expenses**

The Kuwait tax authorities may allow the deduction of rents paid under leases after inspection of the supporting documents. The deduction of rent for assets leased from related parties is restricted to the amount of depreciation charged on those assets, as specified in the Kuwait Income Tax Law. The asset value for the purpose of determining depreciation is based upon the supplier’s invoices and customs documents. If the asset value cannot be determined based on these items, the value is determined by reference to the amounts recorded in the books of the related party.

**Agency commissions**

The tax deduction for commissions paid to a local agent is limited to 2% of revenue net of subcontractors’ costs if paid to the agent and reimbursed costs.

**Head office overhead**

Article 5 of the Bylaws provides that Head office expenses shall be allowed as follows:

1. Companies operating through an agent: 1.5% (previously 3.5%) of the direct revenue
2. Companies participating with Kuwaiti companies: 1% (previously 2%) of the foreign company’s portion of the direct revenue generated from its participation in a Kuwaiti company
3. Insurance companies: 1.5% (previously 2%) of the company’s direct revenue
4. Banks: 1.5% (previously 2%) of the foreign company’s portion of the bank’s direct revenue

Article 5 of the Bylaws also provides that for the purpose of computation of head office overheads, direct revenue would be as follows:

For 1), 2) and 4): gross revenue less subcontract costs, reimbursed expenses and design cost (except for design cost carried out by the head office);

For insurance companies (3): direct premium net of share of re-insurance premium plus insurance commission collected.

**Inventory**

Inventory is normally valued at the lower of cost or net realizable value, on a first-in, first-out (FIFO) or average basis.
**Provisions**

Provisions, as opposed to accruals, are not accepted for tax purposes.

**Tax depreciation**

Tax depreciation is calculated using the straight-line method. The following are some of the permissible annual depreciation rates:

<table>
<thead>
<tr>
<th>Asset</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings</td>
<td>4</td>
</tr>
<tr>
<td>Furniture and Office Tools</td>
<td>15</td>
</tr>
<tr>
<td>Drilling Equipment</td>
<td>25</td>
</tr>
<tr>
<td>Electrical Equipment and Electronics</td>
<td>15</td>
</tr>
<tr>
<td>Tools and Equipment</td>
<td>20</td>
</tr>
<tr>
<td>Computer and its accessories</td>
<td>33.3</td>
</tr>
<tr>
<td>Software</td>
<td>25</td>
</tr>
<tr>
<td>Trucks and Trailers</td>
<td>15</td>
</tr>
<tr>
<td>Cars and Buses</td>
<td>20</td>
</tr>
</tbody>
</table>

**Relief for losses**

Article 7 of the Bylaws provides that approved losses may be carried forward for a maximum of 3 years. The original tax law provided that losses could be carried forward and deducted from subsequent profits without limit, provided there is no cessation of activities.

**Foreign Currency Exchange Gains and Losses**

As per Executive Rule No. 36 of 2010, gains and losses on foreign currency conversion would be classified into realized gain/loss and unrealized gain/loss.

Realized gains and losses resulting from fluctuation of exchange rates shall be allowed as a deduction (for losses) and taxable (for gains) provided the taxpayer would be able to substantiate the basis of calculations and documents in support of such transactions.

Unrealized losses are not allowed as deductible expenses and unrealized gains are not considered as taxable income.

**Reimbursed Costs**

In case of deemed profit filings, reimbursed costs will be allowed as a deductible expense subject to the following:

- Such costs are necessary and explicitly mentioned in the contract;
- Such costs shall not exceed 30% of gross revenues;
- Supporting documentation is available for such costs

Furthermore, in cases where the reimbursable costs exceeds 30%, the taxpayer would be required to file its tax declaration on accounts basis instead of deemed profit.

**Aggregation of income**

If a foreign company has more than one activity in Kuwait, one tax declaration is required, aggregating the income from all activities.

Furthermore, the DIT believes that the Kuwait Tax Law allows it to aggregate taxable results of all the entities commonly owned and engaged in similar activities or on the same contract in Kuwait. Accordingly, if it comes to DIT’s knowledge that entities are related, the DIT might issue a combined tax assessment on an aggregated basis for all related entities operating in Kuwait.

**Imported materials**

The Kuwaiti tax authorities deem the following profit margins for imported materials and equipment:

- Imports from head office: 10% to 15% of related revenue
- Imports from related parties: 6.5% to 10% of related revenue
- Imports from third parties: 3.5% to 6.5% of related revenue
The imputed profit described above is normally subtracted from the cost of materials and equipment claimed in the tax declaration. If the revenue from the materials and equipment supplied is identifiable, the DIT normally reduces the cost of such items to show a profit on such materials and equipment in accordance with the percentages described above. If the related revenue from the materials and equipment supplied is not identifiable or not stated in the contract, the following formula may be applied to determine the related revenue:

\[
\text{Material and equipment revenue for the year} = \frac{\text{Contract revenue for the year} \times \text{Material and equipment costs for the year}}{\text{Total direct costs for the year}}
\]

**Supply and installation contracts**

In supply and installation contracts, a taxpayer is required to account to the tax authorities for the full amount received under the contract, including the offshore supply element, which is the part of the contract (cost, insurance and freight to the applicable port) pertaining to the supply of goods.

**Contractors’ revenue recognition**

Tax is assessed on progress billings (excluding advances) for work performed during an accounting period, less the cost of work incurred. The authorities generally do not accept the completed contract or percentage-of-completion methods of accounting.

**Subcontractor’s costs**

The Kuwait tax authorities are normally stringent in allowing subcontractor’s costs, particularly subcontractor’s costs incurred outside Kuwait. Subcontractor’s costs are normally allowed if the taxpayer provides the related supporting documentation (contract, invoices, settlement evidence and other documents), complies with Article 37 of the Executive bylaws and Executive Rule No. 6 of 2010 (see Tax Retention below) and fulfils certain other conditions.

**Tax retention**

Under Articles 37 and 38 of the Executive bylaws and Executive Rule No. 6 of 2010, all government departments and privately owned and government-owned companies are required to retain 5% from each payment to any foreign incorporated body until such entities present a tax clearance from the DIT.

In addition local and foreign establishments, authorities and companies carrying on a trade or business in Kuwait are required to give the DIT details of the companies with which they are doing business as contractors, subcontractors or in any other form. Information to be provided should include the name and address of the company together with a photocopy of the contract.

When inspecting the tax declaration filed, the DIT may disallow all payments made to subcontractors if the rules described above are not observed.

The Ministry of Finance may demand payment of the 5% retained amount, referred to above, from the entities holding the amounts, if the concerned contractors or subcontractors fail to settle their taxes due in Kuwait.

