



# TRANSLATION



Ministry of Finance  
Tax Department

## **Executive Rules and Instructions of Law No. 19 of 2000 Concerning National Labor Support and Encouragement to Work for Non- Governmental Bodies**

**2008**

**Executive Rules and Instructions of I**  
**Definitions**

<b>1-</b>	<b>Tax Department:</b>	Authority concerned with enforcing Law (19) of 2000 and Executive Regulations thereof through officers authorized to carry out Tax Department tasks.
<b>2-</b>	<b>Entities Subject to the Law:</b>	All Kuwaiti companies listed by KSE or judged as the same (Gulf companies listed by KSE by virtue of Ministerial Resolution (3) of 1989 concerning equal tax treatment for GCC and Kuwait citizens) pursuant to Law (19) of 2000.
<b>3-</b>	<b>Taxable Period:</b>	Period for which the company subject to law prepares its annual financial statements, whereas all the period profits shall be taxable in whole regardless of the listing date.
<b>4-</b>	<b>Gross Income:</b>	Income gained by the company subject to law regardless of the source of such income before withholding allowed deductions.
<b>5-</b>	<b>Taxable Profit:</b>	Net annual profits upon which payable tax is defined in accordance with the Law. They include approved profits and amounts added to retained earnings net of allowed deductions.
<b>6-</b>	<b>Retained Earnings:</b>	Profits gained by the company subject to law during previous financial year or years, but remained undistributed to shareholders for different reasons.
<b>7-</b>	<b>Tax Declaration:</b>	An Arabic statement accompanied with financial statements wherein the company subject to law declares results of its operations and payable tax during taxable period.

**Executive Rules and Instructions**  
**of Law No. 19 of 2000 Concerning National Labour Support and**  
**Encouragement to Work for Non-governmental Bodies**

**Tax Department Procedures**

➤ Executive Rule No. (1) Concerning Tax Department.
➤ Executive Rule No. (2) Concerning companies' registration.
➤ Executive Rule No. (3) Concerning issuance of tax card.
➤ Executive Rule No. (4) Concerning submission of tax declaration.
➤ Executive Rule No. (5) Concerning conditions for extending the deadline to file tax declaration.
➤ Executive Rule No. (6) Concerning notification of any contracts, agreements or transactions with the company subject to law.
➤ Executive Rule No. (7) Concerning notification of cease of activity, assignment, amendment or change in the information of the company subject to law.
➤ Executive Rule No. (8) Concerning determining taxable profit.
➤ Executive Rule No. (9) Concerning allowed and disallowed deductions.
➤ Executive Rule No. (10) Concerning losses.
➤ Executive Rule No. (11) Concerning Gulf companies.
➤ Executive Rule No. (12) Concerning assessment procedures.
➤ Executive Rule No. (13) Concerning objection to tax assessment.
➤ Executive Rule No. (14) Concerning appeal on tax assessment.
➤ Executive Rule No. (15) Concerning re-issuance of tax assessment.
➤ Executive Rule No. (16) Concerning settlement procedures.
➤ Executive Rule No. (17) Concerning obsolescence.
➤ Executive Rule No. (18) Concerning auditor's report.
➤ Executive Rule No. (19) Concerning legal procedures.
➤ Executive Rule No. (20) Concerning the formation and work procedures of tax Appeals Committee.

## **Executive Rule No. (1) Concerning Tax Department**

### **Article No. 12 of the executive regulations**

Tax Department is the authority responsible for the application of the Income Tax Decree No. 3 of 1955 and its amendments and its employees authorized to carry out the functions of Tax Department including all administrative divisions concerned with applying tax laws.

## **Executive Rule No. (2) Concerning Companies' Registration**

**First:** Companies subject to the law shall proceed for registration at Tax Department within 30 days from date of listing at KSE.

The form shall be signed and approved under the signature and seal of the authorized signatory in the company subject to law indicating his capacity and title.

