

Law No. 2 of 2008
On Amending some Provisions of
Kuwait Income Tax Decree No. (3) Of 1955

*** Article (1)**

An annual Income Tax is hereby imposed on the income of every body corporate, wherever incorporated, carrying on trade or business by the activity in the State of Kuwait, particularly:

١. The profits realized from any contract that may be totally or partially completed in the State of Kuwait.
٢. The amounts collected from the sale, lease, granting franchise to use or exploit any trademark, patent design or copyrights.
٣. Commissions due or resulting from representation agreements or commercial mediation.
٤. The profits of the industrial and commercial business
٥. Profits realized from disposing assets.
٦. Profits resulting from purchase and sale of properties, goods, related rights and opening a permanent office in the State of Kuwait wherein sale and purchase contracts are concluded.
٧. Profits resulting from the lease of any properties.
٨. Profits resulting from rendering any services.

However tax amounts in accordance with this law is hereby fixed at 15% of net taxable income.

The profits of the incorporated entity resulting from trading operations within Kuwait Stock Exchange shall hereby be exempted from the tax already imposed under this law, whether it has been executed directly or via portfolios and investment funds.

* Has been substituted by virtue of article 1 of Law No. (2) Of 2008 on amending some provisions of the Kuwaiti Income Tax Decree No. (3) Of 1955 to replace article 1 of the Kuwait Income Tax Decree No. (3) Of 1955 and published in Kuwait Al-Youm Magazine Issue No.856 Year Fifty Four- Sunday 3/2/2008

***Article (2)**

When used in this Decree:

- (a) The term (taxpayer) means any body corporate subject to the income tax imposed by this Decree.
- (b) The terms (each taxable period) or (any taxable period) or (such taxable period) or (the taxable period) shall mean a taxable period as defined in Article (5) to the intent that the charge to income tax under this Decree shall be substituted for , and shall operate to the exclusion of , the charge to income tax under the Kuwait Income Tax Decree , 1951 , as regards any taxable period as defined in Article 5 hereof , or in particular the expression “ the taxable year ‘ as used in the aforesaid Kuwait Income Tax Decree 1951, has no application for the purposes of this Decree .
- (c) The term “Director “means the director of Income Taxes , who shall be appointed by the Ruler.

The Financial Department Head (Minister of Finance) shall appoint a Director for Income Tax as of the date of publishing this decree. (1)

- (d) The term “personnel of the director “means the employees and other persons employed by the director for carrying out of the duties of his office.

*Paragraphs (e , g , i , j , from article (2) from Kuwait Income Tax Decree No. 3 of 1955, have been cancelled by virtue of the third article of Law No. (2) Of 2008 on amending some provisions of the Kuwaiti Income Tax Decree No. (3) Of 1955.

(1) Added on Decree No. 6 of 1959.

- (e) The term “ body corporate “ wheresoever incorporated , carrying on trade or business in Kuwait , includes any body corporate carrying on trade or business in Kuwait either directly or through an agent provided such agent is a body corporate , and also any body corporate carrying on trade or business in Kuwait as an agent for others .(1)

The new article shall be valid at any period subject to Tax as determined in article 2 (b) ends after 31 December 1957. (2)

- (f) The term (Agent) mentioned in (e) means the authorized person by his principal to practice the business or trade or any of the activities provided in article (1) of this law or to contract with a complied agreement with third party on behalf of his principal. and for his account and within the authorized power given to him that the profits of the Kuwaiti merchant , of his sale to some goods he bought and transfer to his own account , shall not be subject to this tax. (3)
- (g) The term (income) means gains and profits of a body corporate derived from carrying on trade or business in Kuwait.

(1) Amended by Decree No. (2) Of 1957.

(2) Added by Decree No. (2) Of 1957.

(3) Added by virtue of the third article of Law No. (2) Of 2008 on amending some provisions of the Kuwaiti Income Tax Decree No. (3) Of 1955

***Article (3)**

The taxable income will be determined after deducting all expenses and costs already spent to realize this income, particularly:

- ١) Salaries, wages, end-of-service indemnity and similar allowances.
- ٢) Taxes and fees other than income tax payable in accordance with this law.
- ٣) Asset depreciation in accordance with percentages already fixed under the executive regulation.
- ٤) Donations, gifts and grants payable to public or private licensed Kuwaiti authorities within the limits already fixed under the executive regulation.
- 5) Head office overhead in accordance with the percentages already fixed under the executive regulations.