Article 39 of Bylaws for Law No. 2 of 2008 provides that the contractors is responsible for the tax due on the subcontractor if the contractor does not comply with the regulations.
Work in progress

Costs incurred but not billed by an entity at the end of the fiscal year may be carried forward to the subsequent year as work in progress. Alternatively, revenue relating to the costs incurred but not billed may be estimated on a reasonable basis and reported for tax purposes if the estimated revenue is not less than the cost incurred. In general, if less than 20% of the contract is executed in a fiscal year, both income and expenses relating to the contract may be carried forward.

Salaries paid to expatriates

The Ministry of Social Affairs imposes stiff penalties if companies fail to comply with the requirement to pay salaries to employees in their local bank accounts in Kuwait. These penalties are applicable from 1 October 2003. This requirement has been further emphasized through the new labour law issued in 2010. The DIT also seeks to disallow payroll costs if salaries to the employees are not paid by transfer to the employee’s bank accounts in Kuwait.

Investment incentives

Kuwait offers the investment incentives described below.

Industry Law

To encourage investments in local industrial undertakings, Industry Law No. 56 of 1996 offers the following incentives:

- Reduced import duties on equipment and raw materials
- Protective tariffs against competing imported goods
- Low-interest loans from local banks
- Export assistance
- Preferential treatment on government supply contracts

Direct Foreign Capital Investment law

The Direct Foreign Capital Investment Law (DFCIL; Law No. 8 of 2001) provides the following benefits to new and existing foreign capital investment projects:

- Opportunity for investment in excess of 50% (up to 100%) in Kuwaiti companies by non-Kuwaitis
- Full or partial exemption from customs duties on certain imports and other government charges for approved projects
- A tax holiday of up to 10 years with respect to non-Kuwaiti shareholders’ shares of the profits from qualifying projects. An additional tax holiday for a similar period is granted for further investment in an already approved project
- A guarantee of repatriation of profits and capital invested in the project
- Benefit of double tax treaties and investment promotion and protection agreements
- Long-term leases of land in industrial estates at low rents
- Employment of required foreign manpower without being subject to the restriction contained in Law No. 19 of 2000 concerning employment of Kuwaiti manpower

The Ministry of Commerce and Industry has issued bylaws to the DFCIL. The bylaws explain the application of the law and the procedures for approval of projects, including procedures for obtaining applications for investment licenses and details about guarantees, advantages, facilities and exemptions to be offered to foreign investors. The Kuwait government has also issued a list of categories of projects that qualify for approval under the DFCIL. Licenses under DFCIL are awarded in cases where projects of strategic importance to Kuwait (such as projects involving the transfer of technology or technical expertise or those which create job opportunities for Kuwaiti Nationals and contribute to the training of Kuwaiti Nationals) are undertaken in Kuwait. As far as we are aware, only very few projects have so far been approved under DFCIL.
Kuwait free trade zone

To encourage exporting and re-exporting, the government has established the Kuwait Free Trade Zone (KFTZ) in the vicinity of the Shuwaikh port. The KFTZ offers the following benefits:

- Up to 100% foreign ownership is allowed and encouraged
- All corporate and personal income is exempt from tax
- All imports into and exports from the KFTZ are exempt from tax
- Capital and profits are freely transferable outside the KFTZ and are not subject to any foreign-exchange controls

F.3 Non-resident companies

Kuwaiti tax law does not distinguish between resident and non-resident companies. The same tax rules apply to foreign companies regardless of whether they operate in Kuwait through agents or they hold minority shareholdings in Kuwaiti-registered companies.

F.4 Partnerships

Although a partnership is an association of individuals, who are not subject to tax in Kuwait, the Director of Income Taxes treats a partnership as if it were a body corporate, and levies taxes on the foreign partner’s operations in Kuwait in accordance with the normal rules applicable to foreign shareholders.

F.5 Joint ventures

A joint venture or consortium has no legal status in Kuwait. Under the tax department’s rules, a consortium engaged in the joint performance of a contract must file a combined tax declaration for the total earnings from the contract. Each partner’s share of taxable profit is then taxed individually. For consortia involving separate performance by the partners, each partner must account for its share of revenue in a separate tax declaration.

F.6 Withholding taxes

No withholding taxes are imposed in Kuwait except for the dividend distribution by the companies listed in Kuwait Stock Exchange.

F.7 Foreign-exchange controls.

No foreign-exchange restrictions exist. Equity capital, loan capital, interest, dividends, branch profits, royalties, management and technical services fees, and personal savings are freely remittable.

F.8 Other taxes

Personal Income Tax

No personal income tax is levied in Kuwait either on salaries or on income from commercial activities.

Social security

There are no social security obligations for expatriate workers. However, for foreign employees it is generally necessary to make terminal indemnity payment calculated at 15 days pay per year for the first five years of service and one month’s pay per year thereafter.

For Kuwaiti employees, contributions are payable monthly by both employer and employee under the Social Security Law. The employer’s contribution is 11% and the employee’s is 7.5% of the monthly salary, up to a salary ceiling of KD 2,250 per month.
National Labour Support Tax (NLST)

As per Law No. 19 of 2000, Kuwaiti companies quoted on the Kuwait Stock Exchange (KSE) are required to pay an employment tax as follows:

Basis of computation: 2.5% of the net profits per financial statements (before payments for KFAS/NLST/Directors fees) less cash dividends from companies listed on KSE and profit share from associate companies listed on KSE, whether or not such annual profits are distributed to shareholders.

All companies subject to the provisions of the Law are required to submit a declaration audited by one of the accounting and auditing offices approved by the Ministry of Finance on or before the 15th day of the fourth month following the end of the fiscal period. The NLST declaration should be accompanied with the following:

- The balance sheet, financial statements, disclosures and supplementary notes
- Documents in support of cash dividends received
- Minutes of General Assembly

Zakat

The Ministry of Finance has issued the executive bylaws (in the form of Ministerial Order 58 of 2007) for implementation of Zakat in Kuwait.

Basis of computation: According to the above-mentioned executive bylaws, public and closed Kuwait Shareholding Companies (KSC’s) are subject to Zakat on the basis of 1% of gross income of operations of the company after deduction of costs incurred by the company.

Provisions for expenses or reserves shall not be allowed as a deductible expense. Statutory provisions/reserves required by banks and insurance companies may be allowed as a deductible expense.

Following amounts shall be allowed to be deducted:

- Cash dividends received from companies subject to Zakat;
- Share of profit received from unconsolidated affiliate or associate companies, which are subject to Zakat.

The Holding/Parent Company that consolidates the financial statements of its subsidiaries shall be treated as one entity subject to Zakat. The amounts paid by the subsidiaries under this law shall be deducted from the amount due from the parent company.