**Second:** The form shall be accompanied by all documents evidencing the correctness of the information provided by the company subject to law. Such documents include:

- A copy of the articles of association and any amendments thereto;
- Agency registration certificate;
- A copy of the authorization granted to the authorized signatory; and
- Authorization letter from company to the auditor's office.

### **Executive Rule No. (3) Concerning issuance of tax Card**

- First:** Subject companies shall submit an application for obtaining Tax Card on the form designated for this purpose within thirty days from the listing date in Kuwait Securities Exchange.
- Second:** Tax card shall be issued within one week from the date of issuing the card and completion of data and documents required.
- Third:** Tax Card shall annually be renewed at a time not exceeding 15<sup>th</sup> of the fourth month subsequent to the end of taxable period for which tax declaration is submitted.
- Fourth:** The Company subject to law shall submit its tax card to all the concerned authorities as a basic condition for dealing with the Company subject to law.
- Fifth:** All Government and public bodies or private companies or institutions shall not deal with any company subject to law that has no valid tax card.
- Sixth:** Tax Card for company subject to law shall not be renewed unless after submission of tax declaration and settlement of all tax liabilities thereof.



#### **Executive Rule No. (4) Concerning Submission of tax Declaration**

The subject companies shall submit tax declaration as per the form designated for this purpose and it shall be audited by an accounting and reviewing office adopted at Tax Department at a time not exceeding 15<sup>th</sup> of the fourth month subsequent to the end of taxable period for which tax declaration is submitted an tax declaration shall be accompanied by the following documents:

1. Authorization letter from the company to the auditor's office to control its taxable affairs.
2. The balance sheet, the financial statements and the declarations hereof submitted to the Kuwait Securities Exchange.
3. Documents supporting the cash dividends received from companies listed in the Kuwait Securities Exchange.
4. Statement clarifying the method of accounting the share of profits received from associates or unconsolidated subsidiaries in addition to the supporting documents.
5. Statement clarifying the method of accounting the share of the company received from its unconsolidated subsidiaries in addition to the supporting documents.
6. Statement clarifying any change on the retaining profits of the previous years, if any, accompanied by the supporting documents.
7. Minutes of the general assembly meeting.



Executive Rule No. (3) Tax Declaration Form
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**Tax Declaration under Law No. 19 of 2000 Concerning  
National Labor Support**

Company name:

Enlistment date:

Entry No.

Fiscal Year from / / to / /

**Annual revenues:**

**Less:** Allowed expenses and deduction xxx

<b>Net annual profits recognized in the income statement</b>	xxx
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Add: any income added to the carried forward profits not xxx  
previously charged under the same law

<b>Net profits before avoidance of double taxation</b>	xxx
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Disallowed:

1. Cash dividends received directly by the company from (xxx)  
Kuwaiti companies previously charged under the same law
2. Share of profits received directly by the company from (xxx)  
associates or unconsolidated subsidiaries previously  
charged under the same law
3. Deductions on carried forward profits previously charged (xxx)  
under the same law

Net profits subject to law No. 19 of 2000	xxx
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**Amount due @ 2.5%** xxx

Less: Amounts paid (as per the declaration) on the company xxx  
share in the profits of directly consolidated subsidiaries  
previously charged under the same law.

**Amount due**

XXX

**Opinion and approval of the authorized signatory of the company:**

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**Executive Rule No. (5) Concerning extension of  
the period for submitting tax declaration**

**First:** The company subject to law shall be entitled to request extension of tax declaration in accordance with the following conditions:

- a. The application shall be submitted within a period not later than the first day of the third month subsequent to the end of the fiscal period under law. Any application submitted after that date shall be void.
- b. Extension reasons shall have to be necessary and acceptable at Tax Department.

**Second:** Tax Department may decide on the extension request within 30 days of submitting the application. In case no reply has been received during such period, the same shall be considered an implicit refusal of the extension request.

**Third:** Extension for filing Tax declaration may be granted for a period not exceeding 60 days following the expiry of the original deadline for submitting tax declaration.

