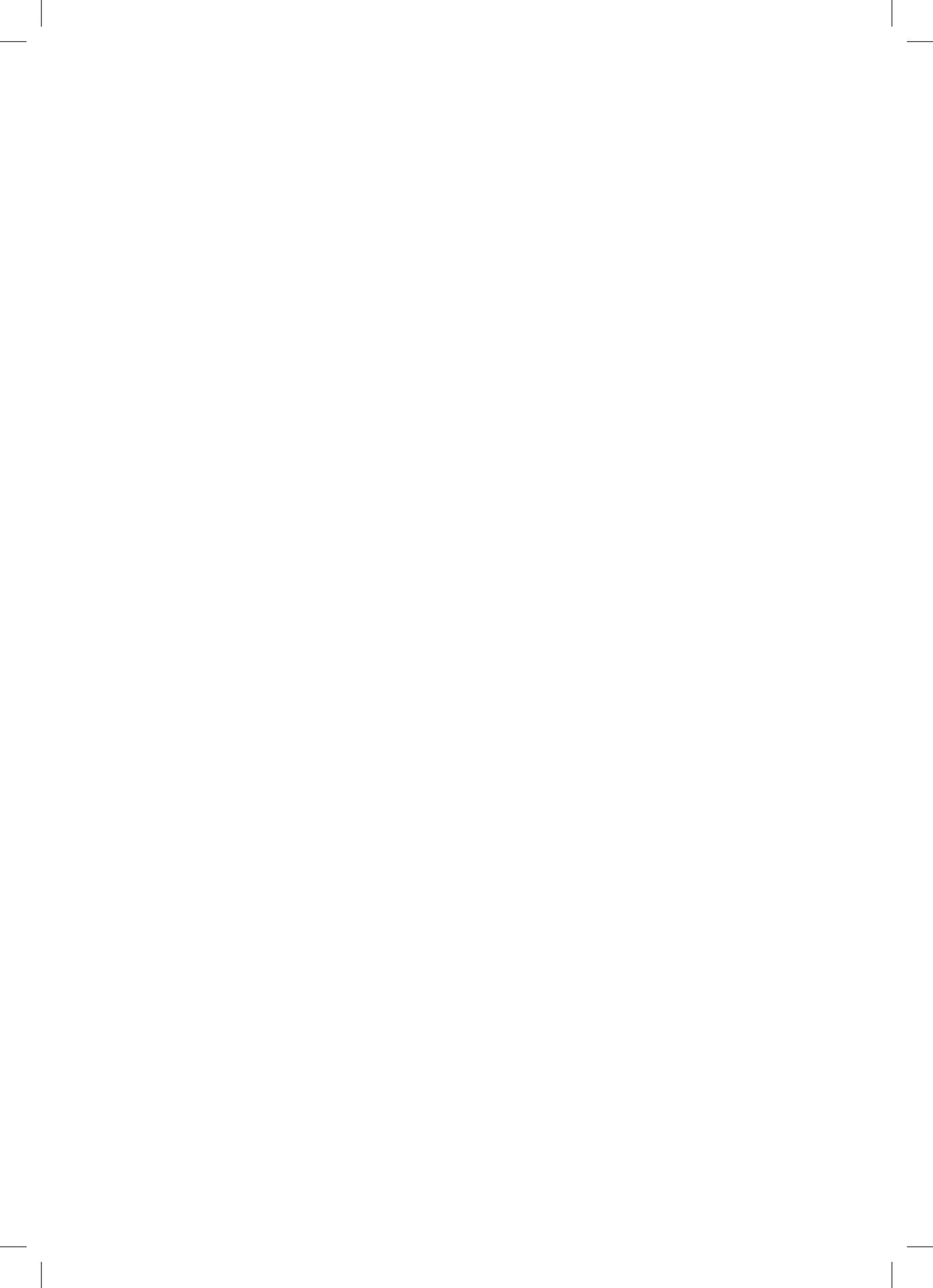


**Law No.2 of 2008 on Amending some Provisions
of Kuwait Income Tax Decree No.3 of 1955
& the Executive Bylaw Issued by the
Ministrerial order No.29 of 2008**



الترجمة إلى اللغة الانجليزية في هذا المنشور هي ترجمة استرشادية .
وعند الخلاف على مفهوم القانون واللائحة تعتمد صياغة اللغة العربية
الصادر بها القانون أو القرار الوزاري .

