

# Kuwait Pillar 2 update

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Executive Regulations released on 29 June  
2025 on Introduction of Supplementary  
Guidance to DMTT



# Scope of DMTT



On June 29, 2025 the Ministry of Finance of Kuwait published the ‘Executive Regulations’ for the Domestic Minimum Top-up Tax (DMTT) for Multinational Enterprises (MNEs) under Ministerial Resolution No. (55) of 2025. The Executive Regulations supplement the DMTT Law (Decree by Law No. 157) released on 30 December 2024 providing further details and clarity on the definition, computation method, compliance process and administrative matters. The Executive Regulations are mostly aligned with GloBE Model Rules and its commentary

Entities		Taxes	
Covered	Exempt	Covered	Uncovered
<ul style="list-style-type: none"><li>✓ <b>Kuwaiti entities</b> in a MNE group meeting the revenue threshold</li><li>✓ Joint ventures ("JV") or affiliates in Kuwait part of a MNE group, where the ultimate parent owns 50% or more, or the combined revenue of the JV and its affiliates meets the threshold</li><li>✓ Non-resident entities operating in Kuwait as part of a MNE group (unless excluded under Article 5)</li><li>✓ A government entity engaged in trade or business</li></ul>	<ul style="list-style-type: none"><li>▪ Government entities</li><li>▪ Non-profit organizations</li><li>▪ International organisations</li><li>▪ Retirement funds</li><li>▪ Real estate investment vehicle that are an ultimate parent entity</li><li>▪ sovereign wealth fund meeting specified conditions</li></ul>	<ul style="list-style-type: none"><li>✓ Corporate taxes included in the financial accounts of a participating entity (including its share in profits of other group entities)</li><li>✓ Taxes paid instead of corporate tax, such as withholding tax on interest, rent, and royalties</li><li>✓ Taxes on retained earnings or corporate equity, if based on income/equity and not treated as supplementary tax</li></ul>	<ul style="list-style-type: none"><li>▪ Tax paid by the parent under the Qualified Income Inclusion Rule (IIR)</li><li>▪ Tax paid by the entity under the Qualified DMTT</li><li>▪ Taxes resulting from adjustments under the Under Taxed Profits Rule (UTPR)</li><li>▪ Tax levied on the group based on special laws</li><li>▪ Non-qualified recoverable attribution taxes</li><li>▪ Taxes paid by insurance companies related to policyholders' returns</li><li>▪ Contributions made to entities outside general government, unless permitted by Pillar 2 rules and Tax Administration guidance</li></ul>

If an entity is considered taxable, the top-up tax applies to its entire taxable profit, regardless of the UPE’s ownership percentage. The tax must be paid when filing the return, with no advance payment required

Amounts previously accrued under other domestic tax laws that are no longer applicable to the taxable entities (e.g., Zakat, National Labour Support Tax, or Corporate Income Tax)



+971 58 305 3317



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# Determination of Net Pillar 2 Income

## Group

- ✓ Entities connected through ownership or control, having consolidated financials by the Ultimate Parent Entity (UPE), including those excluded due to size, materiality, or being held for sale
- ✓ A single entity operating in one jurisdiction with one or more permanent establishments in other jurisdictions, provided it is not part of a consolidated group as defined above

## Constituent Entity

- ✓ Any entity that is part of a MNE Group, excluding those specifically exempt as Excluded Entities under the Executive Regulations
- ✓ Any Permanent Establishment of a Main Entity, which is treated as a separate entity from both the Main Entity and other permanent establishments

## Designated Entity

Under Article 80 of Kuwait's Executive Regulations, in-scope entities of an MNE Group must appoint a single designated CE to handle all tax matters with the Tax Administration. This entity is responsible for filings and documentation, though each group member remains individually liable. If the UPE is in Kuwait, it must be the designated CE; if multiple UPEs exist, one must be chosen. A new CE must be appointed within 30 days if the existing one exits Kuwait or the group.

## Net Financial Accounting Income /Loss of Constituent Entity ("CE")

- ✓ Separate financial statements with accounting period matching the ultimate parents tax period, following IFRS and audited by a Ministry-accredited firm
- ✓ Determine net financial accounting income or loss based on the above financial statements
- ✓ Arrive at the Pillar 2 income/ loss by making necessary adjustments to the net financial accounting income / loss for regulatory requirements, allocation between parent and permanent establishments, and income received from pass-through entities
- ✓ If the above financial statements are unavailable, the entity's income or loss shall be determined using the ultimate parent's consolidated financial statements, prior to any group-level adjustments. Where this approach cannot be applied, an alternative accounting standard approved by the Tax Administration may be used.

