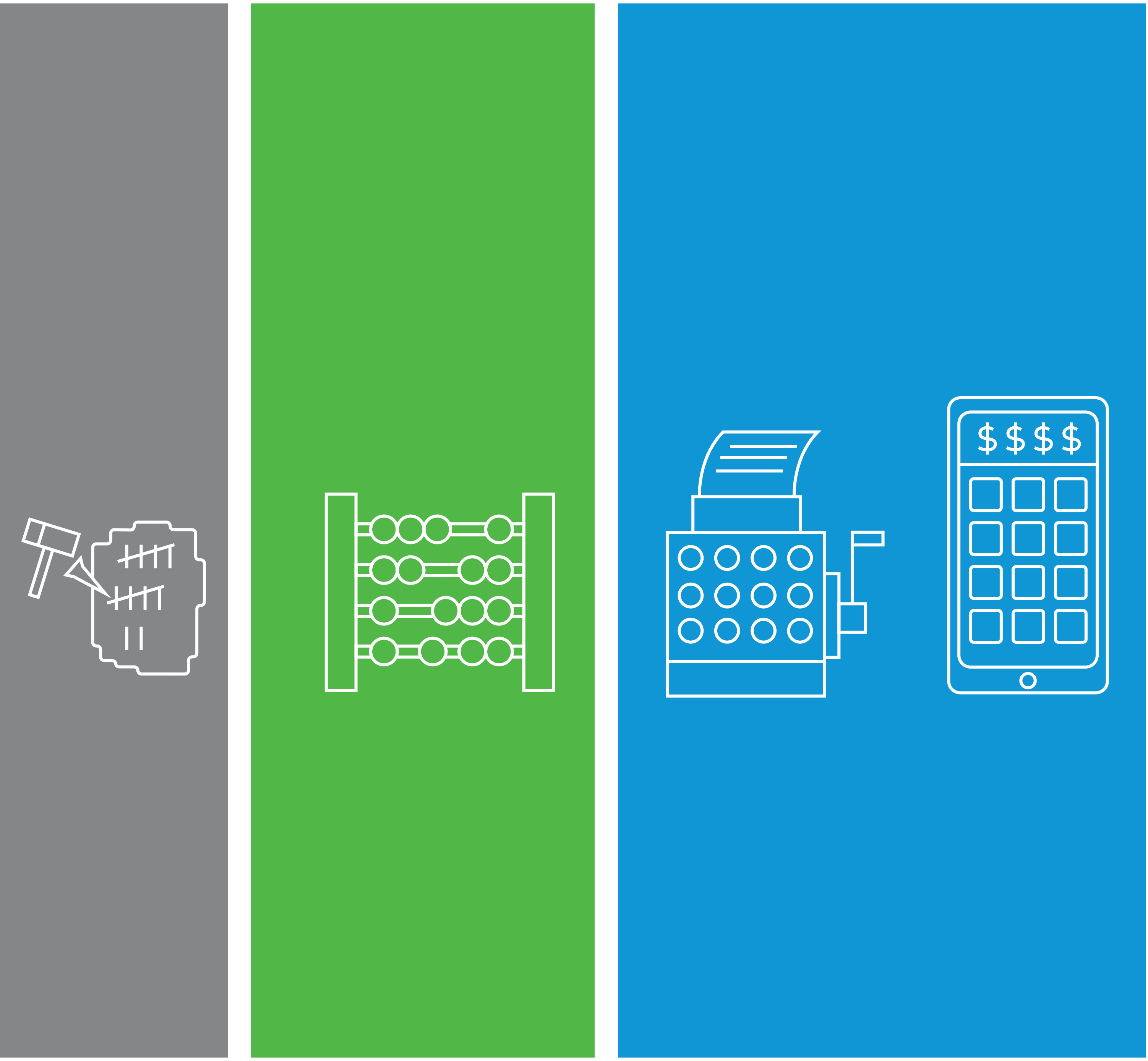
DECEMBER 2015

KUWAIT TAX FLASH



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Income Tax

News from Arab Times

New Kuwait tax proposed on local entities

Kuwait may raise the corporate tax rate to 10 percent for local firms and impose limits on energy subsidies, the commerce minister told a local newspaper on Tuesday, part of a broad move to introduce fiscal reforms amid pressure from low oil prices. Corporate taxes, currently levied at different rates for local and foreign companies, could rise to 10 percent, Minister of Commerce and Industry Yousuf al-Ali told Al- Anba newspaper. "Initial ideas being tossed around are that it will be up to 10 percent. There are companies in the market now paying up to 4.5 percent that will see their taxes rise a little to 10 percent," Ali said.

