



## TAX ALERT - Kuwait

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# Ratification for the BEPS Multilateral Instrument (MLI)

**Decree No. 62 of 2026**

June 2026

✉ [GCC@acquisory.com](mailto:GCC@acquisory.com)

🌐 [www.acquisory.com](http://www.acquisory.com)

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## Executive Summary

The State of Kuwait has formally completed its internal procedures and deposited its Instrument of Ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) with the OECD.

This has been implemented vide **Decree No. 62 of 2026** signed on 25 May 2026 (8 Dhul Hijja 1447H) and published on 7 June 2026.

This landmark development marks Kuwait's integration into the modernized international tax standard, directly altering its extensive network of bilateral Double Taxation Avoidance Agreements (DTAAs).

Businesses with outbound or inbound operations in Kuwait must urgently evaluate these changes, as treaty-shopping protections and permanent establishment rules are substantially strengthened.



## Background **and** Global Context

Kuwait originally signed the MLI on June 7, 2017, alongside dozens of global jurisdictions, signaling its commitment to the OECD/G20 BEPS framework. The recent deposit of the instrument of ratification brings this long-standing commitment into active enforcement.

The MLI is designed to swiftly update thousands of bilateral tax treaties worldwide to counteract base erosion and profit shifting without the administrative burden of renegotiating each treaty individually.

By implementing the MLI, Kuwait aligns itself with regional peers (such as Saudi Arabia and the UAE) that have already active MLI frameworks.

This shift is critical as Kuwait transitions toward broader fiscal reforms, including the recent enactment of Decree-Law No. 157 of 2024 concerning the Domestic Minimum Top-up Tax (DMTT) aligned with Pillar Two.

# Core Mechanisms & Covered Tax Agreements (CTAs)

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The MLI does not replace existing tax treaties; instead, it is applied alongside them, modifying their application. The key concepts governing its operation include:

**Covered Tax Agreements (CTAs):** The MLI will only modify a DTAA if both Kuwait and its treaty partner have **listed the treaty as a CTA**. Kuwait previously notified a provisional list of over 45 treaties intended for coverage.

**The Matching Principle:** Modifications occur only where both jurisdictions choose the same MLI options or adopt matching minimum standards. If Kuwait opts into a provision but the partner jurisdiction reserves against it, that specific provision will generally not apply.

**Minimum Standards:** Kuwait is legally required to implement the MLI minimum standards, which include treaty anti-abuse rules (BEPS Action 6) and the improvement of dispute resolution mechanisms (BEPS Action 14).

# Key Provisions & Critical Impact Areas for Taxpayers

Impact Area	MLI Modification Rule	Strategic Implications & Action Items
<b>Anti-Treaty Shopping / PPT</b>	Adoption of the Principal Purpose Test (PPT) as the default minimum standard. Benefits under a DTAA will be denied if it is reasonable to conclude that obtaining the tax benefit was one of the principal purposes of any arrangement or transaction.	Holding structures, financing arrangements, and cross-border IP licensing involving Kuwaiti entities must possess clear, well-documented operational substance and genuine commercial rationale to withstand PPT audits.
<b>Permanent Establishment (PE)</b>	Tightened rules to prevent the artificial avoidance of PE status through commissionaire arrangements, specific activity exemptions (e.g., storage/delivery used for core business), or contract splitting.	Foreign companies operating in Kuwait via local agents, or executing short-term projects across multiple entities, should re-verify their PE risk. Contract structures should be checked against anti-splitting terms.
<b>Withholding Taxes (WHT)</b>	Introduction of minimum holding period requirements (typically 365 days) for corporate shareholders to qualify for preferential or reduced withholding tax rates on dividend distributions.	Corporate groups must audit their ownership timelines. Transitioning or restructuring corporate holdings right before a dividend distribution may trigger the full statutory tax rate instead of treaty reliefs.