All companies subject to Zakat are required to submit a declaration audited by one of the accounting and auditing offices approved by the Ministry of Finance on or before the 15th day of the fourth month following the end of the subject period.

Contribution to KFAS

Kuwait Shareholding Companies and Closed Shareholding Companies in Kuwait are required to pay 1% of their profits after transfer to the statutory reserve and the offset of loss carry forwards, to the Kuwait Foundation for the Advancement of Sciences (KFAS), which supports scientific progress. The KFAS provides sponsorship and grants for many types of scientific research projects in Kuwait.
F.9 Tax treaties

Tax treaties

Kuwait has entered into double tax treaties with several countries, including the following:

- Austria
- Belarus
- Belgium
- Bulgaria
- Canada
- China
- Croatia
- Cyprus
- Czech Republic
- Ethiopia
- France
- Germany
- Hungary
- Indonesia
- India
- Italy
- Jordan
- Korea
- Lebanon
- Malta
- Mauritius
- Mongolia
- Netherlands
- Pakistan
- Poland
- Romania
- Russian Federation
- Singapore
- South Africa
- Sri Lanka
- Sudan
- Switzerland
- Syria
- Tunisia
- Turkey
- Ukraine
- United Kingdom
- Yugoslavia
Further treaties with several other countries are at various stages of negotiations or ratification.

Kuwait has also entered into treaties with several countries relating solely to international air and/or sea transport.

Kuwait is a signatory of the Arab Tax Treaty and the GCC Joint Agreement, both of which provide for the avoidance of double taxation in most areas. The other signatories of the Arab Tax Treaty are Egypt, Iraq, Jordan, Sudan, Syria and Yemen.

The DIT is very stringent in allowing the Treaty benefits. The DIT is currently concerned that companies from the countries not having tax treaties with Kuwait may be taking an unfair advantage by using their subsidiaries in the countries having tax treaties with Kuwait to sign the contracts in Kuwait. The DIT therefore requires to be convinced that the company has substance and is in itself the principal contractor.

There is however very limited experience of application of tax treaties in Kuwait and disputes are not uncommon between taxpayers and the DIT about interpretation of various clauses of tax treaties.

Disputes normally arise with the DIT regarding the following:
- Existence of a permanent establishment
- Income attributable to a permanent establishment
- Tax deductibility of costs incurred outside Kuwait
Financial reporting and auditing
G. Financial reporting and auditing

G.1 Statutory requirements

Books and records
All business enterprises must maintain adequate financial records, which need not be maintained in Arabic.

Ministerial Order No. 206 of 1985 specifies books and records to be maintained by a foreign body corporate subject to the provisions of the Tax Decree. In practice, this includes all foreign companies and partnerships doing business in Kuwait.

Under the order, the following books and records are required:

- General journal
- Inventory sheets
- General ledger
- Expenses analysis journal
- Stock record

The books of account of a taxpayer, or those of a Kuwaiti-registered company in which the taxpayer is a minority shareholder, are invariably subject to a tax audit by the Department of Income Taxes before a tax assessment is finalized.

Method of accounting
The accrual method of accounting is required for financial accounting purposes in Kuwait. However, provisions are not allowed for tax purposes.

Financial statements
KSCs and KSC(c)s (see section D1) must submit audited financial statements in Arabic within three months of the company’s year-end. For further details, see section G.3, below.

G.2 Source of accounting principles

KSCs, KSC(c)s and WLLs must comply with the standards promulgated by the International Accounting Standards Committee (IASB).

G.3 Financial reporting

KSCs and KSC(c)s must submit audited financial statements within three months of the company’s year-end to the Ministry of Commerce and Industry and the general meeting of shareholders. A representative of the Ministry of Commerce and Industry is required to be present at the annual general meeting.

Publicly traded companies must also submit audited financial statements to the Kuwait Stock Exchange within three months of the company’s year-end. They are also required to submit quarterly financial statements to the Kuwait Stock Exchange within 45 days from the date of the quarterly financial statements.

The financial statements, which must be in Arabic, must comply with the standards promulgated by the International Accounting Standards Board.

The names of the directors and auditors of KSCs must be published in the official Gazette. WLLs must submit their audited financial statements to the Ministry of Commerce and Industry within 10 days of the annual general meeting.

WLLs are required by law to hold at least one general meeting of shareholders each year.

G.4 Audit requirements

KSCs, KSC(c)s and WLLs are required by statute to have an annual audit. The auditor must be independent of the company being audited and must be registered with
the Ministry of Commerce and Industry and a member of the Kuwait Association of Accountants and Auditors. Since 1995, publicly traded companies are required to be audited by two separate firms, acting as joint auditors.

The Law of Commercial Companies requires the auditor’s annual report to include the following information:

- Whether the auditor has obtained the information that the auditor considered necessary for the satisfactory performance of the auditor’s duties.
- Whether the balance sheet and the income statement are in agreement with the actual state of affairs of the company, whether they contain all information that is required by law and the articles of the company and whether they give an honest and clear view of the true financial standing of the company;
- Whether proper books of account have been maintained by the company.
- Whether the stock taking (that is, the inventory of assets) has been properly conducted.
- To the extent such information was available to the auditor, whether any violations of law or of the articles of the company that materially affected the business of the company or its financial standing occurred during the fiscal year and whether any such violations are continuing.
- For KSCs only, whether the information contained in the report of the board of directors is in agreement with the books of the company.

Foreign contractors must support their income tax filings by providing audited financial statements of their Kuwaiti operations.

G.5 Accounting profession

The Kuwait Association of Accountants and Auditors is the local professional body of accountants.

Under Law No. 5 of 1981, which governs the auditing profession, registered auditors must be natural persons and Kuwaiti nationals, pass an examination and meet other requirements. Registered auditors are permitted to undertake consulting work.

The Kuwait Association is a member of the International Federation of Accountants (IFAC), which is responsible for issuing International Standards on Auditing.

The State Audit Bureau, an independent government agency, is responsible for monitoring state revenues and expenditures, and carries out audits of the records of all ministries and public establishments, even though some of those organizations also have independent auditors.

The Executive Rules issued by the Capital Market Authority requires certain conditions on the auditors for listed companies in Kuwait Stock Exchange.
H. General

H.1 Geography and climate
Both Kuwait and the country’s former name, Qurain, are the diminutive forms of the following Arabic words that refer to its geography: “kut” meaning a fortified house; and “qarn” meaning a high hill.

Geography
Situated on the north-west corner of the Arabian Gulf, Kuwait is bordered in the north and west by Iraq and in the south by Saudi Arabia. It covers a land area of approximately 17,800 square kilometers (6,900 square miles). The country is almost entirely flat, hard-sand desert; only about 1 % of the land is under cultivation. The land gradually rises away from the sea to its highest point of approximately 300 meters (1,000 feet).

