

30<sup>th</sup> June 2025

## ***Kuwait Issued Executive Regulations of MNEs Law***

Following the earlier issuance on 31 December 2024 of Decree Law 157 of 2024 on the Tax Law on Multinational Group Entities (**MNEs Tax Law**), the Ministry of Finance has now issued Ministerial Resolution No. 55 of 2025 with the issuance of the implementing regulations for giving further effect to the MNEs Tax Law (the **Executive Regulations**)<sup>1</sup>.

### ***Application of the law***

As part of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, the MNEs Tax Law imposes a minimum tax rate (**Minimum Tax Rate**) of 15% on Multinational Group Entities (**MNEs**) with consolidated global operations that undertake activities in Kuwait and that report annual revenues of at least Euros 750 million (approximately Kuwaiti Dinars 250 million) (**Minimum Revenue Threshold**). This revenue threshold must be met in the consolidated financial statements of the ultimate parent company of the applicable MNEs for at least two of the previous four tax periods.

The now issued Executive Regulations are very important in providing for further substance and clarification on implementing details with regard to the tax, its calculation and procedures with also more transparency on a number of key concepts introduced under the MNEs Tax Law, including: permanent establishment, key tax provisions, appeal and settlement procedures.

### ***Permanent establishments***

The MNEs Tax Law introduced for the first time a specific definition of *permanent establishment* that is closely aligned to the definition already used in the OECD Model Tax Convention. The Executive Regulations have now further provided detail on the interplay between the definition introduced under the MNE Tax Law and other definitions adopted under relevant double taxation treaties. In particular, Article 2 of the Executive Regulations sets out a hierarchy of considerations with regard to application of permanent establishment as follows:

1. double taxation treaty;
2. applicable local tax laws;
3. OECD definition of permanent establishment; and
4. any other permanent establishment not defined under 1 to 3 above.

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<sup>1</sup> Please refer to our earlier client alert dated 20<sup>th</sup> January 2025 on the issuance of MNEs Tax Law.

Article 2 has also clarified the criteria required in the agent-principle relationship in order to consider the principal as having a permanent establishment in Kuwait.

### ***Key tax provisions***

In line with the GloBE Model Rules, the Executive Regulations provides for helpful detail on the calculation for tax subject to the MNE Tax Law by way of:

- introducing a new definition of Pillar Two Income and Loss for purposes of calculation of tax and its amendments;
- identification of the loss election process and periods;
- clarification of the rules on transfer pricing and calculation of adjusted covered tax;
- computation of effective tax rate and top-up tax, including rules on substance-based income exclusion;
- identification of the impact of corporate restructurings and holding structures on MNEs;
- clarification of tax neutrality and distribution regimes;
- details on filing obligations and safe harbors; and
- identification of transition rules.

One important change introduced by the Executive Regulations is the abolition of the current 5% retention. With this change Kuwaiti entities are no longer required to retain 5% of amounts due under contracts such as to vendors, suppliers or contractors, for purposes of compliance with MNE Tax Law.

The Executive Regulations also allow for the appointment of a Designated Constituent Entity for purposes of filing and ongoing compliance with MNE Tax Law in Kuwait.

Furthermore, Article 116 of the Executive Regulations states that in interpretation of and implementation of the regulations, the GloBE rules and Pillar 2 principles must be followed, thereby ensuring alignment with international standards and best practices.

### ***Appeal and settlement procedures***

Unlike Decree No 3 of 1955 regarding the Income Tax Law, the MNEs Tax Law clearly includes a cap on the Appeal Tax Committee to extend the review period by 365 days. It also defines appeal and settlement process and procedures.

On settlement, the Minister or its delegate may accept settlement with the taxpayer and a settlement agreement will be entered between the taxpayer and the Department of Income Tax (DIT) following payment of the tax dues and any related penalties if applicable. The DIT will then notify the relevant entity (court or prosecution department) to conclude the ongoing proceedings against the taxpayer.

### **Key dates**

- The MNEs Tax Law and its Executive Regulations apply to tax periods starting from 1 January 2025 onwards.
- The MNEs are required to register with the DIT by 30 September 2025.
- Tax declarations and payments are required to be filed and paid within 15 months following the end of the relevant tax period.

### **ICB assistance**

ICB continues to monitor closely the ongoing developments towards implementation of the Executive Regulations. In that regard, the DIT is expected to issue further implementing rules detailing its practices and procedures to further complement the Executive Regulations. We will monitor and further update on such developments.

In the meantime, if you would like any assistance or clarifications with regard to understanding the MNE Tax Law and its Executive Regulations or this alert, please feel free to contact ICB by email to the contacts below.

ICB is dedicated to wherever possible updating and assisting our clients through these changes, addressing any interest or concerns related to the new tax landscape.

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