**The translation of this document to the English language
is considered as a guideline only . In case of divergence of
interpretation of this law and the Executive by law there to ,
the Arabic version by which the law or the ministerial
order was issued shall prevail .**



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 :

- 1. The profits realized from any contract that may be totally or partially completed in the State of Kuwait .**
- 2. The amounts collected from the sale , lease , granting franchise to use or exploit any trademark , patent design or copyrights .**
- 3. Commissions due or resulting from representation agreements or commercial mediation .**
- 4. The profits of the industrial and commercial business .**
- 5. Profits realized from disposing assets .**
- 6. 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 .**
- 7. Profits resulting from the lease of any properties .**
- 8. 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 of the Kuwaiti income tax decree provisions no. 3 of 1955 to replace article 1 of the Kuwait 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 (2) of 2008 on amending some of the Kuwaiti income tax decree provisions 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 of the Kuwaiti income tax decree provisions 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 :

- 1) Salaries , wages , end-of-service indemnity and similar allowances .**
- 2) Taxes and fees other than income tax payable in accordance with this law .**
- 3) Asset depreciation in accordance with percentages already fixed under the executive regulation .**
- 4) 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 of the Kuwaiti income tax decree provisions 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 of the Kuwaiti income tax decree provisions 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 tax Income 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 of the Kuwaiti income tax decree provisions 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)**

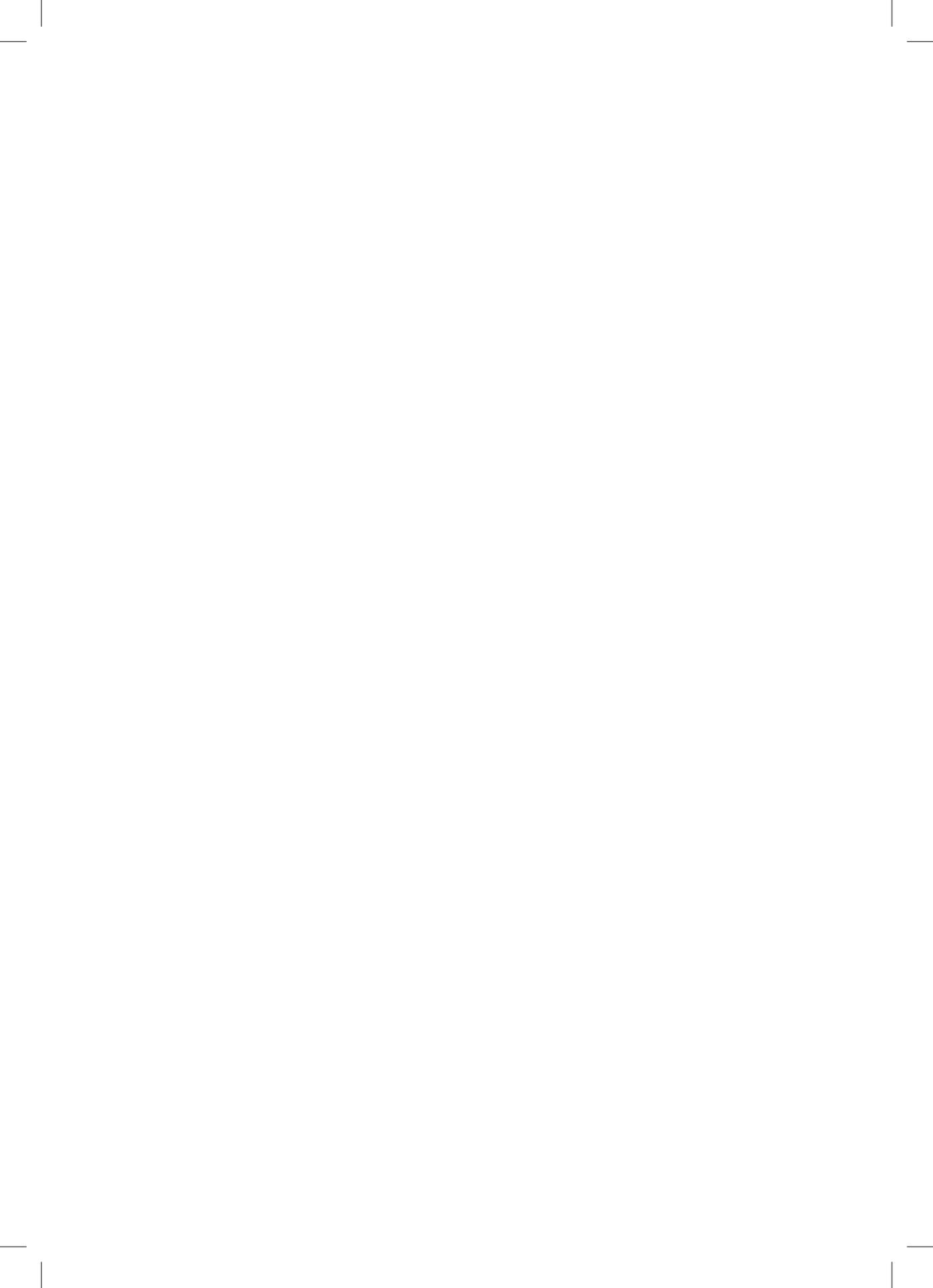
The minister of finance will issue the executive regulation within six months from the date of publishing this law in the official gazette .

Article (14)

This provisions of the Kuwait Income Tax Decree , 1951 , aforesaid 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 of the Kuwaiti income tax decree provisions no. (3) of 1955**



**Executive Bylaw of Law No.2/2008
Amending some provisions of the
Income Tax Decree No.3 of1955**



**Executive Bylaw of Law No.2/2008
Amending some provisions of the
Income Tax Decree No.3 of1955**

Preliminary Chapter : Definitions

Article (1)

In the application of the provisions of this Bylaw , the following define as follows :

1. Decree :

Kuwait Income Tax Decree No. 3 for the year 1955 , for rules and its amendments .