**Executive Rule No. (6) Concerning notification  
of any contracts, agreements or transactions with the foreign corporate body.**

**First:** All subject companies shall notify Tax Department with any contracts, agreements or any commercial, industrial or consultancy deals or any activities giving rise to the stance of performing business for these bodies by a foreign corporate body, represented by a main contractor, subcontractor, provider or foreign partner with a Kuwait company or beneficiary in any form for carrying on business for these companies. A percentage of 5% of the contract, agreement or deal value shall be withheld from each payment to the company.

**Second:** The notification shall contain the basic information of the foreign corporate body which has been contracted, agreed or dealt with and this will include the following:

- a. Name of the corporate body;
- b. The address of the corporate body inside and outside the State of Kuwait;
- c. Nationality of the corporate body;
- d. The capacity of the company in the contract (main contractor, subcontractor, partner, provider, beneficiary);
- e. Type of contract or activity;
- f. Contract number and value;
- g. Date and duration of the contract and
- h. Tax card number and date of issue.

**Executive Rule No. (7) Concerning notification of  
cease of activity, assignment, amendment or change in the information of the  
company subject to law.**

- First:** Each subject companies shall notify Tax Department within 30 days from the occurrence of any change or amendment in the information contained in the registration form as well as in case of making any change in its legal form whether through merge or assignment of part or whole of the company subject to law's activities or its liquidation.
- Second:** Documents evidencing change, amendment or assignment are submitted, reviewed and approved.

**Executive Rule No. (8) Concerning determining taxable profits.**

**First:** taxable income shall be determined on the basis of net approved annual income from operations of all types after deduction of all allowed expenses and costs. The allowed expenses and costs must fulfill the following conditions:

- a. As true and supported with necessary documents.
- b. As necessary for realization of business-related income.
- c. As related to taxable period.

**Second:** provisions and reserves prepared by the subject companies are considered as disallowed expenses except for those prepared by banks and investment companies and insurance companies, according to the rules of the bodies having control thereon.

**Third:** the company must prepare its financial statements in accordance with applicable accounting rules and should be in accordance with the recognized International Accounting Standards applicable in the State of Kuwait and in conformity with National Labor Support Law and the Executive Rules and Instructions thereof.

**Executive Rule No. (9) Concerning allowed and disallowed deductions.**

**First:** For the purpose of computing the due tax, a company subject to law is allowed to deduct the following:

- a. Cash dividends received directly by the company or through a portfolio of companies previously charged under the same law.
- b. Profits received directly by the company from associates or unconsolidated listed subsidiaries previously charged under the same law.
- c. The Company shall be entitled to deduct any reduction on the carried forward earnings out of the subject profits if it is proved that such profits have been previously charged under the same law.
- d. It is allowed to deduct amounts stated in the above items (A – B) that are collected from Gulf companies in accordance with the proportion method according to the income achieved inside Kuwait.
- e. A holding or company subject to law (parent company) that consolidates the financial statements of its subsidiaries is dealt as one entity. Paid taxes for its share in the profits of subsidiaries are directly deducted from the due taxes thereon as per its tax declaration for the same period under this Law without the deduction being extended to its subsidiaries.

**Second:** For the purpose of computing tax due, company subject to law shall not be allowed to deduct the following:

- a. Board of directors remunerations;
- b. Statutory reserve;
- c. Contribution to Kuwait Foundation for the Advancement of Science;
- d. Donations, grants and Zakat and
- e. Zakat or public contribution under law No. 46 of 2006.
- f. Cash dividends and profits from associates or unconsolidated subsidiaries received from listed Gulf companies that did not file its tax declarations and financial statements.

**Executive Rule No. (10) Concerning losses**

In case any of the years ends in a loss incurred by the company subject to law as per the assessment letter, such loss is accepted in the year in which it is incurred and may not be carried forward to subsequent years.



**Executive Rule No. (11) Concerning Gulf Companies.**

**First:** Gulf companies list on KSE are dealt as Kuwaiti listed companies in terms of the profits achieved from their activities inside the State of Kuwait.