## Net Pillar 2 Income

- ✓ Pillar 2 Income of all Constituent Entities – Pillar 2 Losses of all Constituent Entities

## Adjustments to Net Financial Accounting Income to determine Pillar 2 Income/Loss amongst others:

- ✓ Net tax expenses
- ✓ Excluded dividend distributions
- ✓ Excluded equity gains and losses
- ✓ Included revaluation method gains or losses
- ✓ Gains or losses from the disposal of assets and liabilities
- ✓ Asymmetric foreign currency gains or losses
- ✓ Illicit expenditure, fines and penalties
- ✓ Prior period errors and changes in accounting principles
- ✓ Accrued pension expenses
- ✓ Debt forgiveness
- ✓ Share-based compensation
- ✓ Election to spread capital gains over five tax periods
- ✓ Intra-group financing arrangements
- ✓ Election to consolidate transactions of CEs located in Kuwait
- ✓ Transfer pricing adjustments

An entity that qualifies as a designated CE may opt to apply a Pillar 2 Loss Election in the country. This election can be made instead of following the standard rules, provided it is submitted along with the group's first Pillar 2 Information Return or the entity's tax return in the country, whichever is earlier. If the election is made, a deferred tax asset is created for each year in which the entity incurs a Pillar 2 loss, calculated by multiplying the loss amount by the minimum tax rate





# Calculation of ETR, Top-up Tax Liability

ETR for the jurisdiction for each tax period

**(Total Adjusted Covered Taxes of all Constituent Entities in Kuwait / Net Pillar Two Income of all Constituent Entities in Kuwait)\*100**

Determination of Taxable Income

**Net Pillar 2 Income - Substance-Based Income Exclusion (Considering only positive amounts)** where in

SBIE = (Qualified Payroll Costs × % of salaries) + (Qualified Tangible Assets × % of asset value) subject to

- ✓ Qualified payroll costs for employees performing activities for the CE in Kuwait, with varying percentages set for each fiscal year starting at 9.6% for 2025, decreasing progressively to 5% from 2033 onwards
- ✓ Qualified tangible assets located in Kuwait, with percentages starting at 7.6% for 2025, decreasing progressively to 5% from 2033 onwards

Calculate Top-up Tax

**Top-up Tax Rate = 15% - ETR**  
**Top-up Tax = Taxable Income X Top-up Tax Rate**

Determination of Additional Current Tax / Permanent Difference Tax Liability

**Current Additional Tax = (Pillar 2 Income or Loss × Minimum Tax) – Modified Covered Taxes**

The current additional tax is the amount arising from a recalculation of the effective tax rate or Pillar 2 income/loss for a prior period

**Permanent difference tax liability** arises due to certain criteria being met, e.g. restatement of financial statements or non-GloBE permanent differences

Kuwait Total DMTT Liability

**Top-up Tax + Additional Current Tax / Permanent Difference Tax Liability**

Certain types of entities are required to calculate their ETR separately from the rest of the group in Kuwait. These include Joint Ventures (JVs), Minority-Owned Constituent Entities (MOCEs), Investment Entities, and Stateless Permanent Establishments (PEs)

If a group chooses not to claim exclusion in a given year, the excluded income for that year will be considered as nil. Additionally, if the excluded income exceeds the net Pillar Two income for the period, the excess cannot be carried forward to future years. Entities must maintain adequate supporting documentation to substantiate the claimed payroll and tangible asset costs, which must relate only to eligible employees and qualifying tangible assets.

Participating entities can elect zero top-up tax if both of the following thresholds are met during the period:

- ✓ Average total revenue is less than EUR 10 million (or local equivalent), **and**
- ✓ Average Pillar Two income or loss is less than EUR 1 million (or local equivalent).

The average income and revenue are calculated over the current and two preceding tax periods, excluding any years with no relevant activity



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Under Article 60, tax is considered zero for a multinational entity group using the simplified accounting method, provided one of three tests is met in a country i.e., the normal profits test, the minimum revenue test, or the effective tax rate test. These tests can be verified using simplified income, revenue, or tax calculations. Calculations must include relevant group entities and comply with specific thresholds and conditions outlined in related articles and regulations

## Transitional Safe harbor

- A transitional safe harbor is available for multinational groups that submit qualifying cross-border reports based on eligible financial statements. For tax periods beginning on or before December 31, 2026 (but not ending after June 30, 2028), the top-up tax may be considered zero if revenue and income thresholds are met or if the effective tax rate satisfies the minimum requirement. These reports must be based on reliable, standardized financial data

## International activity

- During the initial phase of international activity, a taxpayer's tax rate is zero if specific conditions are met, including presence in no more than six jurisdictions and tangible assets not exceeding EUR 50 million outside the primary jurisdiction. The rule excludes assets held by investment entities, joint ventures, or subsidiaries thereof. Tangible assets must be physically located in the jurisdiction to be counted, and minority-owned associates are fully included. These provisions cease after five tax periods following the first application of Pillar 2 rules to the multinational group

