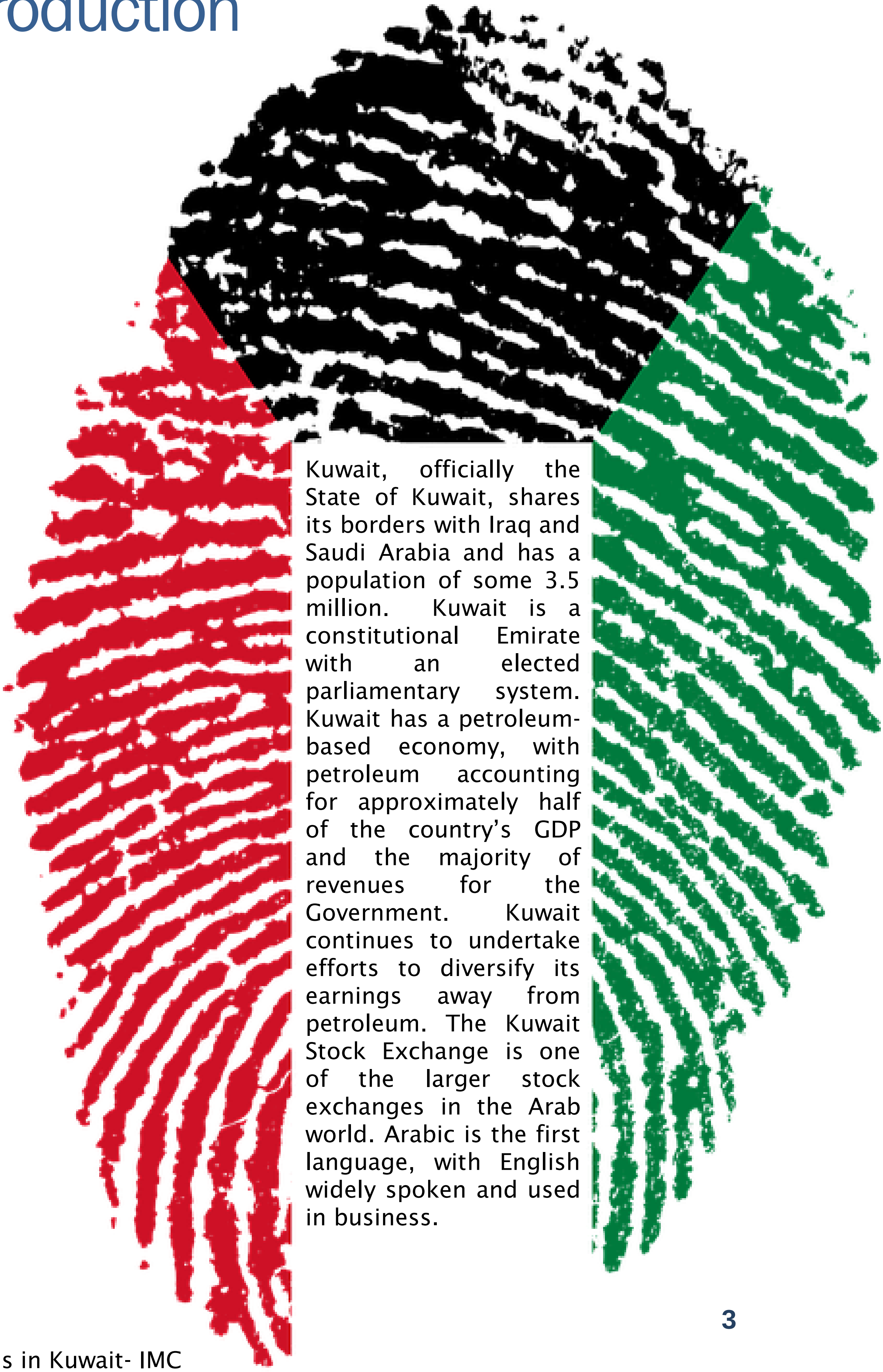
Doing Business in Kuwait

Contents

Introduction



Kuwait, officially the State of Kuwait, shares its borders with Iraq and Saudi Arabia and has a population of some 3.5 million. Kuwait is a constitutional Emirate with an elected parliamentary system. Kuwait has a petroleum-based economy, with petroleum accounting for approximately half of the country's GDP and the majority of revenues for the Government. Kuwait continues to undertake efforts to diversify its earnings away from petroleum. The Kuwait Stock Exchange is one of the larger stock exchanges in the Arab world. Arabic is the first language, with English widely spoken and used in business.