Kuwait has 290 kilometers (180 miles) of coastline. A large part of the coastline is Kuwait Bay, on which Kuwait City, the capital, stands. Several islands, including Failaka in Kuwait Bay, and Bubiyan, a larger island to the north, are also part of Kuwait, but only Failaka is inhabited. Kuwait’s territorial waters extend 12 nautical miles from its coast.

Climate
The weather ranges from cool in winter to very hot and dry in summer. Humidity is much lower than in other countries in the Arabian Gulf. January and February can be quite cold. The average temperature during these months is 15°C (59°F), and room heating may be necessary, particularly after dark. In March and April, and from October through December, Kuwait enjoys pleasant weather with temperatures averaging 21°C (70°F). From June to September, the average temperature is 40-45°C (112-113°F) and may reach 50°C (122°F). Although September is less hot, the weather is extremely humid. In June and July, hot winds from the north-east generate sandstorms, which may last several days. Annual average rainfall, which occurs from November to April, is less than 10 centimeters (4 inches).

H.2 Population and language

Population
The total population of Kuwait is approximately 2.5 million. Approximately 65% of the population is foreign. A large proportion of the Kuwaiti portion of the population is young, with nearly half being under the age of 30. Average life expectancy for Kuwaitis is 75.

The non-government work force is almost entirely expatriate; over 90% of the national labour force works in the government sector.

The population, including the large expatriate group of other Arabs and Asians, is primarily Muslim, except for a large Indian community, many of whom are Hindus or Christians.

The bulk of the population lives in Kuwait City and its suburbs. Other major cities are Ahmadi and Jahra, about 40 kilometers (25 miles) and 30 kilometers (19 miles), respectively, from the centre of Kuwait City. Kuwait plans to build two new cities, Subiya in the north and Khairan in the south.

Religion
Kuwait is a Muslim state. Almost the entire national population observes that religion.

The Constitution guarantees freedom of religious belief. For Christians, Roman Catholic and Evangelical churches are located in Kuwait City. A multi denominational church and a Roman Catholic Church are located in Ahmadi, the centre of the country’s oil industry.
Language

Arabic is the official language of Kuwait, but English is widely understood and used in commercial circles. Trade literature should be made available in both Arabic and English.

All correspondence with government organizations must be in Arabic.

H.3 Government and political system

Kuwait is a hereditary emirate. For nearly 250 years it has been governed in unbroken succession by a member of the family of Sabah, which arrived in Kuwait in the 17th century from the central part of what is now Saudi Arabia.

In 1961, Kuwait gained full sovereignty from the United Kingdom. Executive power is vested in the Amir, the head of state. The Amir appoints a prime minister, and, on the prime minister’s recommendation, then appoints the other 16 ministers, who form the Council of Ministers.

The previous Amir was HH Sheikh Jaber Al-Ahmed Al-Jaber Al-Sabah. Born in 1928, he had ruled since 1977 until his death in 2006. Emir Sabah IV Al-Ahmad Al-Jaber Al-Sabah succeeded the previous Amir and has been reigning since 2006.

The constitution of 1962 provides for a national assembly of 50 members, to be elected for four-year terms by Kuwaiti men and women over 21 years of age. The assembly, which is an extension of the “diwaniyah” system, is the oldest parliament in the Gulf. The assembly has the right to initiate and veto laws, and provides a public forum for raising issues concerning the government’s performance.

H.4 Legal environment

The Muslim religious law, the Shari’ah, serves as the major influence on Kuwait’s judicial system; the Kuwaiti Constitution describes it as a principal source of law. The Quran, the Holy Book of Islam, is the most important source of legislation in the Shari’ah.

Other sources of Kuwaiti law include Amiri Decrees, which must be approved by the national assembly, and ministerial orders, which are issued periodically to address the organisation and complexities of modern life, and commercial and business transactions. These secular laws are drafted in a manner designed to avoid any conflict with the Shari’ah, which is now primarily applied to family and personal matters. The civil law system has been strongly influenced by France’s Napoleonic Code, which reached Kuwait via Egypt.

The court system, which is modeled closely on the Egyptian system, is divided into three levels. At the lowest level, summary courts, presided over by one judge, hear minor matters. At the next level, the court of first instance consists of several chambers, presided over by either one or three judges, depending on the nature of the case. The court of appeal, with its various chambers, is the highest court in Kuwait. The Amir appoints judges to the courts.

Disputes may also be resolved by arbitration within the court system.

Only Kuwaiti lawyers have the right to plead before the Kuwaiti courts. Although foreign lawyers may not independently practice law in the country, a number of Kuwaiti law firms have affiliations with international firms.
H.5 International relations and associations

In addition to being a member of the GCC (see section B.9), Kuwait belongs to the Organisation of Petroleum Exporting Countries, the United Nations, the Arab League, the World Bank, the International Monetary Fund, the Organisation of Arab Petroleum Exporting Countries, the Organisation of the Islamic Conference, the Non-Aligned Movement and the World Trade Organisation.

Kuwait operates foreign aid programmes for developing countries and gives away an average of more than 2% of its annual gross national product (GNP) in economic aid. Much of this aid is channeled through the Kuwait Fund for Arab Economic Development, which was established in 1962 to provide loans on generous terms for development schemes in the third world, including non-Arab countries, principally those in Africa and Asia.

H.6 Entry Visas and Work Permits

Entry Visas

Non-GCC nationals who wish to enter Kuwait must obtain a valid entry visa before arriving in Kuwait. Travelers arriving in Kuwait without a visa are placed on the next flight out of the country. An entry visa will not be granted if the applicant’s passport expires within three months. The visa must be utilized within three months of issue and permits a maximum stay of one month. Israeli nationals or individuals holding passports with evidence of past or proposed visits to Israel are prohibited from obtaining visas to Kuwait. Certain other nationalities may find it difficult or impossible to obtain a visa and it is advisable to check the current position at an early date with a Kuwaiti embassy or the sponsoring organisation in Kuwait.

Visas are issued for business purposes, or to visiting relatives. Tourist visas are issued normally for events of national significance.

Business visas are issued to employer-sponsored or business-sponsored applicants. They may be obtained through personal application to the nearest Kuwaiti embassy or consulate, or through a sponsor or host in Kuwait, such as a local hotel, agent or partner in a joint venture. The sponsor or host files an application with the Kuwaiti Immigration Department of the Ministry of the Interior. The application for a visa consists of a request letter, an invitation from the Kuwaiti sponsor and a photocopy of the relevant passport pages. International vaccination certificates are not required.