****Article (4)**

..... (cancelled)

* Has been substitute by virtue of article 1 of Law No. (2) Of 2008 on amending some provisions of the Kuwaiti Income Tax Decree No. (3) Of 1955 to replace article 3 of the Kuwait Income Tax Decree No. (3) Of 1955

** Cancelled by virtue of third article of the Law No. (2) Of 2008 on amending some provisions of the Kuwaiti Income Tax Decree No. (3) Of 1955

Article (5)

The taxable period in respect of which the income tax is imposed by this present Decree shall mean the accounting period used by the taxpayer for keeping his records provided that:

- (a) The taxpayer shall in the ordinary way keep its records on the basis of the Calendar Year unless the director, upon the request of the taxpayer, authorizes the taxpayer in writing to keep his records on an alternative basis other than the Calendar Year.
- (b) The period authorized under such alternative basis shall not exceed a period equal to one calendar year added to that half of the following calendar year.
- (c) Any such authorization by the director shall not be withdrawn, revoked or varied unless requested by the taxpayer.
- (d) Regarding the taxpayer who was not submissive to the provisions of Kuwait Income Tax Decree of 1951, any taxable period may not commence on the first of January 1955. Therefore, the income of such taxpayer earned during the accounting period commencing before January, 1st 1955 but ending after such date shall be divided on timely basis.
- (e) Any authorization by the director under the above (a) may be given subject to any conditions deemed appropriate by the director. However, if the above (d) provisions are in operation, the director may, when giving the authorization, set forth any conditions he deems appropriate while taking into consideration the length of the taxable period and the amount of income during such period.

*The first Paragraph in Article 3 of Law No.(2/2008) stipulates to replace the term "Christian Calendar Year" by "Calendar Year" wherever mentioned in Kuwait Income Tax Decree No.(3/1955)

Article (6)

Income shall be computed as provided by this decree and in accordance with the method of the commercial accounting regularly employed by the taxpayer in keeping its records. If the method so employed does not fairly reflect the taxpayer's income, the computation shall be made in accordance with such method as does fairly reflect its income. The accrual method of commercial accounting (that is, the method under which item of incomings and items of deduction are taken into account in the taxable period in which they accrue, that is to say, in which the right thereto or the liability therefore arises and the amount thereof becomes reasonably determinable) shall be considered as fairly reflecting the income. The taxpayer shall be entitled to use the method regularly followed in its records for converting one currency to another, if such method is generally recognized in commercial accounting.

The terms "accrue to or are received by", "accrue against or are paid by", "accrue to or are paid", "incurred or paid" and "derived", when used in this decree, shall be applied and constructed in accordance with the method of commercial accounting upon the basis of which income is computed. Accordingly, if income is computed on the accrual method of commercial accounting, all items of incomings shall be taken into account for the taxable period in which they accrue to the taxpayer, and all items of deduction shall be deducted for the taxable period in which they accrue to the taxpayer. While if income is computed on the cash receipts and disbursements method of commercial accounting, all items of incoming shall be taken into account for the taxable period in which they are received and all items of deduction shall be deducted for the taxable period in which they are paid by the taxpayer.

Article (7)

Should the account of any year is concluded with loss; such loss will be deducted from the profits of the next year. Should the profit is not sufficed to provide for such loss in full; the balance will be carried forward to the next year. However should any loss remains after this year, it will be carried forward to the third year. Anyhow the remaining loss may not be carried forward after the third year. Further the loss may not be carried forward in case of suspending business represented by advising the ministry thereof by the incorporated entity or they submit tax returns void of any revenues resulting from the main business of the entity.

However, compulsory suspension periods from practicing business will not be calculated among the periods already provided for under the previous paragraph.

Article (8)

Every taxpayer shall file with the director at his office in the City of Kuwait an income tax declaration on or before the fifteenth day of the fourth month following the end of the taxable period for which the declaration is made, provided that a taxpayer whose income for any taxable period, does not exceed KD 5,250 shall not be required to file an income tax declaration unless directed by the Director to do so. Every taxpayer required to file an income tax declaration as aforesaid shall pay to the director for the account of the Ruler the amount of income tax shown thereon in four equal installments. Such income tax shall be paid in sterling pounds (United Kingdom) or in Kuwaiti Dinars. The installments shall be due, respectively, on the fifteenth day of the fourth, sixth, ninth and twelfth months following the end of the taxable period.