Legal and Regulatory Framework

Kuwait's legal framework governing business activities provides a range of opportunities to do business in Kuwait. Several legislation. In essence Kuwait follows the 'civil law system' modelled after the French legal system and is largely secular. However the legal system also incorporates features of British common law, Egyptian civil law, and Islamic law.

The sources of law for civil matters include the Constitution together with specific legislation. Legislative power is shared between an elected National Assembly and the Head of State, the Amir. The Head of the Government, the Prime Minister, is appointed by the Amir.

The court system is secular, following the civil law model, and unlike other Gulf States, Kuwait does not have Shari'a courts. Whilst the Kuwaiti government in general favours a free-market economy with little official intervention, there are certain ownership and other restrictions applying to foreign investors. Typically the ownership interest in a Kuwaiti company needs to be at least 51% owned by Kuwaits.

It is also worth noting that, historically at least, a number of investors have experienced unexpected delays in obtaining appropriate approvals. To help with attracting increased foreign investment a new authority, the Kuwait Direct Investment Promotion Authority (KDIPA) has been established through the Foreign Direct Investment Law of June 2013 (the Investment Law) and Executive Regulations of late 2014.

The KDIPA is intended to function as a "one-stop shop" for the review of applications and approval of licenses and incentives. The Investment Law provides particular incentives where the proposed projects will help broaden and diversify the industrial and commercial base of the economy. These incentives include the potential for tax holidays and customs exemptions and 100% foreign ownership.

Establishment of Business

Introduction

Economies around the world have taken steps making it easier to start a business streamlining procedures by setting up a one-stop shop, making procedures simpler or faster by introducing technology and reducing or eliminating minimum capital requirements. Many have undertaken business registration reforms in stages—and they often are part of a larger regulatory reform program. Among the benefits have been greater firm satisfaction and savings and more registered businesses, financial resources and job opportunities.

Year	Reform
2016	Kuwait made starting a business easier by reducing the minimum capital requirement.
2015	Kuwait made starting a business more difficult by increasing the commercial license fee.
2014	Kuwait made starting a business more difficult by increasing the minimum capital requirement.

Kuwait's legal framework governing business activities provides a range of opportunities to do business in Kuwait. Several legislations regulate the Kuwait's business environment, prominently the Companies Law No. 1 of 2016, Law No. 116 of 2013 regarding the promotion of Direct Investments in the State of Kuwait and Law no. 36 of 1964 regulating commercial agencies.

Establishment of Business

The following business structures are available to non-Kuwaitis to undertake business / commercial activities in Kuwaitis.

- Companies
- Limited Liability Companies
- Shareholding Company
- Branch Company
- Partnership company
- Joint Venture
- Companies

Companies

Companies in Kuwait are established under the Commercial Companies Law (the CCL). The CCL provides for the following forms of companies. The liability of the shareholder is limited to the extent of the capital invested by the shareholder in such companies.

Limited Liability Companies (WLL)

Limited liability companies, usually referred to as 'With Limited Liability (WLL)', are the most commonly used corporate form of entity in Kuwait and are considered equivalent to French SARLs, German GmbHs or private companies in the United Kingdom.

Key features:

- WLL companies are not permitted to engage in banking, insurance or to act as a pure investment fund.
- Maximum percentage of shareholding by a non- Kuwaiti in a WLL should be 49% (except if such WLL has obtained an approval from the KDIPA).
- Ownership interests are represented by shares of the WLL companies.
- Minimum Capital requirement is 1,000 KWS

Shareholding Company

A shareholding (Joint stock) company (KSC) must be of Kuwaiti nationality (i.e. must be incorporated in Kuwait and should have its registered office in Kuwait). The key features of a KSC are:

- An Amir Decree is required to incorporate a KSC in Kuwait.
- An approval from the Ministry of Commerce and Industry must be obtained before initiating registration procedures for the KSC wherein the foreign shareholders are proposed to own the shares of such KSC.
- Shares of KSC are freely Transferrable, provided the foreign ownership is restricted to 49% of the share capital of KSC.
- As the shares of KSC will be listed on the Kuwait stock exchange, the Kuwait stock exchange must be notified in cases where the shareholding on any single shareholder reaches 5% of the total issued capital and when the shareholding subsequently changes.
- The capital Markets Authority (CMA) has been established in Kuwait to regulate the Kuwait stock exchange with respect to listing/delisting of KSCs in Kuwait.
- A variant of the KSC are closed shareholding Companies (KSC(c)s), where the shares are not issued to the public.