It is essential that an entry visa be arranged prior to travel. The entry visa enables a visitor to stay a maximum of one month in Kuwait. Extensions, which are difficult to obtain may be granted for a maximum of two additional months at the discretion of the Department of Immigration. Heavy fines are imposed for staying in the country after expiration of the visa period, and violators may be imprisoned.

Work Permits

Employers are responsible for obtaining work permits for their foreign employees. An employer must obtain a permit from the Ministry of Social Affairs and Labour and send it to the foreign employee before that person embarks for Kuwait. A foreign employee normally collects the work permit from the Kuwaiti embassy in his or her home country.
The employer must undertake to engage the foreign employee only in the job specified in the work permit.

If an employee initially travels to Kuwait on a one-month business or visit visa while the work permit is being processed, that person must leave Kuwait before returning on a work permit.

Work permits are usually issued for up to three years and may be renewed for similar periods on the request of an employer.

Non-Kuwaiti GCC nationals do not need work permits to work in Kuwait.

Kuwait does not impose any restrictions on the employment of women. Opportunities for such employment are limited, and lie primarily in the teaching and medical professions, and in secretarial work.

Spouses of expatriates are free to work, provided they transfer their sponsorships to their new employers.

Residence Permits
On arrival in Kuwait, a person must apply to the Immigration Department for a residence permit, which is usually arranged within two months of arrival and costs KD 10 for each year of residence. Annual residence permits, including those for dependants, are normally issued for up to three years and may be renewed on request of an employer. A person holding a residence permit may exit and re-enter Kuwait freely without obtaining an exit visa.

The procedure for obtaining a residence permit involves fingerprinting and a medical examination that costs KD 10 and includes tests for HIV antibodies and tuberculosis.

Permanent residents in Kuwait must obtain an identity card (Civil ID), which they must carry at all times. A Civil ID may be obtained from the Public Authority for Civil Information after a residence permit is issued. Foreigners resident in Kuwait are also advised to register with their embassies. Non-Kuwaiti GCC nationals need not obtain a residence permit.

H.7 Living in Kuwait

General
Kuwait is a welfare state and provides some of the most generous benefits in the world. The government subsidizes many of the needs of its people through policies such as the following:

* It pays up to 90% of electricity costs
* It imposes price controls that hold the prices of basic foods, such as fish, milk, meat, rice and bread, at subsidized low levels
* It charges low prices for water and petrol
* Government hospitals and clinics provide medical care at a nominal fee
* It offers free education
* Government housing is available, in certain cases, to Kuwaitis at nominal rent
Supermarkets are excellent, and a co-operative society composed of a number of shops, including a supermarket, operates in each residential area of Kuwait. In addition, modern shopping centers offer a wide range of consumer and luxury goods. Many leading European and US stores have outlets in Kuwait.

Little crime besets Kuwait; pickpockets, muggers and burglars are virtually unknown.

Time

Kuwait is three hours ahead of Greenwich Mean Time. The country does not observe daylight saving time. Time differences and flying times from Kuwait to some major cities is shown in the following table.

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<th>City</th>
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<td>7</td>
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</table>

Business Hours

A five-day working week is normal in Kuwait, except in trading establishments which tend to work a six-day week. Public services and schools are closed on Thursday and Friday, the latter being the official day of rest. Banks and the oil sector are closed on Friday and Saturday.

Kuwait observes restricted business hours during Ramadan, which is the month of fasting.

Public holidays

The government and companies generally follow the Gregorian calendar. The Islamic calendar is seldom used for business purposes, but it does determine certain religious holidays that are observed by businesses.

The following are the dates of the secular holidays in Kuwait:

- New Year’s Day: 1 January
- National Day: 25 February
- Liberation Day: 26 February

Transportation and communications

Transportation

Shuwaikh and Shuaiba are Kuwait’s main ports. Shuwaikh, which is the largest port, has several deep-water berths. It handles general imports, particularly consumer goods. Shuaiba handles primarily container cargo. Both of these ports have open and covered storage areas, and refrigerated
Frequent flights from all over the world make Kuwait readily accessible by air. Taxi fare from the airport to Kuwait City, which is a distance of 16 kilometers (10 miles), is set at KD 4.

Although Kuwait has a good network of buses, most residents determine that they need their own car. The city’s orange taxis travel fixed routes only, are very cheap and are generally shared. Other taxis cannot be hailed from the street but must be ordered by phone. Most visitors will find these radio-controlled call taxis to be the most convenient. Fares for call taxis are set by the taxi company in advance and, for short journeys within the city, they vary between KD 1 and KD 2. Several companies provide rental cars with or without a driver.

Kuwait has a modern road system that includes roads linking Kuwait with other GCC countries. Persons with business or visit visas may drive if they have international driving licenses. A foreigner wishing to drive should go to the Traffic Department, which endorses international licenses after local insurance has been obtained. Persons staying in Kuwait on resident permits may obtain a Kuwaiti driving license; this may be obtained very quickly on presentation of a European or American driving license. Other applicants must apply for a learner’s license and then take a driving test. However, certain restrictions are imposed for issue of driving licenses to certain lower grade foreign employees, in order to prevent excessive congestion on the roads. All persons must carry their driving licenses and car registration documents when driving.

All makes of cars are readily available at reasonable prices, and petrol is cheap at 50 or 65 fils per liter. Second-hand vehicles that are more than five years old may not be imported. An annual road test is required to re-register a car over three years old. Third-party insurance is mandatory; comprehensive coverage is available.

Road discipline is not as strict as it might be. Therefore, due care and constant vigilance should be exercised when driving. Kuwaiti law requires that seat belts be worn and imposes severe penalties for speeding, going through red traffic lights and other offences.

Communications

Kuwait’s telecommunications system provides immediate telephone, telex and facsimile access to all parts of the world. The most prominent feature of this centre is a 372-metre (1,193-foot) tower, which is one of the tallest structures in the world.

Local telephone calls are free, and overseas calls are itemized on the monthly telephone bill. The annual rental charge for a telephone line with international dialing facility is KD 30, and direct dialing is possible to most parts of the world. Private expatriate subscribers pay a deposit of KD 500 for this service. Telephone installation is prompt if the relevant documents are in order.

Courier services are also readily available.
Locally published, daily newspapers in English are available, and European newspapers are available the day after their issue. One of Kuwait’s four television channels carries programmes in English, and satellite TV carrying transmissions in several languages are available and widespread.

Education
Schooling for Kuwaitis is free, and it is compulsory for children aged six to fourteen. The comprehensive public education system includes a university, which was established in 1966. Except in kindergartens, male and female students are segregated in public schools. Adult literacy is now over 75%.