The Tax Administration may verify the data if a taxpayer applies a safe harbor and can raise an objection within 36 months of receiving the tax return, providing supporting facts. The designated C then has 6 months to respond. If the response fails to prove that these facts did not affect safe harbor conditions, the safe harbor won't apply. However, if the entity successfully demonstrates no material impact, the safe harbor remains valid, and the effective tax rate will be treated as meeting the minimum threshold



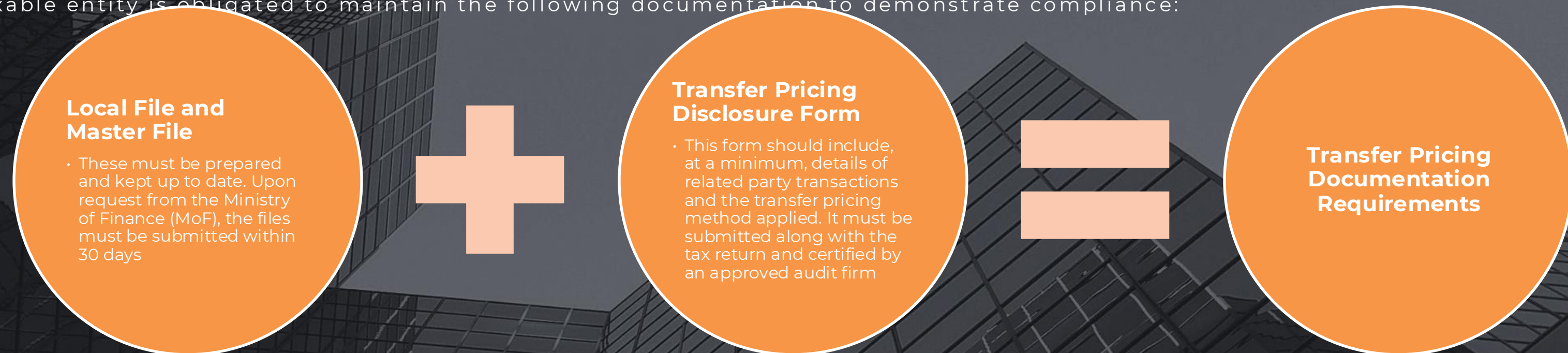


# Transfer Pricing Requirements

Group entities operating in Kuwait are required to ensure that transactions with related parties, whether within or outside Kuwait, are conducted on an arm's length basis.

- ✓ Related Persons are defined as having common connection with each other or with another person, or if one person has significant or controlling over the other person, or if two or more persons are under common control. The regulations prescribe **50% or more direct or indirect shareholding or control** as a threshold for establishing the relationship between the persons
- ✓ The control is defined as the ability of any person alone or with persons related to him, directly or indirectly, to exercise the effective influence over the decisions or actions of other person. The regulations prescribe the inclusive scenarios covering voting rights, appointment of board or managers, right to obtain capital or profits, influence over the management, providing loans or guarantees with certain thresholds
- ✓ The Regulations also prescribe the **factors** such as contractual terms, characteristics, economic circumstances, economic activities, assets and risks, business strategies of the transaction to be taken into account for comparing with the uncontrolled transactions
- ✓ The regulations also prescribe certain **methods** such as comparable arm's length method, resale price method, total cost-plus profit margin method, the net profit margin method for the transactions, the method for apportioning transaction profit. The taxpayer must document the reasons and assumptions for choosing a method and can also use any other method if none of the above methods are applicable
- ✓ The tax administration has right to adjust the transaction price based on methods prescribed in the regulations

Each taxable entity is obligated to maintain the following documentation to demonstrate compliance:



It is anticipated that the MoF will release further guidance outlining the detailed content and format requirements for the disclosure form. The Regulations do not specify any minimum threshold for maintaining transfer pricing documentation. As a result, all taxable entities are required to comply with the documentation and disclosure requirements, regardless of the scale or value of their related party transactions





## Registration

The Filing CE/Designated CE must apply for registration with the MoF within 120 days from the date it becomes subject to tax. Penalties for non-compliance are up to KWD 3,000 as per the DMTT Law. The DMTT registration requires submission of details on the MNE Group, including ownership structure, fiscal year, financial data, and consent from relevant entities regarding the designation of the appointed CE. The MoF will issue a registration certificate once accepted. For MNE Groups that were in-scope of the DMTT on 1 January 2025, they are required to register by **30 September 2025**

## Deregistration

The designated CE must submit a request to the Tax Administration to deregister if any of the following situations arise: (1) the registrant has completely ceased its activity in the country; (2) the registrant has exited the multinational entity group and the designated entity has notified the Tax Authority; (3) the multinational group, which includes the registrant, has not met the revenue threshold for five consecutive tax periods and the designated entity has informed the Tax Authority of this for each period; or (4) any other case as determined by the Tax Authority