Partnerships (applicable to non – corporate investors)

The CCL provides two types of partnerships in Kuwait:

- **General Partnership**: An association of two or more persons who are jointly liable for partnership debts to the extent of their personal wealth (unlimited Liability)

Establishment of Business

· Limited Partnership: This type of partnership has two types of partner I.e. General partners with Unlimited Liability and Limited partners with limited liability. Such partnerships take the form of a separate legal entity and many transact business in its own name.

Joint Ventures

A joint venture is an entity formed by two or more natural or legal persons who are jointly and severally liable. The key aspects of the joint ventures are as follows:

· It does not have legal existence.
· It does not need to be recorded in the commercial register of the Ministry of Commerce and Industry. However, the partners of the joint venture must be separately registered in their own names.
· The contract defines the objects and terms of the joint Venture. This form of business structure is usually used to carry out construction projects (i.e. construction of power plants, roads, etc.).
· In the event the joint venture involves a foreign partner, then the entity conducts operations through the trade license of the Kuwaiti member of the joint venture.

Branch

Foreign corporate bodies are not permitted to set up a branch in Kuwait (except in cases where the foreign corporate body has obtained an approval from KDIPA).

If the foreign corporate bodies do not wish to operate in Kuwait through a participation in a shareholding company or a limited liability company, it may engage in business in Kuwait only through a Kuwaiti commercial agent or a Kuwaiti service agent (as explained below).

Under the CCL a branch is not a recognized legal form for foreign investors. It should be noted however that for the purpose of tax filing and certain other practical purposes, it is convenient to refer to Kuwait operations of foreign corporate bodies as "branch" operations. A branch is recognized under the Investment Law which we cover below.

Conducting business through an agent / distributor

Agencies are governed by Law No. 36 of 1964, which regulates the following:

· Commercial agents which are engaged in promoting products for their principal or negotiate and conclude deals on behalf of their principal.
· Distributors which are engaged in promotion, import and distribution of the products of their principal.
· Service agents or sponsors who are appointed by foreign companies intending to engage in government contract works.

The key aspects of conducting business through an agent/sponsor are as follows:

· Agency or Sponsorship agreements must be registered with Ministry of Commerce and Industry, which then issues a registration certificate.
· The responsibilities of the principal and Kuwaiti agents, listed in the agency agreement, may vary greatly from case to case. Accordingly, advice should be sought to determine the detailed obligations of an agent, extent of an agent's legal liability, etc.
· Remuneration of the agent should be mutually agreed between the principal and the agent. Usually, it is determined and paid either as a fixed fee or as a commission.

Establishment of Business

New Foreign Direct Investment Law (Law No. 116 of 2013)

The new Investment Law has been enacted in Kuwait and accompanied by Executive Regulations in late 2014. Further Executive Regulations are expected to be issued over time. As previously mentioned a new authority has been established, the KDIPA, to administer and operationalize the Investment Law.

Through the approval of the KDIPA, a foreign investor may establish either of the following business types:

- A wholly owned subsidiary in Kuwait.
- A Licensed Branch.
- A Licensed Representative Office.

The key features of the Investment Law include:

- The possibility for foreign investors to establish wholly (100%) owned subsidiary in Kuwait (compared to a maximum 49% interest permitted under the CCL) or Branch or Representative office.
- The potential to obtain a tax exemption for up to 10 years, subject to meeting prescribed requirements (which includes the contribution by the foreign corporate towards the national technology, employment, etc.).
- The potential to obtain an exemption from Custom Duties, subject to meeting prescribed requirements (which includes the contribution by the foreign corporate towards the national technology, employment, etc.).

However to take advantage of the incentives under the Investment Law there is a range of requirements that need to be met covering:

- The industry or type of the business activity.
- Showing the business activity will benefit the Kuwaiti that economy through increased employment, technology transfer or engaging local suppliers.

The KDIPA has issued a ‘negative’ list of industries, including petroleum extraction and defence, which will not be able to take advantage of the incentives.

Capital Markets Authority

The Capital Markets Authority (CMA) was established through Law No. 7 of 2010, and its role is the establishment and monitoring of the capital markets in Kuwait.

The CMA recently issued Law No. 22 of 2015 amending certain provisions of Law No. 7 of 2010 aimed at supporting the development of capital markets including diversification of investment instruments. Notably, the 2015 law (in addition to capital gains on trading of securities being exempt) provided that dividends generated on shares traded on the Kuwait Stock Exchange will be exempt from Kuwait income tax (Article No. 150 of the Law No. 22 of 2015). At the time of writing the exact application of this law is still being clarified.