2. Incorporated Body :

Each entity of corporate personality , irrespective of its place of incorporation , carrying out business or trade in the State of Kuwait directly or through an agent or carrying out business or trade in the State of Kuwait as agent of a third party .

3. Agent :

Every and each natural or corporate person authorized by his principal to carry out business , trade or any of the activities stipulated in the law or to enter into a binding agreement with a third party on behalf and for the account of his principal within the limits of his powers . Therefore , the profit of Kuwaiti merchants resulting from the resale of goods bought and transported for his own account shall not be taxable in this regard .

4. Taxpayer :

Any incorporated body subject to income tax imposed under the Decree .

5. Activity :

Any commercial , non-commercial , industrial , real estate , transportation , contracting , speculation , brokerage or venture activity of commercial nature or performance of paid service of whatever type or mining of any natural wealth or water .

6. Taxable Period :

Each calendar year of twelve (12) months ending on 31st of December unless the Tax Administration approves otherwise and provided that it shall not be more than 18 months .

7. Accounting Period :

The period for which the taxpayer prepares his accounts .

8. Gross Income :

The gross income realized by the taxpayer before allowable deductions .

9. Net Income :

The gross income realized by the taxpayer after allowable deductions .

10. Taxable Income :

Means net income .

11. Allowable Deductions :

The allowed expenses and costs incurred by the institution in accordance with the provisions of Decree and this bylaw .

12. Tax Declaration :

A statement where the taxpayer declares the amount of tax payable by him , showing the results of his business during the taxable period .

13. Tax :

The income tax imposed on any incorporated body under the provisions of Decree and this bylaw .

14. Tax Director :

The Minister of Finance or the person authorized by the Minister to perform any of his powers .

15. Tax Administration :

The authority responsible for the application of the Decree and this Bylaw and its employees authorized to carry out the functions of tax administration .

16. Tax appeals committee :

It is considered to be a committee or more than one committee constitutes to consider tax disputes for the submitted appeal by the body incorporated , in accordance to the executive rules and regulations .

17. Executive Rules and Regulations :

Such rules and regulations issued by the Minister of Finance or his assign including the procedures regulating the execution of provisions of the Decree and executive bylaws .

Any term or a phrase that is not defined in the Decree and this Bylaw shall have the specific definition related to the laws applicable in the State of Kuwait to the extent of its not contradictions with the provisions of this Decree .

Chapter One : Income Tax

First: Income Sources

Article (2)

The application of provisions of article (1) from the law No. 2/2008 referred the taxable period of each incorporated body carrying out business in the State of Kuwait and realizing income during the taxable period irrespective of its legal form , capacity of its partners , place of incorporation or nature of business .

The taxable income shall be accomplished in the State of Kuwait if it is achieved from the income or profit resulting from but not limited to the following :

- 1. Any activities or works carried out wholly or partially in the State of Kuwait whether the respective contract is made inside or outside Kuwait as well as the income resulting from supply or sale of goods or provision of services .**
- 2. Amounts collected from the sale , lease , grant of franchise to use or utilize any trademark , design , patent , intellectual property or copyright or other immaterial rights related to intellectual property rights in consideration for the use of any copyright of literary , art or scientific works in whatever form .**
- 3. Commissions due or arising from representation or commercial brokerage agreements whether cash or real commissions**
- 4. Profit resulting from any industrial or commercial activity in the State of Kuwait**
- 5. Profit resulting from disposal of assets including the sale of an asset in whole or part , conveyance of its title to third parties**

and other acts including disposal of shares of a company whose assets are mainly immovable properties in the State of Kuwait .

6. Income resulting from money lending in the State of Kuwait
7. Profit resulting from purchase and sale in the State of Kuwait of properties , goods or related rights , whether such rights are related to a material asset or immaterial rights including the right of mortgage and franchise .
8. Opening of a permanent office in the State of Kuwait where sale and purchase contracts are made . It is the place of business where activity or contracts are carried out or made whether such place is owned by the taxpayer or leased from a third party or performed at a third party's head office .
9. Profit resulting from the leasing of any property including movable and immovable properties used in the State of Kuwait .
10. Profit resulting from the provision of services including fees for administrative , technical or consultancy services or contracts executed wholly or partially executed in the State of Kuwait whether made outside or inside the State of Kuwait .
11. Profit resulting from performance of business in Kuwait Stock Exchange Market , directly or through investment portfolios or funds .

Second : Taxable Income

Article (3)

The income of taxable incorporated body shall be determined on the basis of gross income from operations of all types after deduction of allowed expenses and costs .