Kuwait allocates 20% of its school capacity to non-Kuwaiti students, and private schools offer British, American, French and other curricula. Annual fees at private Western schools range from KD 900 at the kindergarten level up to KD 2,100 at the high school level. Although private schools fall under the jurisdiction of the Ministry of Education, they are self-financing and independent. The leading Western schools produce impressive academic results.

Medical services
All residents of Kuwait should obtain medical cards from their local clinics. These are available to resident permit holders. Approximately 50 such clinics throughout Kuwait provide heavily subsidized basic medical and dental care. For more serious illnesses or injuries, residents are referred to hospitals. Approximately a dozen state-run hospitals operate in Kuwait. Outpatients and inpatients at Kuwaiti government hospitals receive medical treatment at a minimum fee of KD 2 per day for a bed.

Several private hospitals supplement the state-run facilities. The government regulates their fees.

Housing
A wide range of rental accommodation is available. New leases generally run for a period of one year and are automatically renewable unless agreed otherwise. Landlords may not increase rent for the first five years of a lease. If a tenant is evicted for a valid reason, the courts normally allow that individual six months to find alternative accommodation. Chalets and service apartments are also available at certain hotels. Service apartments are self-contained apartments that are owned by hotels and receive hotel services, such as housekeeping.

Electric power runs on 220 volts, 50 cycles AC. Piped gas generally is unavailable, and gas for cookers usually is supplied in cylinders, available at the local co-operatives. The piped water system carries both brackish and desalinated water, which should be filtered before drinking. Stores carry bottled mineral water. Filters should also be fitted to the water supply for washing.
machines and dishwashers.

Domestic help is easy to arrange and relatively inexpensive. Full-time, live-in help generally receive a salary of between KD 50 and KD 80 per month and typically work under a two-year contract.

Leisure and tourism
Kuwait’s most ambitious, ongoing project with regard to the leisure of the population and visitors is the development of the Kuwait City waterfront into a vast recreational area, which will extend approximately 20 kilometers (12 miles) along the coast. In addition, many government projects focus on bringing greenery to the cities, suburbs and roadsides of what is an almost entirely desert country.

Foreigners interested in Arab culture may enjoy such attractions as the old-style Arab “suqs” (markets), the National Museum, the private Tareq Rajab Museum, a dhow museum at Doha village, and Sadu House, where local Kuwaitis weave in the Bedouin style from hand-dyed and hand-spun sheep wool. In addition, much local folklore has been preserved in traditional songs and dances, particularly in the Bedouin sword dance, called the “ardah,” and in sea shanties. Failaka, an island located at the entrance to Kuwait Bay is the site of remains dating back to the Bronze Age, over 4,000 years ago. Historians believe that the island was part of a merchant civilisation called Dilmun, which traded between Mesopotamia and India. This island was accessible by ferry-boat before the Iraqi invasion.

Amenities for expatriates include the following: resort areas; sea clubs; hotel recreation clubs, which include sporting facilities; an array of excellent restaurants; hotels, which host social events; an ice-skating rink; a zoo; a large amusement park called Entertainment City; and the Kuwait Towers, a cluster of three towers of different heights, which is Kuwait City’s most visible architectural symbol and features a revolving restaurant and observation platform. Many of these amenities are administered by the government-backed Touristic Enterprises Company. The local cinemas (which now include modern multi-screen theatres) show recently released films in English, Arabic and Hindi and many video shops stock new Western releases. Amateur dramatics are also popular.

Although much effort has been expended in clearing of war material, the dismantling of minefields planted by Iraq has not yet been completed. The beaches are now generally considered to be safe, but venturing off the track into the countryside is inadvisable. Strange metal, plastic or other objects lying about should never be picked up.

Tourist attractions in nearby countries, such as Cyprus, Egypt, Jordan, Lebanon, Turkey, and Yemen as well as on the Indian subcontinent, are readily accessible.
Social and business customs

Kuwait is a Muslim state, and the heritage of Islam is deeply rooted in the Kuwaiti culture and way of life. Foreigners should take note of Islamic customs, particularly ritual observances such as daily praying, which occurs at sunrise, midday, afternoon, sunset and evening; and the holy month of fasting, Ramadan. During Ramadan, Moslems abstain from eating, drinking and smoking between sunrise and sunset. It is a serious offence for any person to eat, drink or smoke in public during this period.

If invited into a mosque, foreigners should remove their shoes before entering the mosque, and be aware that men and women worship in separate sections.

An important part of the Kuwaiti culture is the Diwaniyah. A room attached to most houses, the Diwaniyah is an evening gathering place for men who share family ties, and the primary forum for social and political discussions and gossip, as well as for the transaction of business.

The normal attire for a Kuwaiti man consists of a long cotton robe (a dish–dasha) and white head cloth (Gutra), held in place by a black head band (Aqal; on formal occasions a cloak (Bisht) is worn over the Dishdasha. In public, a Kuwaiti woman usually wears a black covering (Abaya) over her dress and a head scarf (Hijab).

Western dress is acceptable as long as it is modest and conservative. For example, businessmen typically wear suits on most formal occasions throughout the year. Long hair and close-fitting clothing is inappropriate for men. Women wearing western dress should be especially careful to wear conservative clothing. Swimwear worn on public beaches, for example, should be very modest. Light natural material clothing is recommended for both men and women in the summer.

Kuwait prohibits importing, brewing and trafficking in alcohol. Drunken behavior in public or driving under the influence of alcohol is an offence punishable by imprisonment, a fine or both, and revocation of the offender’s driving license. Importing and using narcotics is illegal and punishable by heavy penalties, including execution. The possession of material deemed obscene is also punishable by a prison sentence. Kuwait bans all pork products.

Kuwait prohibits individuals from photographing airports or defense installations, and care should also be taken to avoid taking photographs that might constitute an invasion of an individual’s privacy.

As with all Arab peoples, the tradition of hospitality and generosity is strong. It is important to display courtesy and patience in negotiations.
Useful addresses and telephone numbers
I. Useful addresses and telephone numbers

(When telephoning from an international location, the caller must use the international telephone code for Kuwait, 965, as a prefix)

Government organizations and ministries

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Ministry of Communications
PO Box 318
Safat 11111
Telephone: 4819033
Facsimile: 4847058

Ministry of Electricity and Water
PO Box 12, Safat 13001
Telephone: 4896000
Facsimile: 4897990

Ministry of Finance
PO Box 55, Safat 13001
Telephone: 2468200
Facsimile: 2463600

Ministry of Housing
PO Box 2935
Safat 13030
Telephone: 2480000
Facsimile 2428805

Ministry of Oil
PO Box 5077
Safat 22795
Telephone: 2415200
Facsimile: 2417088

Ministry of Planning
PO Box 15
Safat 13001
Telephone: 2428200
Facsimile: 2407326

Ministry of Public Works
PO Box 8
Safat 13001
Telephone: 5385520
Facsimile: 5395433 Ministry of Social Affairs and Labour
PO Box 563
Safat 13006
Telephone: 2480000
Facsimile: 2484329