CELEBRATING 10 YEARS OF SERVICE

Establishment of Business

S No	Procedure	Time to complete	Cost to complete
1	**Register at the Department of Companies of the Ministry of Commerce and Industry (MOCI)** To register, the entrepreneur must submit a completed standard application form to the Department of Companies of the Ministry of Commerce and Industry (MOCI), accompanied by the following documents: 1. Copy of the entrepreneur's identity card (ID) 2. Certificate issued by the Social Security Authority attesting that the Kuwaiti partners are not civil servants 3. Lease contract, a receipt of rent payment, and a certificate from the Public Authority for Civil Information (PACI) confirming that the premises are registered with PACI The completed application must include the names of the founding partners and their respective shares; the capital, scope and objective of the company; and the name of the manager. Once the application is approved, it is stamped and signed by the Department of Companies, and allocated a reference number. The MOCI electronically sends an inspection request to the Municipality to proceed with the inspection of the company premises at the relevant point of incorporation process. The MOCI also sends a request to the Ministry of Interior to run background checks verifying that the founding partners do not have a criminal record.	1 Day	No Charge
2	**Reserve a unique company name** The entrepreneur submits a company name reservation application to the Commercial Registry. The Commercial Registry searches the computer database to ensure that the proposed company name(s) does not already exist or resemble other reserved names. The Commercial Registry has certain guidelines to follow with respect to the company name selection, such as: the chosen name must not be in breach of "public morals." Once approved, the Commercial Registry issues a letter confirming the proposed name and reserves it for 3 months.	1 Day	No Charge

Establishment of Business

S No	Procedure	Time to complete	Cost to complete
3	**Retrieve the letter addressed to the bank from the Department of Companies** The entrepreneur must return to the Department of Companies to retrieve the necessary letter addressed to the commercial bank of choice where the paid-in capital of the company will be deposited. The Department of Companies may further issue additional letters addressed to different government authorities depending on the scope and activity of the company in order to obtain their approval of the company formation. For example, for restaurants and food establishments, a letter addressed to the Ministry of Health is issued; for the oil industry, a letter addressed to the Ministry of Oil and Energy is issued, and so forth.	1 Day	No Charge
4	**Deposit the capital at the bank and obtain proof thereof** In deference to the Department of Companies' letter, the bank open an account in the name of the company with the term "under formation" annexed to the account. The deposited capital remains frozen until the bank receives the notarized deed of incorporation and the commercial license of the company, following which the term "under formation" is removed and the account is activated. The bank issues a deposit certificate in the name of the company addressed to the Ministry of Commerce and Industry, detailing the amount deposited by each partner against his/her share in the company.	1 Day	No Charge
5	**Receive inspection of the company premises by the Municipality** Once the municipality receives the request for inspection of the company premises from the Ministry of Commerce and Industry, it contacts the entrepreneur to schedule an inspection date in order to verify that the premises comply with municipal health and safety regulations. This includes an inspection by the Fire Department to check for compliance with fire regulations. If the company premises successfully pass inspection, the municipality issues a certificate of no objection in the name of the company, allowing the use of the indicated premises as the company location. This process usually takes 5 to 14 days.	5 Days on Average	No Charge

Establishment of Business

S No	Procedure	Time to complete	Cost to complete
6	**Obtain the approval of the memorandum of association from the Department of Companies** The entrepreneur proceeds to the Department of Companies to submit the draft memorandum of association. If the entrepreneur does not use the standard form of the memorandum of association, the amendments or additions to the standard memorandum must be accepted by the MOCI before it approves the company incorporation. Once the final draft is signed, the Department of Companies issues a letter addressed to the Ministry of Justice (MOJ) requesting the authentication of the company incorporation, accompanied by the draft memorandum of association.	1 Day	No Charge
7	**Notarize the memorandum of association before a public notary** The entrepreneur submits the draft memorandum of association along with Department of Companies' letter and the bank capital deposit certificate to the Notary Public Department at the Ministry of Justice. The officer verifies that the required documents are complete and schedules an appointment for signing before the notary public at the Company Formation Department of the Ministry of Justice, during which the memorandum of association is signed by the founding partners and notarized on the set date in 3 originals: one for the company, one for the Ministry of Justice, and one to be field with the Ministry of Commerce and Industry.	1 Day	KWD 2 for the first page of the Memorandum and KWD 1 for every subsequent page
8	**Register with the Commercial Registry** The entrepreneur files a signed and notarized copy of the memorandum of association at the Department of Companies of the Ministry of Commerce and Industry. A copy thereof is then submitted to the Commercial Registry and a certificate of registration is obtained. The certificate of registration includes the company's full name and commercial registration number.	1 Day	KWD 7