The allowed expenses and costs according to the following conditions :

- 1. As necessary for realization of business-related income .**
- 2. As true and supported with documents .**
- 3. As related to the taxable period .**

Expenses and costs include but not limited to the following :

- 1. Raw materials , consumables and services necessary for the objectives of business .**
- 2. Paid salaries , wages and service indemnity and the like .**
- 3. Depreciation of assets used in business according to the rates stated in article (4) of this bylaw .**
- 4. Donations or gifts to the government authorities in the State of Kuwait .**
- 5. Donations , gifts and subsidies paid to Kuwaiti private licensed bodies in the State of Kuwait such as charity and social authorities and societies , provided that deduction shall not exceed 2.5% of the net income of incorporated authority before the allowance of such deduction .**
- 6. Expenses of the head office according to the rates stated in article (5) of this bylaw .**

The gross income and allowed expenses and costs shall be determined according to the international accounting standards applicable in the State of Kuwait in accordance with the provisions of Decree and this bylaw .

Article (4)

The account would be on the depreciation of the assets owned and used by the incorporated body for carrying out business or trade in the State of Kuwait shall be depreciated on the straight line method shown on schedule :

Type of Asset	Annual Depreciation Rate
Buildings	4%
Pre-fabricated Buildings	15%
Furniture and office equipment	15%
Plants and equipment	20%
Drilling equipment	25%
Electrical and electronic appliances	15%
Computers and accessories	33.3%
Software	25%
Cars	20%
Trucks and trailers	15%
Buses	20%

The Tax Director may deviate from the above table if the asset operation conditions are unusual or uncustomary with respect to the respective activity of asset .

The taxpayer may apply to the Tax Administration to calculate the depreciation installment by any way other than the straight-line method ninety (90) days before the time of filing the tax declaration .

The Tax Administration may respond to such request if based on reasonable grounds according to the tax accounting rules and standards .

Article (5)

The expenses of the head office shall be debited to the direct revenues realized in the State of Kuwait after deduction of the following :

- 1. The works executed by the subcontractors or the like.**
- 2. Incidental revenues .**
- 3. Reimbursed costs .**
- 4. Design costs (except for the design costs of the head office) .**

The branch share of the head office expenses shall be according to the following rates :

- 1. The incorporated bodies operating in Kuwait are allowed to calculate and add (1.5 %) of the direct revenues realized in the State of Kuwait less the amount stated in paragraph (1) of this bylaw .**
- 2. The incorporated bodies which are partners in Kuwaiti companies or firms or participating with Kuwaiti companies or firms in carrying out a contract are allowed to calculate and add (1%) of the direct revenues realized in the State of Kuwait less the amount stated in paragraph 1 hereof . This rate shall be deducted form the share of the foreign partner .**
- 3. The incorporated bodies operating in the field of insurance in the State of Kuwait are allowed to calculate and add (1.5 %) of the direct premiums less the reinsurance rate and plus collected insurance commission .**
- 4. The incorporated bodies operating in the field of banking business in the State of Kuwait are allowed to calculate and add (1.5 %) of the direct revenues realized in the State of Kuwait less the amount stated in paragraph (1) of this Article .**

Article (6)

The expenses and costs incurred by the incorporated bodies that are not related to the taxable business in the State of Kuwait or that are not necessary for generating profit shall not be deducted including but not limited to the following :

- a) Personal and private expenses**
- b) Disciplinary penalties**
- c) Indemnified losses**
- d) Provisions and reserves of whatever type except for some reserves of banks and insurance companies as stipulated in the Executive Rules and Regulations of the Decree .**

The Tax Administration may request the revision of any expenses it deems overstated and the submission of supporting documents justifying such expenses . It may approve or amend or disapprove such expenses .

Third : Losses

Article (7)

The losses shall be carried forward as follows :

- 1. If the account of any year closes on loss , such loss shall be deducted from the net income of the second year . If the net income is insufficient to cover the whole loss , the balance shall be carried forward to the following year . If any loss remains the mentioned year , it shall be carried forward to the third year . Then , the balance of loss may not be carried forward after the third year .**

2. The loss shall not be carried forward in case of suspension of business upon notification by the incorporated body to the Ministry of such suspension to terminate all aspects of its business or for any reasons excluding compulsory suspension .
3. The corporate body is considered to have no operations and may not carry forward any losses if it presents a tax declaration that does not include any revenues that result from its main activity , or if its declaration only shows other revenues .
4. The periods of compulsory suspension of business shall not be counted towards the periods stated in the preceding paragraphs if the incorporated body terminates its business causing such loss for some reason beyond its control such as emergency or forceful circumstances .
5. The right of any incorporated body to carry forward the loss which was not deducted during the tax period (s) related to the business that caused such loss shall be forfeited in the following cases :
 - a) Liquidation of the incorporated body
 - b) Change of the legal status of the incorporated body or its expiry
 - c) Merger of the incorporated body with another incorporated body

Chapter Two : Exemptions

Article (8)

Without prejudice to the exemptions stipulated under the provisions of Decree and its amendments and the provisions of other Laws or International Treaties ratified under Laws , which shall remain valid until the expiry of the specified period within the respective limits , the following shall be exempted from tax :

- 1. The incorporated body's profit resulting only from trades in Kuwait Stock Exchange Market , whether directly made or through investment portfolios or funds .**
- 2. The income realized by a natural person from practicing a trade or business in the State of Kuwait unless he proves that he is representing the share of an incorporated body .**

Chapter Three : The Tax Amount

Article (9)

The applicable tax amount on the income of the taxable incorporated body shall be determined at the rate of fifteen percent (15%) of the incorporated taxable body net income .