Profits obtained by Gulf companies from companies carrying on business inside the State of Kuwait are taxable.

**Second:** The Gulf companies subject to this Law are committed to file tax declaration in accordance with the provision of the Executive Rule No. (4) of the first chapter together with the balance sheet and financial statements and the explanatory notes thereto for all its operations which are filed to the Kuwait Stock Exchange showing all profits derived from their activities inside and outside Kuwait. These companies must commit to file tax declaration even if they do not achieve any profits inside the State of Kuwait.

**Executive Rule No. (12) Concerning tax assessment procedures**

**First:** Tax shall be assessed on basis of net taxable profits as per tax declaration in case such declaration is accepted by Tax Department. Tax Department is entitled to correct or amend the declaration and also have the right to discard the declaration and determine income on a deemed basis as per the second paragraph hereof.

**Second:** Tax Department shall have the right to assess tax on a deemed basis in all cases where it is not possible to assess tax on the actual net profit of the company subject to law including the following cases:

- a. In case the company subject to law does not file its tax declaration or any of its attachments;
- b. In case the company subject to law does not provide the books, registers and documents required for inspection after determining two appointments through official letters;
- c. In case the company subject to law refuses to provide the information, documents or explanations required by Tax Department or provides information and documents that do not indicate its true taxable income and
- d. In case the documents in support of the accounts are not available or the information has big shortage or the documents are not in accordance with the registers in a way affecting the actual taxable income.

Deemed assessment hereof is made on basis of the information, data and presumptions available to Tax Department.

**Third:** Tax Department shall notify the company subject to law of the assessment. The notification shall include net taxable profit and tax due. The Company subject to law shall settle tax due within 30 days from the date of being notified with the assessment letter.

**Executive Rule No. (13) Concerning objection against tax assessment**

- First:** The company subject to law shall have the right to object against tax assessment within (60) sixty days from the date of notification of the assessment letter while showing its reasons of the objection and enclosing the supporting documents to Tax Department.
- Second:** If the date mentioned in the first paragraph elapses without the objection of the company subject to law, tax assessment shall be considered as final and tax due must be paid.
- Third:** Tax Department 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.
- Fourth:** If Tax Department and the company subject to law agree on a specified tax within the period mentioned in the third paragraph, tax due shall be assessed in accordance with the agreement and shall become final, and the company must pay it within the thirty (30) days following the revised assessment letter.

### **Executive Rule No. (14) Concerning appeal against tax assessment**

- First:** The company subject to law is entitled to appeal the rejection decision issued by Tax Department in front of 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.
- Second:** The appeal shall be applied for by submitting a request to tax Appeals Committee, attaching with it all the supporting documents for the appeal, if the date mentioned in the first paragraph elapses without the appeal of the company subject to law, tax assessment shall be considered as final and tax due must be paid.
- Third:** Tax Appeals Committee shall decide on the appeal and issue its decision and notify Tax Department and the company subject to law thereof.
- Fourth:** Tax Department and the company subject to law shall have the right to appeal before the competent court of justice against the decision of tax Appeal Committee within sixty days of the date of notice of tax Appeals Committee decision, if the period mentioned in the first paragraph of this article expires without filing an appeal, the decision of tax Appeals Committee shall be final and tax due must be paid.

**Executive Rule No. (15) Concerning re-issuance of tax assessment or correcting errors**

**First:** Tax Department has the right to re-issue tax assessment due by the company subject to law regarding the years that are previously assessed in the following conditions:

- a. If Tax Department discovered information related to the company's revenues that have not been revealed nor charged.
- b. Discovering of any revenues that have been added to carried forward earnings item if it is proved that it has been charged under the same Law.
- c. If the company subject to law uses any fraudulent methods such as:
  - Hiding information or giving false information either in the declaration or in the papers submitted to Tax Department related to defining taxable income.
  - Fabricating calculations or false books, records or documents, or impacting or hiding the right thereof.
  - Concealing one or more of its taxable activities.