Establishment of Business

S No	Procedure	Time to complete	Cost to complete
9	**Obtain the commercial license from the Department of Companies** Once the commercial registration certificate is issued, the entrepreneur obtains the commercial license from the Department of Companies. .	1-2 Day	KWD 150
10	**Register with the Kuwait Chamber of Commerce and Industry** The company must apply for membership at the Chamber of Commerce and Industry by submitting copies of its commercial license and memorandum of association, and filling out a specimen signature form signed by the company's authorized signatories. The membership is a pre-requisite to dealing with other government authorities, banks and participation in public tenders.	1 Day	KWD 82 for registration and KWD 55 for annual renewal
11	**Register with Public Authority for Civil Information (PACI)** The company must register with the Public Authority for Civil Information (PACI) in order to obtain a civil number, which is required in dealing with other governmental bodies.	15 Day	KWD 1
12	**Register at the Ministry of Labor and Social Affairs** The Ministry of Labor may inspect the premises to determine whether the size of the company premises and its business scope are commensurate with the number of employees declared at the Ministry.	15 days (simultaneous with procedure 11)	KWD 25

* Takes place simultaneously with another procedure.

Free Trade Zones

In order to encourage exporting or re-exporting, the Kuwait government had previously established a Kuwait Free Trade Zone (FTZ).

At the time of writing, the government has however stopped issuing new licenses for the establishment of an entity in the FTZ, will not be renewing existing licenses and has suspended entitlement to any benefits in view potential changes to the FTZ rules. Under the FTZ regime the key benefits had included:

- Foreign ownership up to 100%.
- Exemption from corporate and personal income tax.
- All imports into and exports from the Kuwait Free Trade Zone are exempt from tax.

Kuwait's only free zone is at Shuwaikh port, the country's main commercial shipping facility. The port has 21 berths with depths of 6.7-10 metres. From its establishment in 1999 until 2007, the zone was operated by the private sector National Real Estate Company. In 2007, Kuwait Ports Authority took over operations of the free zone.

Facilities

- Warehouses and office units are available to rent, along with land for development.

Benefits

- Exemption from corporate and personal income tax
- No foreign exchange restrictions
- 100 per cent ownership allowed

Industries

- ✓ Import-export
- ✓ Services
- ✓ Packing, repacking and assembly

Legal Compliance Audit

Kuwaiti was the first Gulf Arab Country to enact a Company Law. The Kuwaiti Commercial Companies Law, Law no. 15 (1960) as amended, like many other Middle Eastern company laws, was derived from civil law (French and Egyptian) sources. As a result, civil lawyers will be familiar with most features of the Kuwaiti companies Law.

General Consideration

S. No	Particulars	Remarks
1	Filling of Statutory Financial Statements	Limited Liability Companies (WLL), Kuwaiti Shareholding Companies Closed (KSCC) (*Unlisted*) and Kuwait Public Shareholding Companies (KPSC) (*Liste*d) registered in Kuwait are required to prepare annual financial statements and file these with the Ministry of Commerce and Industry, Kuwait (“MOCI”) and the concerned authority, i.e., Kuwait Stock Exchange (for listed companies) and Central Bank of Kuwait (for KPSCs and KSCC banks). Further, all banks and investment companies (irrespective of whether they are listed or not), fall under additional compliance regulations of the Capital Markets Authority (CMA), Kuwait. **Timeline:** Audited financial statements are required to be filed within 3 months from the end of the financial year with MOCI and all concerned authorities. Additionally, for all the companies covered by the CMA Law (KPSCs and KSCC investment companies and banks), the financial statements are also required to be submitted to the CMA within 5 working days of the approval of financial statements. The regulations in Kuwait require all companies to prepare and file a complete set of financial statements including the statement of financial position, statement of comprehensive income, statement of changes in equity, statement of cash flows, and other explanatory information. Listed companies are required to file their interim unaudited financial statements with the Kuwait Stock Exchange within 45 days after each quarter end.