# Key Provisions & Critical Impact Areas for Taxpayers (continued)

Impact Area	MLI Modification Rule	Strategic Implications & Action Items
<p><b>Hybrid Mismatches and dual residence</b></p>	<p>Addresses transparent entities, dual-resident tie-breakers, and the method for relieving double taxation of double non-taxation.</p>	<p>A hybrid mismatch occurs when two countries treat the same entity or financial instrument differently for tax purposes resulting in unwarranted deductions or non-inclusion of income. Dual residence occurs when a person is treated as a tax resident in more than one country simultaneously. The MLI provisions attempt to resolve these complex tax issues by providing specific provisions to address the same.</p>
<p><b>Capital Gains on Shares</b></p>	<p>Gains from the sale of shares in "land-rich" companies (where the company derives more than 50% of its value directly/or indirectly from immovable property) can be taxed by the source country and if the ownership were not maintained throughout the 365-day period preceding the transfer</p>	<p>Strategic and private equity investors must carefully review their exit horizons. If an investment is held for less than 365 days prior to a divestment that triggers the threshold, they may lose treaty protections (which normally allocate taxation rights to the seller's resident country)</p>

# Key Provisions & Critical Impact Areas for Taxpayers (continued)

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Impact Area	MLI Modification Rule	Strategic Implications & Action Items
<b>Dispute Resolution</b>	Enhancement of the Mutual Agreement Procedure (MAP) as a standardized dispute resolution mechanism allowing taxpayers to resolve double taxation conflicts between contracting jurisdictions	Taxpayers can approach the competent tax authority in Kuwait (within 3 years) to resolve cross-border taxation cases contrary to Covered Tax Agreements.

# What **Businesses** Should Do Now

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The exact date on which the MLI alters a specific Kuwaiti tax treaty depends on the matching timeline. The MLI generally enters into force on the first day of the month following a three-month period after the deposit of the ratification instrument. For specific taxes (e.g., withholding taxes vs. taxable periods), it typically takes effect on or after the first day of the next calendar year following entry into force for both matching jurisdictions. Businesses must immediately initiate the following measures:

**Step 1. Map Kuwaiti CTAs:** Cross-reference Kuwait's final MLI positions against key inbound/outbound investment jurisdictions (e.g., UK, European hubs, or regional GCC partners like the UAE) using the OECD MLI matching database.

**Step 2. Conduct Substance Audits:** Review current holding and financing structures. Ensure that cross-border arrangements satisfy the subjective elements of the Principal Purpose Test (PPT) by validating economic substance, local physical presence, and operational decision-making.

**Step 3. Review Permanent Establishment Triggers:** Re-evaluate the activities of foreign personnel and agents operating in Kuwait to ensure compliance with the newly narrowed permanent establishment exemptions.

**Step 4. Coordinate with Broader Corporate Reforms:** Integrate your treaty vulnerability matrix with Kuwait's ongoing Pillar Two/DMTT roadmap to evaluate potential shifts in the group's global Effective Tax Rate (ETR).



# Our Offices



## UAE

**Dubai Office** 604, Bay Square 11,  
Business Bay,  
P.O. Box: 118767, Dubai, UAE  
+971 4576 5098  
GCC@acquisory.com



## INDIA

**Delhi-NCR** 1116, 11th Floor, WTT,  
C-1, Sector 16,  
DND Flyway, Noida – 201301  
T: +91 120 614 300  
Fax: +91 120 6143033



## Mumbai

102, 1st Floor, Naman Centre, BKC, Near MMRDA Parking,  
Bandra East, Mumbai City, Maharashtra, 400051  
T: +91 22 68648100  
Fax: +91 22 68648132



**Bengaluru** Unit 1003-1004, 10th Floor,  
Prestige Meridian - II,  
Mahatma Gandhi Rd, Ashok Nagar,  
Bengaluru,  
Karnataka, 560025



[GCC@acquisory.com](mailto:GCC@acquisory.com)



[www.acquisory.com](http://www.acquisory.com)

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