Tax assessment has to be reissued within 5 years from the date of discovering the information or the deception methods. Re-issuing tax assessment should include the grounds on which it has been based and the company subject to law should be notified thereof.

**Second:** Tax Department shall either take the initiative to rectify any accounting or financial mistakes before the limitation periods expire pursuant to provisions of the executive rule No.(10), either based on the company request or automatically by Tax Department itself.

In all cases the company subject to law is entitled to object and appeal against reissuing tax assessment or rectifying the mistakes in accordance with provisions of the Executive Rule s no. (6) & (7).

## **Executive Rule No. (16) Concerning settlement procedures**

### **First: tax collection:**

- a. Subject companies shall pay tax due in accordance with tax declaration as one deposit.
- b. In case where Tax Department agrees to grant the subject companies an extended period for submitting tax declaration, the company is committed to pay tax due as one deposit at the date of submission.
- c. If tax assessment issued on the subject companies includes an amount exceeding tax due as per tax declaration, difference of tax due shall be paid within 30 days from the date of notification of the assessment letter.
- d. The subject companies must commit to pay tax due as one deposit within 30 days from the date of notification of the revised assessment letter.
- e. In case where the date of objection or appeal expires, the company subject to law shall commit to pay tax due within 30 days from the date on which tax becomes a final debt.

### **Second: settlement of tax due:**

- a. Settlement shall be made in the premises of Tax Department (Collection Division) through a letter submitted by the company subject to law indicating types of settled amount (tax as per Declaration, tax as per assessment) and the related fiscal year with a certified cheque of the amount and a copy of (tax declaration, the assessment letter).
- b. Subject companies that settle through bank transfers shall settle the amounts at the Ministry of Finance revenues account No, 04204053 with the Central Bank Of Kuwait (CBK). The payment notice shall include the name of the company, type of settled amount (tax as per Declaration, tax as per assessment) and the related fiscal year thereon.

**Executive Rule No. (17) Concerning prescription**

**First:** The right of tax collection shall not be forfeited unless after the elapse of 5 years commencing from the date on which the company subject to law files its tax declaration or the date on which Tax Department has become informed of the business items not disclosed by the company in its tax declaration or the date of being aware of the information cancelled by the company and related to its tax liabilities.

**First:** The prescription period mentioned in the first paragraph herein shall be terminated when the company subject to law is notified with the following:

- a. Tax assessment letter;
- b. Claim letter fro settlement of tax due;
- c. Resolution of the concerned Tax Appeal Committee; or
- d. Reasons for prescription termination stipulated in the Civil Law.

The right of Tax Department for Tax collection due on subject companies that have become final under the provisions of Law No. 19 of 2000 shall not be forfeited by prescription regardless of the prescription regulations.

**Executive Rule No. (18) Concerning the auditor's report**

**Audit firms, accredited at the Ministry of Finance, approving tax declarations shall commit to do the following:**

- First:** Review and approve tax declaration filed by the company subject to law and preparing a report to express their opinion in accordance with the form designated for that purpose.
- Second:** Prepare the report in accordance with International Review Standards applied in the State of Kuwait and in accordance with National Labor Support Law and its Executive Rules and Instructions.
- Third:** Disclose in the report all violations included in the declaration as per the Law and its Executive Rules and Instructions. In case the auditor ignored to refer explicitly to such violations intentionally or unintentionally in his report, he shall be subject to provisions of the Ministry of Finance Order concerning the approval of audit firms.



**Executive Rule No. (11) Concerning Auditors' Report Form**

**Auditor's report to**

**The Ministry of Finance, Tax Department**  
**Auditor's report on auditing the National Labor Support Tax Declaration**  
**submitted by ..... Company for the fiscal year ended ...../...../ .....**

We have audited the accompanying National Labor Support Tax declaration ('tax Declaration') submitted by ..... (the 'Company'), for the fiscal year ended on / / .

The management of the Company is responsible for the preparation of tax declaration in accordance with the provisions of law No. 19/2000 concerning National Labor Support and Encouragement to Work for Non-Governmental Bodies and the executing regulations thereof. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of tax Declaration.