Legal Compliance Audit

S. No	Particulars	Remarks
2	Financial Reporting Framework	All companies in Kuwait are required to prepare their financial statements in accordance with International Financial Reporting Standards (IFRS
3	Audit Requirements	In Kuwait, the following forms of companies are required to have their financial statements audited: ● Limited Liability companies; ● Kuwaiti Shareholding Companies Closed ● Kuwait Public Shareholding Companies ● Any other business in respect of which an audit is required by any other law, for example, Ministerial Decision no. 46601/67 for Private Education System (schools), Commercial Law no. 68 of 1980 for establishments. Audit is not mandatory in Kuwait for proprietorship entities. Normally such entities get their financial statements audited when they are required to do so by any regulatory body or financial institution or to meet any other special requirement (for instance, an audit is mandatory for those individuals who hold 5 or more establishments). **Appointment of Auditor:** In Kuwait, auditor's appointment is done in the name of the individual partner of the firm. Auditors are appointed for a fixed period of one year and can continue as the auditor of the company after the first year, subject to approval of the shareholders/partners in the general assembly meeting. This rule is applicable for all the companies registered in Kuwait. Article 6 of CMA Decision no. 24 of 2012 requires auditor rotation for KPSCs to be done once every 4 years. Joint audits are required only in respect of KPSCs. **Auditing Standard:** Auditors in Kuwait are required to undertake their audit and express an opinion on the financial statements in accordance with International Standards on Auditing issued by IFAC and applicable laws of the country.

Legal Compliance Audit

S. No	Particulars	Remarks
4	Composition of Board	Each Shareholder with a 15% shareholding is entitles to nominate a director to the Board of Directors. Each Director is required to own shares (qualifying shares) in the company of which he is a director. Companies Code provides that shareholders (owning 15% in aggregate of a company's share capital) may object in the Kuwaiti courts to any resolution of the shareholders, within 30 days of such resolution being passed (provided that they have not previously voted in favour of such resolution).
5	Insider Trading	There is prohibition on directors of companies trading in the shares of the companies of which they are directors.
6	Disclosure of Transaction	International Accounting standards require to disclose some specific categories of related party transactions in a Company’s Accounts.

Taxation

In light of the declining trend in the oil prices, the State of Kuwait has been considering various fiscal reforms to bridge the budgetary gap between revenues and expenditure. The potential reforms being considered by the State of Kuwait include introducing a business profits tax and a value added tax. There has been recent media coverage in Kuwait citing possible draft legislation and other coverage concerning the potential introduction of a business profit tax at 10% of profit on local companies and individuals carrying on business, in addition to foreign companies having a permanent establishment
In, or earning certain income from, Kuwait.

Types of tax:

Corporate Taxation:

Residence: The taxable presence of a foreign entity is determined by whether it carries on a trade or business in Kuwait, and not by whether it has a permanent or place of business in Kuwait.

Basis: In practice, the income tax law is applied only to foreign entities carrying on a trade or business in Kuwait, with the exception of entities that are registered in Gulf Cooperation Council (GCC) countries and fully owned by Kuwaiti/GCC citizens Although the term “taxable activities” is defined in the law, the term “carrying on a trade or business in Kuwait” is interpreted in the broadest sense by the tax authorities, generally to mean activities that give rise to all Kuwait sources of income.

Taxable Income: Income tax is levied on net profits (i.e. revenue less allowable expenses) earned from the carrying on of a trade or business in Kuwait. Royalties and franchises, license, patent, trademark and copyrights fees received by overseas foreign entities from Kuwait are subject to income tax in Kuwait.

A tax exemption is possible for profits earned by entities from trading operations on the Kuwait stock exchange, whether directly or through portfolios of investments funds for profits generated from activity carried out in the KFTZ and for profits from activity under the foreign direct investment law.

The following tax rates shall be imposed:

· For companies, it will be a flat rate of 10% of the net taxable profit.
· For entities (individuals (other than companies) who are carrying out business or works), it will be as follows:
For the net taxable income ranging from NIL to KD 50,000 - 0%
For the net taxable income greater than KD 50,000 - 10%

Capital Gains

Capital gains derived from the sale of assets are treated as normal business profits and are subjects to income tax at the standard rate of 15%.

Losses

Losses may be carried forward for three years to be offset against future taxable profits. The utilization carried forward losses in not permitted if:
· The entity ceases its activities in Kuwait (unless the cessation is mandatory)
· The tax return indicates that there is no revenue arising from the company’s main activities
· The corporate entity is liquidated
· The legal status of the corporate body is changed
· The corporate body has merged with another corporate body.
The carry back of losses is not permitted.

Taxation

Rate: 15 %
Surtax: No
Alternative Minimum tax: No
Foreign tax credit: A foreign tax credit is available only if provided for by arelevant double tax treaty.
Participation exemption: No
Holding Company regime: No

Withholding tax

Dividends: The general rule is that there is no withholding tax on dividends paid to a non resident. However, a 15% withholding tax is levied on dividends distributed by fund managers, investment custodian and corporate bodies.
Interest: No
Royalties: No
Technical service fees: No
Branch remittance tax: No

Other taxes On Corporations:

Capital duty: No
Payroll tax: No
Real property tax: No
Social security: Both the employer and Kuwaiti employees make social security contributions based on the employee's salary (up to ceiling of KWD 2,750 per month). The contribution rates are 11.5% and 8% of the employee's salary for the employer and employee, respectively.
Stamp duty: No
Transfer tax: No
Other: All entities operating in Kuwait are required to retain 5 % of the total contract value (which may be deducted from each payment made, where payment is made in installments) from a contractor or subcontractor until the contractor/subcontractor settles its tax liabilities with Kuwait tax authorities and obtains a certificate from the authorities.