At present, most Kuwaiti companies do not pay taxes on income, although some firms must pay national labour support tax and make mandatory contributions for zakat, or Islamic alms, and for a scientific research foundation. Foreign firms pay a levy on commercial activities in the country at a flat rate of 15 percent, already slashed from an earlier maximum rate of 55 percent in reforms introduced in 2008.

Kuwaiti ministers have said previously they were studying proposals to harmonise tax rates for local and foreign firms, but have not previously provided figures or a timeline for implementation. There are currently no plans under consideration to introduce an income tax for individuals, Ali said.

Conclusion:

We wish to inform our readers, unless the new tax law is ratified by the parliament and published in the official gazette, we cannot consider it as new tax law in-force. We will keep you posted as and when we hear any developments in this regard.

National Labor Support Tax Law (NLST)

National labor support tax law (NLST) was introduced to support and encourage Kuwaiti Nationals to work in non Governmental institutions (Private Sector). This law was enacted through Law No. 19 of 2000 which came into effect from May 21, 2001 and amended through Ministerial Resolution No. 24 of 2006. NLST law is applicable to all companies listed in the Kuwait Stock Exchange, except GCC companies who do not have operations inside the State of Kuwait.

- NLST is computed at 2.5% of annual net profit before the Board of Directors remuneration, contributions to the Kuwait Foundation for the Advancement of Sciences (KFAS), donations, grants, Zakat and National Labour Support Tax (NLST).
- Certain deductions are allowed to avoid double payment of NLST on the same profit such as:
  1. Cash dividends directly received by the company or through portfolios containing companies already subject to the same law.
  2. Share of profit from direct associates or unconsolidated subsidiaries which have been subject to the same law.
  3. Share of profit and cash dividends that are directly received from non Kuwaiti companies listed in the Kuwait Stock Exchange in accordance with the proportion method applied to the profit earned inside the State of Kuwait.
  4. Reduction on retained earnings that were previously subject to the same law.
  5. Deduction of NLST paid by direct consolidated subsidiaries out of NLST to be paid by the parent company (to the extent of its ownership).

Example:

A Kuwaiti listed shareholding company was filing its NLST declaration for the year ended 31 December 2011. In the submitted declaration the company claimed the deduction of cash dividends received from a non Kuwaiti company listed in Kuwait Stock exchange subject to same law, but 70% of these cash dividends pertaining to profit earned outside Kuwait and the balance 30% is inside Kuwait.

Conclusion:

The Ministry of Finance accepted the claimed deduction of the cash dividends to the extent of 30% and disallowed the 70% of these cash dividends and increased the tax liability for the company.

ZAKAT Law

Zakat law was introduced to encourage Kuwaiti closed and listed shareholding companies to pay Zakat duty and thereby 1955, make a contribution to the state budget. This law was enacted through Law No. 46 of 2006 which came into effect from December 10, 2007. Zakat law is applicable to all Kuwaiti closed and listed shareholding companies excluding companies owned by the Government and foreign companies that are subject to the Decree No. 3 of

Zakat is computed at 1% of annual net profit before the Board of Directors remuneration, contributions to the Kuwait Foundation for the Advancement of Sciences (KFAS), donations, grants, Zakat and National Labour Support Tax (NLST).

Certain deductions are allowed to avoid double payment of Zakat on the same profit such as:

1. Cash dividends directly received by the company or through portfolios containing companies already subject to the same law.
2. Share of profit from direct associates or unconsolidated subsidiaries which have been subject to the same law.
3. Reduction on retained earnings that were previously subject to the same law.
4. Deduction of Zakat paid by direct consolidated subsidiaries out of Zakat to be paid by the parent company (to the extent of its ownership).

Example:

A Kuwaiti shareholding company (The Parent Co.), was filing its Zakat declaration for the year ended 31 December 2013. In the submitted declaration the parent company claimed the deduction of cash dividends received from another companies subject to the same law but these cash dividends received indirectly through the parent company's subsidiaries.

Conclusion:

The Ministry of Finance disallowed the claimed deduction of the cash dividends from the parent company's' Zakat declaration and increased its Zakat liability, since the cash dividends received indirectly by its subsidiaries and not the parent company itself.

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