Our responsibility is to express an opinion on tax Declaration based on our audit. We conducted our audit in accordance with International Standards on Auditing relating to auditing compliance. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether Tax Declaration is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts in tax Declaration. The procedures selected depend on the auditors' professional judgment, including the assessment of the risks of material misstatement of tax Declaration, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation of Tax Declaration in order to design audit procedures that are appropriate for the circumstances.

We believe that the audit evidences we have obtained are sufficient and appropriate to provide reasonable basis for our audit opinion on tax Declaration.

In our opinion, tax Declaration presents fairly, in all material respects, the national labor support tax due on the Company for the fiscal year ended ...../ / computed in accordance with Law No. 19 of 2000 concerning National Labor Support and Encouragement to Work for Non-Governmental Bodies and the executing regulations thereof except for:

1. -----
2. -----

We are responsible for this certificate with regard to compliance with accounting and review profession and in accordance with National labor Support Law No. 19 of 2000 and the executing regulations thereof.

Kuwait on: / /2008

NAME OF THE AUDITOR:  
LICENSE NO AND CATEGORY  
SIGNATURE:

**Executive Rule No. (19) Concerning the legal procedures**

Tax Department shall notify the Department of Legal Affairs at the Ministry to initiate judicial proceedings against:

**First:** Companies refusing to pay tax due thereon.

**Second:** Companies that submit false data in order to evade paying their tax dues.

This shall be in accordance with the penalties stipulated in Article (14) of the Law by punishment of imprisonment for a term not exceeding three (3) years and a fine not exceeding five thousand Dinars (KD 5,000) or either penalty.

**Executive Rule No.(20) Concerning Tax Appeal Committee  
Formation& Work procedures**

**First:** One or more tax appeal committees shall be formed under a decision of the Minister of Finance headed by a consultant from Fatwa and Legislation Department and membership of the following:

The convention of the appeal committee shall not be valid unless attended by the head and at least two members. In case of the head absence, the oldest member shall reside.

**Second:** Tax appeal committee shall be competent to settle all disputes arising between Tax Department and the company subject to law with regard to cases pertaining to tax assessment and collection.

**Third:** Tax Appeal Committee shall notify both Tax Department and the company subject to law of the meeting date for considering the appeal before being held. Tax Appeal Committee shall be entitled to request Tax Department and taxpayer to provide the committee with the statements and papers it deems necessary. The company subject to law or its representative shall have to appear before the Committee; otherwise the Committee shall pass its resolution on the appeal in light of statements and documents provided unless the company subject to law expresses an excuse accepted by the Committee.

**Fourth:** The company subject to law shall have to provide evidence of overstatement assessment or evaluation.

**Fifth:** The sessions of the committee shall be confidential and the resolutions thereof shall be issued after deliberation with the majority of votes. In case of equal votes, the head shall have the casting vote. The resolution shall be signed by both the head of the committee and the secretariat.

**Sixth:** Tax Appeal Committees shall keep the following registers:

- a. Tax Appeal Register in which appeals received by the committee shall be registered as per the date of receiving. The Entry shall include the information of each appeal with regard to the years of dispute and the net profits.
- b. Any other books required by work nature.

### **Tax Appeal Committee Secretariat:**

A secretariat for tax Appeal Committee shall be formed and shall have enough staff who shall be assigned with the following tasks:

**First:** Receiving the incoming tax appeals and recording the same in tax Appeal Register as per the date of receiving them and assign a number for each appeal;

**Second:** Saving all appeal related documents in an easy way for reference;

**Third:** Submitting appeals to the committee head to determine a date for consideration.

**Fourth:** Notifying Tax Department and taxpayer or its representative with the place and timing of the committee meeting;

**Fifth:** Drafting the minutes of the meetings;

**Sixth:** Notifying Tax Department and taxpayer of the decision issued by the Committee. The Notification shall be made by a registered mail.