Chapter Four : Taxable Year

Article (10)

The imposed tax shall be assessed annually according to this Law on the taxable income .

The first fiscal period for the submission of Tax Declaration shall be one Calendar Year (12 months) . A taxpayer may follow an accounting period which is different from the Calendar Year before submitting the Tax Declaration but it should not exceed (18 months) after the approval of the Tax Administration thereof .

Chapter Five : Commitments

First Registration

Article (11)

Every incorporated body shall be committed to register at the Tax Administration within (30) thirty days from the date of starting the activity or signing the contract on condition that the registration data shall contain the following :

- 1. Name and address of the incorporated body inside and outside Kuwait .**
- 2. The starting date of the activity or contract .**
- 3. The agent name , address and the agency agreement .**
- 4. Any information required by the Tax Administration for applying the Decree .**

Each incorporated body shall notify the Tax Administration of any modification that may affect its tax liabilities according to the provisions of the Decree , or the Executive Rules and Regulations within (30) thirty days from the date of the change that took place . As well it shall notify the Tax Administration that it ceased its activity within (30) thirty days from the date of terminating the activity .

Article (12)

Each incorporated body liable for taxation , under the provisions of the Decree , shall request from the Tax Administration to have a Tax Card attached to it all the following necessary documentation :

- 1. A copy of the Articles of Incorporation related to the incorporated body .**
- 2. A copy of the agency contract and the agency registration certificate issued by the Ministry of Commerce and Industry;**
- 3. To reveal Incorporated body address inside and outside Kuwait , and all correspondence to such address shall be considered as valid and effective .**

It shall be restrictive to the government authorities and the public and private Institutions and bodies to deal with any incorporated body not carrying any valid Tax Card except for the procedures related to registration and acquiring licenses to start practicing the activity . As well as each incorporated body shall submit its Tax Card to the competent authority or the concerned institution or entity .

Second : Submission of Tax Declaration

Article (13)

Each incorporated body liable for taxation shall submit a Tax Declaration written in Arabic language on the form attached to the Executive Rules and Regulations indicating the Income subject to tax for the taxable period and the value of the due tax thereof to the Tax Administration . The incorporated bodies , which are tax exempted , shall not be exempted from submitting their Tax Declaration according to the provisions of this Decree or any International Treaty or any other Law .

Tax Declaration shall be submitted to the Tax Administration on or before the fifteenth day of the fourth month following the end of the taxable period of the incorporated body .

An approved report must be attached to the Tax Declaration from the Auditor registered at the Ministry of Commerce and Industry and approved at the Ministry of Finance enclosing the following papers and documents :

- 1. The Public Budgets and the Closing Accounts of the taxable period for which the declaration is submitted .**
- 2. A list of the assets , including the purchase date of each asset , its value , the depreciation rate applied depreciation extent , additions , and disposal of assets .**
- 3. A list of sub-contractors and the last payment certificate of each sub-contractor indicating the works being accomplished during the taxable period for which the declaration is submitted and what has been retained according to the provision of Article (37) in this Bylaw .**
- 4. The end of term stock list regarding the amount and value .**
- 5. Copies of under construction contracts , and the amount of each contract revenues and expenditures according to the data mentioned in the Tax Declaration .**
- 6. The trail balance with the totals and balances which are mainly used for preparing the closing accounts and the Tax Declaration .**
- 7. The final payment certificate issued by the contract owner of the project .**
- 8. Insurance companies shall attach to the Public Budget and the Tax Declaration a detailed statement with the reinsured documents and the related terms and conditions .**

The data stated in the Tax Declaration approved by the Auditor shall be considered as correct unless otherwise is indicated to the Tax Administration .

The Tax Administration may accept a modified Tax Declaration to correct any mistake in the Tax Declaration submitted for a previous taxable year whenever submitted by the taxpayer according to the Executive Rules and Regulations .

Investment fund managements , Investment trustees , and companies managing portfolios for the account of the incorporated bodies subject to the Decree shall provide the Tax Administration with a statement which will include all the dividends resulting from the distribution of the shares maintained or managed for an incorporated body; or any profits resulting from practicing any activity subject to tax in the investment funds or portfolio according to the Executive Rules and Regulations .

Article (14)

The Tax Administration may extend the date for submitting Tax Declaration if the taxpayer requests that according to the following conditions :

- 1. He must submit his request on or before the fifteenth of the second month following the end of the taxable period .**
- 2. The reasons for the extension must be necessary and acceptable .**

The Tax Administration shall respond to the request on a date no later than thirty days from the date of submitting the request . In case there is no response within the mentioned date , it shall be considered to be disapproved .

There should be no consent to the request of extending the filing date of the Tax Declaration to more than (60) sixty days starting from the next day after the end of the original date of filing the Tax Declaration .

If the request for the extension of the date of filing the Tax Declaration is not submitted on the date mentioned in Point (1) of this Article , such request shall not be taken into consideration and shall be considered void .