* It has been replaced under the provision of Article (1) of Law No.(2/2008 regarding the amendment of some of the provisions of the Income Tax Decree No. (3/1955).

The director may grant reasonable extensions of time for filing the declarations and paying the income tax imposed by this Decree, when the taxpayer shows that such extensions are necessary.

In case of failure to file the declaration or to pay the amount of income tax due in accordance with the provisions of this Article (except where such failure is due to reasonable cause) there shall be added to the amounts due, a fine amounting to one percent (1%) for each thirty days or fraction thereof during which such failure continues.

Article (9)

The taxpayer shall register in his accounting records all items of incomings and of deductions and all other items affecting the amount of his income tax for the taxable period. The taxpayer shall file his declaration on the basis of records which are correct and which fairly reflect his income.

If a public or chartered accountant who is a member of an internationally recognized firm of accountants approved for the taxable period by the director certifies that the records for the taxable period are correct and fairly reflect the taxpayers income computed as provided by this decree , and that the declaration is in conformity with such records , the declaration shall , in the absence of proof to the contrary established by the director , be accepted as correct , and the income tax shown by such declaration shall be taken to be finally determined.

The director shall issue annually a list of two or more internationally recognized firms of accountants which are approved by him in respect of taxable period ending in such year. In default of the certification for which provision is made in this article, the director may accept the taxpayer's declaration as correct, or, when required by the established facts, may decide that it is necessary to adjust the amount of income tax stated in the declaration. In no event shall the amount stated in the declaration be increased except as a result of adjudication by the courts or of arbitration in accordance with article 13, unless the taxpayer so agrees.

Article (10)

The director shall administer and enforce this decree. He shall collect the income taxes due and pay them promptly to the ruler. When requested, the director shall deliver to the taxpayer a receipt certifying the amount of income taxes paid by the taxpayer and the period or periods for which such taxes were paid.

The taxpayer's records and books shall , upon the request of the director be made available for inspection by the director and his personnel when necessary for the purpose of carrying out the provisions of this decree .

Article (11)

Declarations shall be confidential and shall not be exposed for examination or inspection by any person other than the ruler, and the director and his personnel. It shall be unlawful without the consent of the taxpayer to divulge or make known in any manner whatever to any person other than themselves the amount of particulars of items of any incomings or deduction, or other items set forth or disclosed in any declaration or in the taxpayer's records and books, or to permit any declaration or copy thereof or any record or book containing any abstract or any particulars thereof to be seen or examined by any person other than themselves. Any offence against the forgoing provisions shall be punishable by fine not exceeding K.D 113.

Article (12)

Any person who knowingly (a) falsifies the taxpayer's records or (b) makes any false statement affecting any declaration certificate required for the purposes of this decree shall be guilty of an offence against this decree and on conviction shall be liable to imprisonment for a period not exceeding two years or to a fine or to both such imprisonment and fine.

If the records of any taxpayer have been so falsified or if any false statement has been so made affecting the declaration or certificate of such taxpayer, then the taxpayer shall be guilty of an offence against this decree and on conviction shall be liable to a fine.

Article (13)

Any dispute between the director and the taxpayer arising in respect of the administration of this decree, or of the amount of income tax due thereunder , may be referred by either party to the courts for adjudication . Unless both parties agree to submit the dispute to arbitration.

***Article (13 bis)**

The right of the government in claiming taxes due shall not be waived by means of this law unless after the elapse of five years as of the date of submission by the body corporate of the tax declaration, or from the date the director comes to know of the activities that the body corporate has not disclosed in its tax declaration, or as of the date of his knowledge of the information that has not been disclosed and which are related to its tax liability.

*Added by virtue of the second article of Law No. (2) Of 2008 on amending some provisions of the Kuwaiti Income Tax Decree No. (3) Of 1955.

Also limitation shall cease once a tax assessment is notified to the body corporate by registered mail, or by requesting the body corporate to settle the taxes, or by a resolution of the tax appeal committee.

***Article (13 bis A)**

The minister of finance will issue the executive regulations within six months from the date of publishing this law in the official gazette.

Article (14)

This provisions of the Kuwait Income Tax Decree, 1951, a foresaid shall not apply with respect to any taxable period ending after 31 December 1954, to the intent that this decree shall be in substitution for the Kuwait income tax decree, 1951 aforesaid.

Amir of Kuwait Signature

*Added by virtue of the second article of Law No. (2) of 2008 on amending some provisions of the Kuwaiti Income Tax Decree No. (3) Of 1955.