Anti Avoidance Rules:

Transfer Pricing: The tax authorities deem profit margins on certain activities, as follows:
Materials imported by foreign entities operating in Kuwait: 15% on materials imported from the head office, 10% on materials imported from related companies and 5% on materials imported from unrelated companies.
Design work carried out outside Kuwait: 25% on design work conducted by the the head office, 20% on design work conducted by related companies and 20% on design work conducted by unrelated companies.
Consulting work carried out outside Kuwait: 30% on consulting work conducted by the head office, 25% on consulting work conducted by related companies and 20% on consulting work conducted by unrelated companies.
Thin Capitalization: No
Controlled foreign companies: No
Disclosure requirements: No
Other: The maximum deduction for head expenses is 1.5% for foreign companies in Kuwait through a local agent and 1 % for foreign companies that are shareholders in a KSC or WLL.

Compliance for Corporations:

Tax Year: The taxable period is normally the calendar year. However, with the permission of the Director of the Income Tax Department, a taxable entity may keep its books on a different basis (e.g. if the overseas parent follows a financial year end other than 31 December)
Consolidated Returns: Consolidated returns are not permitted; each company must file separate return.
Filling requirements: The tax declaration for each taxable period must be submitted within three and a half months of the end of the taxable period. A foreign entity may request an extension of up to 60 days for filling the tax declaration, provided the request is submitted on or before the 15th day of the second month following the end of the taxable period, otherwise the request will not be considered.

Taxation

Personal Taxation:

Basis: There is no personal income tax (employment tax) in Kuwait.
Residence: NA
Filling Status: NA
Taxable Income: NA
Capital Gains: Na
Deductions and allowance: NA
Rates: NA
Other Taxes on Individual:
Capital duty: No
Stamp duty: No
Capital acquisitions tax: No
Real property tax: No
Net wealth/net worth tax: No
Social Security: Kuwaiti employees must contribute 8/% of salary to the public institution for social Securities, the employer also contribute 11.5%.

Value Added Tax:

Taxable transaction: There is speculation that VAT may be introduced in the future, but this has not been confirmed.
Rates: NA
Registration: NA
Filling and Payment: NA
Tax Treaties: Kuwait has more than 60 tax treaties.

Zakat:

In addition to corporate income taxes, Zakat is payable by both KSC and KSC(c) entities at a rate of 1% of the net profit of the company, arrived at after reducing the share of profit representing non-GCC foreign corporate ownership.
Not all costs can be deducted, notably provisions for expenses or reserves (except the statutory provisions / reserves required by banks and insurance companies).
In computing net income for the purpose of Zakat, cash dividends received from subsidiaries or other companies subject to Zakat in Kuwait should be excluded.
Similarly, the Holding / Parent company of a consolidated group will be treated as one entity for the purpose of Zakat and as such the parent company is entitled to claim a credit for the Zakat paid by its subsidiaries, against its own Zakat liability.
All companies subject to Zakat are required to submit their declaration by 15th day of the fourth month from the end of the fiscal period.

Contribution to Kuwait Foundation for Advancement of Sciences (KFAS):

KSC and KSC(c) are required to pay 1% of their profits to the KFAS, which supports scientific progress. The KFAS provides sponsorship and grants for scientific research projects in Kuwait.

Taxation

Kuwait key tax indicators:

Tax Indicator	Resident	Non - Resident
Fiscal year end	Calendar year	Calendar Year
	Companies	
Income Tax	Not applicable. However, Kuwaiti (Closed) Shareholding Companies are subject to 1% Zakat, 1% contribution to the Kuwait Foundation for the Advanced Sciences, and 2.5% National Labour Support Tax (if listed on the Kuwait stock exchange).	Taxed as ordinary income. Capital gains from shares listed on the Kuwaiti Stock Exchange are exempt from taxation.
Tax on capital gains	None	Taxed as ordinary income. Capital gains from shares listed on the Kuwaiti Stock Exchange are exempt from taxation.
General sales tax	Not applicable	Not applicable
Value added tax	Not applicable	Not applicable
	Individuals	
Individual marginal tax rate (max)	Not applicable	Not applicable
Basis of taxation	Not applicable	Not applicable