Third : Book Keeping

Article (15)

Every taxpayer subject to provisions of Decree shall keep the accounts supportive documents , and the following books and records :

- 1. General Journal .**
- 2. Stock list .**
- 3. General Ledger Book .**
- 4. Expenditure Analyses Book .**
- 5. Materials Record with details of the amounts received or released , and the authority or project for which the materials are released .**

These books or records should be prepared according to the relevant Kuwaiti Law provisions .

Incorporated bodies shall be permitted to use electronic systems in preparing their accounts on condition that they should cover the required accounting data on the basis of the provision of this Article , provided that the Tax Administration should be provided with a copy of the inputs to the electronic systems about any taxable period whenever requested .

Fourth : Information Collection

Article (16)

Ministries , Public Authorities and Institutions , Companies , Associations , and Individual Institutions shall inform the Tax

Administration about the incorporated bodies that concluded contracts , agreements and transactions therewith , as Main contractors , Subcontractors , Contractors , any kind of beneficiaries .

The notification should include the following data :

- 1. Name and address of those who are directly contracted or subcontracted;**
- 2. The contract kind , value , date of conclusion and duration;**
- 3. Any other required information for the completion of the contract .**

Article (17)

All competent authorities that are carrying out the certification and registration of documents and issuing licenses for practicing or renewing any activity as well as the authentication of the customs data when implementing such procedures to the taxpayer shall notify the Tax Administration within (30) thirty days from the date of carrying out any procedure in conformity with the Executive Rules and Regulations .

Chapter Six : Tax Assessment Methods and Procedures

Article (18)

Tax shall be assessed on the basis of the taxable net income as determined in accordance with the Tax Declaration if such Tax Declaration is accepted by the Tax Administration .

The Tax Administration shall have the right to rectify or modify

the Tax Declaration . It may not rely on it and determine the income by virtue of estimation according to the provisions of Article (19) of this Bylaw .

Article (19)

The Tax Administration shall have the right to assess the tax by virtue of estimation whenever it is difficult to assess the tax on the basis of the actual net income of the taxpayer including the following situations :

1. If the taxpayer does not submit the Tax Declaration or any closures thereof or if he submits , the above said after the defined final date for submitting the Tax Declaration .
2. If the taxpayer does not adhere to providing the necessary books , records and documents for inspection after appointing two dates for such undertaking by official letters .
3. If the taxpayer abstained from providing the information , documentation or explanation requested by the Tax Administration or if he has submitted the information and documentation that does not reveal his actual taxable income .
4. If the documents supporting the accounts are not available or they include notably incomplete information or if the documents are not conforming with the records in the way that may affect the truth of the taxable income .

The estimated assessment referred to in the first paragraph of this Article shall be carried out based on the available data , information , and evidences presented to the Tax Administration .

Article (20)

The Tax Administration shall directly notify the taxpayer with the tax assessment or by an official letter with acknowledgement of receipt on condition that the notification shall include the taxable net income and the tax due amount . The taxpayer has to pay the enforced tax within (30) thirty days from the date of informing the Tax Assessment letter .

Article (21)

The Tax Administration has the right to re-issue the tax assessment due by the taxpayer regarding the years that are previously assessed in the following conditions :

- 1. If the Tax Administration discovered information related to the taxpayer revenues that have not been revealed earlier by the taxpayer;**
- 2. If the taxpayer used any fraudulent methods such as :**
 - a) Hiding information or giving false information either in the declaration or in the papers submitted to the Tax Administration related to defining the taxable income;**
 - b) Fabricating calculations or false books , records or documents , or impairing or hiding the right thereof;**
 - c) Concealing an activity or more that is taxable .**

The tax assessment has to be re issued within five years from the date of discovering the information or the deception methods as mentioned in the first paragraph of this article .

Re-issuing the tax assessment should include the fundamentals it has been based on and the taxpayer shall be notified thereof .

The taxpayer may object and appeal to have the tax assessment re-issued according to the provisions of these Bylaws .

Article (22)

The Tax Administration shall either take the initiative to rectify any accounting or financial mistakes , before the expiration of statute of limitation periods provided for in Article 13 (Repeated) of the Decree either based on the taxpayer request or automatically by the Tax Administration itself .

Article (23)

In case the taxpayer stops practicing taxable activity , the tax shall be imposed on income until the date of ceasing activity .

Assigning an entity or activity or part of them shall be considered as ceasing thereof . The taxpayer as an assignor or assignee shall be held as jointly responsible for the tax debt payable for the incorporated body from the beginning of the taxable period until the date of assignment .

Chapter Seven : Objections and Appeals

First Objection

Article (24)

Taxpayer shall have the right to object against the tax assessment

within (60) sixty days from the date of notification of the assessment letter while showing his reasons of the objection and enclosing the supporting documents to the Tax Administration .

If the mentioned date in this article elapses without the objection of the taxpayer , the tax assessment shall be considered as final and the tax due must be paid .

Article (25)

The Tax Administration shall decide on the objection within (90) ninety days from the date of submitting thereof . Non-responding to the objection shall be considered as an implied rejection thereof .

If the Tax Administration and tax payer agree on a specified tax amount within the period mentioned in first paragraph of this Article , the tax will be assessed in accordance with the agreement and will become final and due for payment .