Public Authority for Civil Information
PO Box 6634
Safat 32041
Telephone: 2669111
Facsimile: 2634113

Public Institution for Social Security
PO Box 24324
Safat 13001
Telephone: 2410170
Facsimile: 2407437

Touristic Enterprises Company
PO Box 23310
Safat 13094
Telephone: 5650111
Facsimile: 5657594
### Embassies

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<td>PO Box 3200</td>
<td>2449501</td>
<td>2445212</td>
<td></td>
</tr>
<tr>
<td>Kuwait Finance House (an Islamic Bank)</td>
<td>PO Box 24989</td>
<td>2445050</td>
<td>2409414</td>
<td></td>
</tr>
<tr>
<td>Kuwait Real Estate Bank</td>
<td>PO Box 22822</td>
<td>2458177</td>
<td>2462516</td>
<td></td>
</tr>
<tr>
<td>National Bank of Kuwait</td>
<td>PO Box 95</td>
<td>2422011</td>
<td>2462469</td>
<td></td>
</tr>
<tr>
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<td>2445050</td>
<td>2409414</td>
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<td></td>
</tr>
<tr>
<td>National Bank of Kuwait</td>
<td>PO Box 95</td>
<td>2422011</td>
<td>2462469</td>
<td></td>
</tr>
</tbody>
</table>
International schools

English curriculum *

British School of Kuwait, Salwa (Ages 3 to 18)
PO Box 26933, Safat 13030
Telephone: 5621701
Facsimile: 5624903

English Academy, Jabriya (Ages 3½ to 13)
PO Box 1081, Surra 45701
Telephone: 5340427
Facsimile: 5340421

English School, Fahaheel (Ages 3 to 18)
PO Box 7209, Fahaheel 64003
Telephone: 3711070
Facsimile: 3715458

English School for Girls, Salwa (Ages VA to 17)
PO Box 32929, Rumaithiya 25510
Telephone: 5619134
Facsimile: 5628409

English School, Salmiya (Ages VA to 13)
PO Box 379
Safat 13004
Telephone: 5637206
Facsimile: 5637147

Falcon English School, Salwa (Ages 3 to 11)
PO Box 66415
Bayan 43755
Telephone: 5636373
Facsimile: 5654609

Gulf English School, Rumaithiya (Ages VA to 17)
PO Box 6320
Hawalli 32038
Telephone: 5659361
Facsimile: 5650758

Kuwait English School, Salwa (Ages 3 to 18)
PO Box 8640
Salmiya 22057
Telephone: 5655216
Facsimile: 5629356

Kuwait National English School, Hawally (Ages 3½ to 13)
PO Box 44273
Fahaheel 32057
Telephone: 2656904
Facsimile: 2652459

New English School, Jabriya (Ages 3 to 18)
PO Box 6156
Hawalli 32036
Telephone: 5318060
Facsimile: 5319924
US Curriculum

**American Academy, Salwa (Ages 3 to 15)**
PO Box 22156
Safat 13082
Telephone: 5639614
Facsimile: 5639648

**American International School, Salmiya (Ages 4 to 18)**
PO Box 17464
Khaldiya 72455
Telephone: 5318173
Facsimile: 5318166

**American School of Kuwait, Hawally (Ages 4 to 18)**
PO Box 6735
Hawally 32042
Telephone: 2664341
Facsimile: 2650438

**Universal American School, Salwa (Ages 4 to 18)**
PO Box 1703
Khaldiya 72451
Telephone: 5615857
Facsimile: 5625343
Other Curriculums

**Carmel School (Indian)**
PO Box 596
Safat 13006
Telephone: 5623674
Facsimile: 5646516

**Indian School**
PO Box 5901
Safat 13060
Telephone: 5629583
Facsimile: 5652308

**Lycee Francais De Koweit**
PO Box 9450
Salmiya 22095
Telephone: 5730024
Facsimile: 5730027

**Pakistani School**
PO Box 3030
Safat 13031
Telephone: 5610437
Other organizations

**British Council (cultural arm of the British Embassy)**
PO Box 345
Safat 13004
Telephone: 2515512
Facsimile: 2533204

**Institut Voltaire (cultural arm of the French Embassy)**
PO Box 5967
Safat 13007
Telephone: 5319734
Facsimile: 2574804

**Institute of Banking Studies**
PO Box 1080
Safat 13011
Telephone: 2458460
Facsimile: 2407276

**Kuwait Association of Accountants and Auditors**
PO Box 22472
Safat 13085
Telephone: 4849799
Facsimile: 4836012

**Kuwait International Airport**
PO Box 17
Safat 13001
Telephone: 4335599
Facsimile: 4332222

**University of Kuwait**
PO Box 5969
Safat 13060
Telephone: 4811188
Facsimile: 4849637

* – Please note that the above-mentioned list is not comprehensive and further information on schools may be obtained from pocket guides and other sources of local information in Kuwait.
Appendices
Appendices

Appendix 1: Documents required for agency registration

A foreign company wishing to operate in Kuwait through a commercial agent must file the following documents with the Ministry of Commerce and Industry:

- Original of agency agreement duly attested at the principal’s location by any official authority and by the local Kuwaiti embassy (commercial agency agreements concluded locally should be legalized by a Kuwaiti Notary Public)
- Arabic translation of the agency agreement
- Copy of the agent’s commercial registration
- Copy of the agent’s Kuwaiti nationality document if the agent is an individual, or a copy of the partnership agreement
- Certificate from the Kuwait Chamber of Commerce and Industry
- Application for registration, in duplicate
- Certificate from the Boycott Office in Damascus, Syria, stating that the principal does not have dealings with Israel
- A fee of KD 3 (revenue stamps) for each application for registration
- Copy of commercial licence

Appendix 2: Structure of a foreign company operating in Kuwait

Foreign companies may operate in Kuwait through minority ownership in a closed shareholding company (KSC(c)) or limited liability company (WLL), or through a Kuwaiti agent. The following diagram illustrates the methods of operation for foreign companies in Kuwait.