## Tax Return and Books

The designated CE must file a tax return within 15 months of the end of each tax period, even if no tax is due. A simplified return or additional Pillar 2 filing may be required by the Tax Authority. Amended returns are allowed within five years, provided the period hasn't already been assessed, and must include reasons for the changes. Taxpayers must maintain all records necessary to prepare financial statements, determine taxable income, and comply with Pillar Two, including key documents such as financial statements, journals, registers, and transfer pricing files. Supporting documents like invoices and calculation methods must also be retained for at least 10 years from the end of the relevant tax period

## Computation and Payment Currency

Under the Executive Regulations, monetary references to the Euro must be converted using the Central Bank of Kuwait's (CBK) average exchange rate for December of the previous calendar year. For tax calculation, if all local constituent entities use Kuwaiti Dinar (KWD) as their functional currency, the tax must be computed in KWD. In cases where multiple functional currencies are used, the Designated Constituent Entity must elect to compute tax either in KWD or the UPE's presentation currency; this election is binding for five tax periods. Taxes calculated in a foreign currency must be converted to KWD using the CBK's average annual exchange rate for payment. Alternatively, amounts may be converted to the UPE's presentation currency in line with approved accounting standards. Where CBK rates are unavailable, the central bank rate of the UPE's jurisdiction may be used with prior approval from the Tax Administration

- ✓ **Administrative penalties and tax evasion:** Kuwait's Executive Regulations impose a 1% penalty for each 30-day delay in tax payment or fraction thereof, penalize unauthorized disclosure of taxpayer information with a KWD 5,000 fine, and outline procedures for investigating and settling tax evasion cases. Further, when the tax administration suspects a tax evasion crime, it may refer the case to the Public Prosecution with ministerial approval. However, a settlement may be reached if the taxpayer pays all due taxes and penalties, along with a fine equal to the evaded tax—doubled in repeat cases
- ✓ Kuwait's Executive Regulations require the tax administration to consider the tax effects of any agreements or transactions primarily aimed at reducing, deferring, or avoiding tax only after assessing genuineness of commercial or economic purpose of such arrangements, the administration may examine the transactions executed, their underlying rationale, substance and form etc.





# Key Takeaways for the Taxpayers



Evaluate the applicability in terms of registration, compliance, reporting, payment obligations and disclosure requirements

Draw a roadmap for the group with all the requirements and action points including the timelines based on the evaluation while ensuring the consent of all the stake holders

Ensure Registration within the prescribed timelines while keeping the penalty implications in mind

Meet the transfer pricing requirements such as local file, Master file and CbCR reporting prescribed in the regulations

Ensure compliance with transitional safe harbour requirements in order to avail the relief

Track record keeping and file the tax returns within prescribed due dates

Ensure the accurate computation of DMTT and payment of DMTT liability within prescribed timelines



+971 58 305 3317



contact@vstnconsultancy.com



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- » VSTN Consultancy is a boutique Global Transfer pricing firm with extensive expertise in the field of international taxation and transfer pricing. VSTN Consultancy has been awarded by **International Tax Review (ITR)** as **Best Newcomer in Asia Pacific – 2024** and is recognized as **one of the finest performing transfer pricing firms**. VSTN Consultancy has been shortlisted in 7 awards as finalist by ITR for **Tax Innovator, Tax Compliance and Reporting Firm, Transfer Pricing Leader (founder), Transfer Pricing Rising Star (One of the Employees) in Asia Pacific – 2025** and **Best Newcomer, Tax Innovator and Transfer Pricing Leader (founder) in EMEA – 2025**.
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- » We are structured as an inverse pyramid where leadership get involved in all client matters, enabling clients to receive the highest quality of service.
- » Being a specialized firm, we offer advice that is independent of an audit practice and deliver it with an uncompromising integrity.
- » Our expert team brings in cumulative experience of several decades in the transfer pricing space having worked with multiple Multinational Companies across sectors/industries in the Big 4 and have cutting edge knowledge and capabilities in handling complex TP engagements.



## CONTACT US



### India Office – Chennai

Shakti towers, Tower A, Door C1,  
4th floor, Annasalai,  
Chennai 600002  
+91 99620 12244



### International Office – Dubai

+971 58 305 3317



+971 58 305 3317



contact@vstnconsultancy.com



www.vstnconsultancy.com



# Core Team

vstn



Nithya Srinivasan



Srilakshmi Hariharan



S Ranjani



E Rajesh



Nitya Joseph



Saranya Nagarajan



Triveni Palla



+971 58 305 3317



contact@vstnconsultancy.com



www.vstnconsultancy.com