Taxation

Tax Indicator	Resident	Non - Resident
	Withholding tax	
Dividends	Not applicable	Not applicable, except for a 15% withholding tax on dividends earned by foreign investors from securities listed on the Kuwaiti Stock Exchange.
Interest	Not applicable	Not applicable. Interest received is taxed at 15%.
Royalties	Not applicable	Not applicable Royalties received are taxed at 15%
Management Service fees	Not applicable	Not applicable Management fees are taxed at 15%
Retention	Payments to foreign suppliers / service providers are subject to 5% retention, which tax is released once the foreign recipient produces a a Tax Clearance Certificate from the Kuwait Tax Authorities.	
Customs	Standard rate is 5%. Other rates (0%, 100%) apply depending on the nature of the goods.	
Exchange Controls	Not applicable	
Transfer Pricing	Depending on the activity a deemed profit margin is applied, ranging from 5% (third parties) to 30% (related parties).	
Double Tax Treaties	Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Brunei, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Egypt, Ethiopia, France, Georgia, Germany, Greece, Hong Kong, Hungary, India, Indonesia, Iran, Ireland, Italy, Japan, Jordan, Korea, Laos, Latvia, Lebanon, Malaysia, Malta, Mauritius, Moldova, Morocco, Netherlands, Pakistan, Philippines, Poland, Portugal, Romania, Russian Federation, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Tajikistan, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Syria, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, Ukraine, Uzbekistan, Venezuela, Vietnam, Yemen, Zimbabwe.	
Treaties awaiting conclusion or ratification	Algeria, Bangladesh, Benin, Bosnia and Herzegovina, Guyana, Kenya, Lithuania, Luxembourg, Macedonia, Nigeria, Senegal, Seychelles.	

Import & Export regulations:

As per the terms of GCC Custom Union (entered between GCC member states) the member states have agreed to unify the regional custom tariff on all the taxable foreign imports. The general rate is 5%.

After landing in Kuwait, usually the goods should be cleared through customs within two weeks if documentation is 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.

Auditors & Accounting requirements:

All business enterprises are required to maintain adequate financial records which need not be maintained in Arabic.

Ministerial Order No. 206 of 1985 specifies the following books and records required to be maintained by the foreign companies and partnerships:

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

Companies are required to adopt an accrual basis of accounting for financial accounting purposes and following the International Financial Reporting Standards (‘IFRS’).

The books of account of a foreign corporate body or a local company in which the foreign corporate body is a minority shareholder are typically subject to tax audit by the Department of Income Taxes before tax assessments are finalized.

Law Firms

Kuwaiti law prevents foreign companies from engaging in commerce in Kuwait without having a majority owning local partner. As a result, several Kuwaiti law firms are effectively members of international law firms although local regulations still prevent full integration.

Trade Association & Business Association

Chambers of Commerce

The Kuwait Chamber of Commerce and Industry (KCCI) is a non-government

Institution representing business establishments in Kuwait. The Chamber acts on behalf of, represents and lobbies for the interests of business persons and Industrialists in Kuwait.

Strong relationships are crucial when setting up a new company in Kuwait and Business clubs enable entrepreneurs to develop rapport, networking and socialize To build their businesses.

A valuable source of information on meeting other expatriates are professional Networking websites such as LinkedIn and other blogs and sites, including:

Our Services

- Corporate Advisory services
- Corporate support services
- Global Mobility
- International Tax
- Transaction Advisory Services
- Global Formation compliance & Reporting
- Private client & family advisory

About IMC

IMC is a cross border advisory firm focusing on the AMEA (Asia, Middle East & Africa) markets. We specialize in corporate advisory services, global mobility services, private client & family advisory, international tax, corporate finance, mergers & acquisitions, investment advisory and business support & outsourcing solutions.

At IMC, we pride in our team comprising of highly qualified professionals, possessing in-depth knowledge & practical experience, enabling us to understand specific client requirements and respond accordingly. Our team shares our philosophy of working in an environment of trust and integrity with highest regard for work ethics to provide our clients with world-class services.

DUBAI
M02 NBQ Building,
Khalid Bin Al Waleed Road,
Bur Dubai, P.O. Box 115887,
Dubai, United Arab Emirates.
Tel: +971 4 3709963

CHENNAI
No.7 Sriji Palace,
17, E.V.K Sampath Road,
Vepery, Chennai – 600 007.
Tel: +91 44 25611073

SINGAPORE
19-02, One Raffles Place
Tower 2
Singapore 048616
Phone: +65 68085800

www.intuitconsultancy.com

bc@intuitconsultancy.com