Note: Up to 100% foreign ownership may be allowed under Law No. 8/2001 relating to Direct Foreign Capital Investment (DFCI) in the State of Kuwait provided conditions set out by DFCI committee are complied with and DFCI license issued for the project.
Appendix 3: Tax rates

Amiri Decree 3 of 1955

The table below shows the tax rates, which were applicable until 3 February 2008:

<table>
<thead>
<tr>
<th>Taxable profits</th>
<th>Marginal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marg Exceeding (KD) inal</td>
<td>Not Exceeding (KD)</td>
</tr>
<tr>
<td>0</td>
<td>5,250</td>
</tr>
<tr>
<td>5,250</td>
<td>18,750</td>
</tr>
<tr>
<td>18,750</td>
<td>37,500</td>
</tr>
<tr>
<td>37,500</td>
<td>56,250</td>
</tr>
<tr>
<td>56,250</td>
<td>75,000</td>
</tr>
<tr>
<td>75,000</td>
<td>112,500</td>
</tr>
<tr>
<td>112,500</td>
<td>150,000</td>
</tr>
<tr>
<td>150,000</td>
<td>225,000</td>
</tr>
<tr>
<td>225,000</td>
<td>300,000</td>
</tr>
<tr>
<td>300,000</td>
<td>375,000</td>
</tr>
<tr>
<td>375,000</td>
<td>–</td>
</tr>
</tbody>
</table>

Law No. 23 of 1961

Not exceeding 500,000  20  930,232
Exceeding 500,000  57

- Kuwait income tax is not progressive, consequently, total profit for the year is taxed at the appropriate rate from the above table. For example, the tax on KD 70,000 is calculated by applying 20% to that amount for a tax of KD 14,000
- If taxable profits are only slightly higher than the previous limit, tax is calculated by adding the actual excess to the amount payable on the previous limit. This marginal relief is demonstrated by the following example

| Taxable profit | KD 38,000 |
| Tax on normal basis (at 15% rate) | KD 5700 |
| Tax on KD 37,500 at 10% | KD 3,750 |
| Excess over lower rate band IKD 38,000 – IKD 37,500 | KD 500 |
| Tax payable after application of marginal relief | KD 4,250 |

The amount in the last column of the tax rate table shows the maximum amount of taxable profit that may qualify for this marginal relief

Appendix 4: Sample corporate income tax calculation

A sample tax calculation for a foreign shareholder holding a 49% interest in a Kuwaiti company is set forth below. This calculation is shown in the foreign taxpayer’s tax declaration for the fiscal year commenced before 3 February 2008.

<table>
<thead>
<tr>
<th>Operating company (100%) KD</th>
<th>Taxpayer’s Share (49%) KD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue 1,000,000</td>
<td>490,000</td>
</tr>
<tr>
<td>Costs (890,000)</td>
<td>(436,100)</td>
</tr>
<tr>
<td>Depreciation (10,000)</td>
<td>(4,900)</td>
</tr>
<tr>
<td>Directors’ fees and KFAS contribution (a) (15,000)</td>
<td>(7,350)</td>
</tr>
<tr>
<td>General overhead (2% of revenue)</td>
<td>(20,000)</td>
</tr>
<tr>
<td>Management fees received by the foreign taxpayer and charged to expenses by the local company (b)</td>
<td>30,000</td>
</tr>
<tr>
<td>Taxable profit</td>
<td>51,650</td>
</tr>
</tbody>
</table>

- See section F7
- In the tax declaration itself, the management fees are added to revenue

Appendix 5: Depreciation rates

The table below shows the maximum annual straight-line depreciation rates allowed for income tax purposes. All of the listed rates are provided by statute except for the rate for computers, which is allowed by the Department of Income Taxes.

<table>
<thead>
<tr>
<th>Asset type</th>
<th>Annual depreciation rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings</td>
<td>4%</td>
</tr>
<tr>
<td>Prefabricated buildings</td>
<td>15%</td>
</tr>
<tr>
<td>Office furniture and tools</td>
<td>15%</td>
</tr>
<tr>
<td>Equipments and machineries</td>
<td>20%</td>
</tr>
<tr>
<td>Drilling equipments</td>
<td>25%</td>
</tr>
<tr>
<td>Electric and electronic devices</td>
<td>15%</td>
</tr>
<tr>
<td>Computers and accessories</td>
<td>33.3%</td>
</tr>
<tr>
<td>Software</td>
<td>25%</td>
</tr>
<tr>
<td>Vehicles</td>
<td>20%</td>
</tr>
<tr>
<td>Trucks and lorries</td>
<td>15%</td>
</tr>
<tr>
<td>Buses</td>
<td>20%</td>
</tr>
</tbody>
</table>
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About Ernst & Young

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Ernst & Young has long recognized that the complexity of modern taxation matters makes it a subject in itself. In Kuwait, prior to starting operations particular emphasis must be given to strategic planning to ensure that eventual taxes are minimized to the fullest extent possible. Such planning must take into account the tax payer’s operations in the Middle East region, the tax effect in the taxpayer’s home country, transfer pricing implications, obtaining benefits of tax treaties, evaluating the tax effects of major business decisions, etc. All tax affairs of Ernst & Young’s clients in Kuwait are therefore handled by two specialist tax partners supported by a team of dedicated tax staff members.

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- Inbound Investment: Designing market entry strategies and identify potential local partners and suppliers. We advise on legal structure, financing, management structure, information systems, expatriate remuneration and employment issues
- Corporate Finance: Assist companies in initiating, structuring and managing transactions; raise money through debt, equity and development capital; negotiate joint ventures and strategic alliances; conduct business valuations; handle IPOs and conform to stock market requirements
- Acquisitions: To assist clients locate suitable business partners, targets for mergers or acquisitions, or purchasers for all or part of their companies. We assist with integrating acquired operations into existing companies
- Performance Improvement: Helping clients design and implement processes and programmes that enhance productivity, profitability and quality as well as develop business strategy and strategy performance measures
- Information Systems: Advising on all areas of information systems strategy, package enabled reengineering, information technology effectiveness and information technology security
• Expatriate Services: As market leaders in Expatriate Services, we have the expertise to assist clients with a broad range of issues confronting individuals working and living abroad.

• Employer Services: Advising on all issues affecting employers, including employment law and contracts; human resources policy; income tax and social security withholding; compensation and pensions; employee share schemes and profit-related pay schemes.

• Human Resources: Assistance in organisation design and structure, assessment of human resources effectiveness, identify and dealing with change management issues and executive recruitment.

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• Accounting: Assistance in developing and improving accounting systems and controls, compliance with industry and fiscal requirements, as well as changing regulations, and accounting for complex transactions.

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Publications


International publications

• Worldwide Corporate Tax Guide: an annual publication summarizing corporate tax systems.

• Worldwide Executive Tax Guide: an annual publication summarizing personal tax systems for executives.

• Worldwide Immigration: An Executive Guide: an annual publication summarizing the immigration rules and procedures for executives.

• Accounting: Assistance in Tax News International: a quarterly newsletter reporting recent tax developments around the world.

• Doing Business In books: a series of books that survey the investment climate, taxation, forms of business organisation, and business and accounting practices.
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