Second :Appeal

Article (26)

If the objection is rejected , the tax payer is entitled to appeal this decision in front of the Tax Appeals Committee within 30 days from the date of being notified of the rejection or the end of the period specified to take a decision , without receiving any response on the rejection .

The appeal will be applied for by submitting a request to the Tax

Appeals Committee , attaching with it all the supporting documents for the appeal , in accordance with the Executive Rules and Regulations .

If the tax payer does not appeal within the period specified in first paragraph of this Article , the tax assessment is considered to be final and the tax due must be paid .

The tax payer may not submit a request to reconsider the assessment once the tax assessment is final , at any stage .

Article (27)

Tax Administration and taxpayer shall have the right to appeal before the competent court of justice against the decision of Tax Appeal Committee within sixty days (60) of the date of notice of the Tax Appeal Committee decision by a registered letter , with the requested acknowledgement of receipt .

If the period said in first paragraph of this article expires without filing an appeal , the decision of the Tax Appeal Committee shall be final and tax due must be paid .

Chapter 8 : Tax Collection

Article (28)

Taxpayer shall pay the tax due in accordance with the Tax Declaration as one deposit or four (4) equal installments , according to Article (8) from the Decree .

In case where Tax Administration agrees to grant the incorporated body an extended period for submitting Tax Declaration , the body incorporated is committed to pay the taxable instalment until the date of submitting as one deposit .

Article (29)

In the event a tax assessment – exceeding the tax determined on the basis of the Tax Declaration - is made within the next twelve months for taxable period , the excess amount shall be equally divided on the number of installments and that the amount related to the previous installments shall be settled in one payment within 30 days of the notice date of the assessment letter .

Article (30)

In the event a tax assessment – exceeding the tax determined on the basis of Tax Declaration - is made after the next twelve months for the expiry of the taxable period , the excess amount shall be settled in one payment within 30 days of the notice date of the assessment letter .

Article (31)

In cases of applying the provisions of second paragraph Article (25) from this Bylaw , each tax payer has to pay the tax within 30 days from the notice date by assessment amendment letter .

In the deadline of objection & appeal cases that stated in the Articles (24 , 26 , 28) of this Bylaw , the taxpayer has to pay tax within

thirty (30) days from the date that tax debt becomes final .

In cases where the provisions of paragraphs first and second of this Article are not applied , the tax and penalties due are to be paid in lump sum within 30 days from the date of notification of the assessment .

Article (32)

Subject to the provision of article (33) of this Bylaw , final due taxes and penalties shall be payable under the notices issued by the Tax Administration by registered letters , with the requested acknowledgment of receipt .

Article (33)

Excluding government authorities and public bodies , taxpayer may authorize a third party to settle the tax on his behalf provided that he should earlier notify the Tax Administration of such authorization , and they both shall be jointly liable for the tax debt according to the Executive Rules and Regulations .

Chapter 9 : Penalties

Article (34)

A penalty of 1% is calculated , for every 30 days or part of it , in the following cases :

- 1. Delay in the submission of the Tax Declaration , from the due date for its submission , until the date of its submission , based on the tax due shown in the assessment .**
- 2. Not submitting the Tax Declaration , from the due date for its submission until the date of the assessment , based on the tax due shown in the assessment .**
- 3. Delay in settlement of the tax installments per the Declaration , from the due date for payment of each installment , until the date of settlement , based on the installment amount .**
- 4. Delay in settlement of the tax due as per the final tax assessment , after 30 days of being notified of the assessment , the response to the objection , the Tax Appeals Committee's decision , or the final court ruling until the date of settlement .**

Chapter 10 : Guarantees of Tax Collection

Article 35

In any cases the tax debt is doubtful; Tax Administration shall have the right to take one or both of the following procedures :

- 1. Take the appropriate procedures to issue an order from competent court to withhold the taxpayer's properties and possessions deemed sufficient by the Tax Administration for settling the due tax debt and penalties regardless of the person acquiring such possessions . An attachment shall be levied on the possessions and properties when the taxpayer is notified of the enforced Law of restraint in accordance with the applicable procedures . Taxpayer shall have no right to dispose of the possessions and properties unless the restraint is revoked by the decision of the competent court , according to the legal procedures stated with this regard .**

2. **Take the appropriate procedures to issue an order to ban the taxpayer from leaving the State of Kuwait unless the tax is paid on the date determined in the notice , or he submits the sufficient guarantees to cover the due tax and penalties , and that he shall be notified by the mentioned order and take the effective legal procedures with this regard .**

Article (36)

If the final and payable tax and penalties are not paid on the date determined in the notice , the Tax Administration may settle the appropriate procedures to the competent court to levy an executive attachment on the properties of the debtor whether they are in his or someone else's possession . In this regard , Tax Administration shall issue a notice to the taxpayer indicating the due tax and penalties .

Article (37)

1. **All ministries , authorities , public bodies , companies , societies , individual firms , any natural person and others as specified by the Executive Rules and Regulations shall retain 5% of the contract price or each payment made with whom they entered into contracts , agreements or transactions .**
2. **Tax Administration will disallow what had been paid to subcontractors during the inspection , to account enforced tax . According to the Decree , unless the body incorporated informs the Tax Administration with its subcontractors or does not commit to withhold 5% according to provisions of first paragraph of this Article (37) .**

Article (38)

All or some retained amounts may not be released unless the Tax Administration agrees to issue the withheld release letter of these amounts . according to the following cases :

- 1. If the incorporated body is not subject to tax , is exempted from it or realized loss .**
- 2. If the incorporated body settles all its due tax .**
- 3. If the incorporated body submits a certified bank guarantee or any other guarantee accepted by the Tax Administration to honour the due tax .**

The Executive Rules and Regulations regulate the procedures and the conditions that relate in releasing income tax withheld .

Article (39)

When requested in writing by the Tax Administration , all ministries , authorities , public bodies , companies , societies , individual firms , any natural person and others as specified by the Executive Rules and Regulations shall remit the due tax and penalties to the Tax Administration as a reduction from the retention money related to companies as well as all the current securities and financial guarantees .

The mentioned authorities in the previous paragraph have to provide amounts mentioned before and any information required by the Tax Administration in order to implement the Income Tax Decree , in the violation of this Article the violator is responsible for the payments of tax payer's debts .

In the event of breach by ministries , authorities , public bodies , companies , societies , individual firms , any natural person and others as specified by the Executive Rules and Regulations on retention and remittance in accordance with the provision of article 37 and first paragraph of this article , the breaching party shall be liable for paying the tax debt payable by the incorporated body .

Article (40)

Tax and penalties due under the Decree shall be deemed a preferred debt on all taxpayer's funds or any third party who is committed to pay them to the public treasury , and shall have the priority over all other debts and commitments except salaries , wages and court expenses .

Chapter 11 : Statutes of Limitation

Article (41)

Rights of collecting tax does not waived unless , five years after the submission of tax declaration by the incorporated body or of the date on which the Tax Administration became aware of the practices which were not included in the tax declaration by the incorporated body , or of the date in which the Tax Administration became aware of the concealed data related to the tax obligations .

The Statute of Limitation period referred to in the first paragraph of this article shall cease upon notifying the taxpayer of the tax assessment through a registered letter , with the requested acknowledgement of receipt or notice to pay the due tax through a

registered letter , with the requested acknowledgement of receipt or decision of the Tax Appeal Committee through a registered letter , with the requested acknowledgement of receipt ,

In addition to the reasons of The Statute of Limitation period cease set forth in the Civil Law .

In all cases the Tax Administration does not waived its right to collect the final tax and penalties according to the provision .

Article (42)

Taxpayer shall be entitled to claim the amounts overpaid after tax settlement within five (5) years from , date of notice of the final tax settlement , or date on which taxpayer becomes aware of his right to claim the overpaid tax , which date is nearest .

Upon the elapse of the five-year period mentioned in first paragraph of this article , taxpayer shall forfeit his right to claim the overpaid tax .

Chapter 12 : General Provisions

Article (43)

A committee or more than one committee constitute to examine the appeal , in order to judge the conflict that occurred between the Tax Administration and the body incorporate regarding , tax collection and assessments in the way that its guarantee the neutralism and increasing its legal and technical experiences .

The Executive Rules and Regulations specify the procedures for the tax appeal committee .

Article (44)

Tax Administration may revoke any agreement or procedure intended for tax avoidance under this Decree .

Article (45)

Staff of the Tax Administration may access all documents , papers , files and any other information related to tax assessment and in the possession of the taxpayer , his agent , another person or body . For whatever reason , information may not be concealed from the Tax Administration .

Article (46)

Any instruments , equipment , machines and any other materials imported from abroad or acquired in the State of Kuwait for the purposes of business then used in the State of Kuwait commercially by the incorporated body may not be exported or re-exported unless a certificate issued by the Tax Administration is submitted to verify its clearance of tax dues , also , investment companies and banks managing portfolios and funds or holding shares for third parties may not release the dues of the incorporated bodies unless due income tax is deducted , and they shall remit the due tax to the Tax Administration within 30 days as of the date of deduction together with a statement listing all the incorporated bodies and each deducted tax .

Article 47

Tax Administration may not issue a clearance certificate for the incorporated body which concluded contracts , agreements or transactions with another incorporated body unless the data set forth in the Executive Rules and Regulations is submitted .

In addition , concerned supervisory authorities , which are allowed to certify and approve the annual financial statements for funds , Investment companies , and banks that manage mutual funds should not certify the annual financial statements , unless they settle all the tax dues on incorporated body .

Article 48

Under the decision of the Tax Director , Tax Administration shall issue a list of the certified audit firms accepted as representatives for the taxpayer provided that such list is subject to revision and amendment .

For removing a firm or more from the list in the following years , the approval of the Tax Director shall be required based on the facts and the evidence submitted by the Tax Administration to prove the breach of the accounting and auditing practices , and the removal period of a firm shall be extended from one year to three years .

Prejudiced firms may file a grievance to the Tax Director within sixty (60) days of the date of the knowledge of the decision . The Tax Director may refer such grievance to the grievance committee .

Minister of Finance