

UAE: NEW KEY AMENDMENTS TO THE FEDERAL TAX PROCEDURES LAW EFFECTIVE TODAY 1 NOVEMBER 2021

Several modes of settlement of administrative penalties now introduced – pay 50% in cash or through a guarantee and your tax challenge will be admissible!

The UAE Federal Tax Authority (FTA) will today start implementing new procedures to facilitate the ease for tax registrants to submit reconsideration requests and objections to the FTA's decisions, for implementing the decisions of the Tax Dispute Resolution Committee (TDRC), appeal procedures, controls for reducing administrative penalties, the payment of penalties over installments and exempting penalties.

The FTA has clarified that the new procedures concern the implementation of Federal Decree-Law No. (28) of 2021 (amending some provisions of Federal Law No. (7) of 2017 on Tax Procedures) and come into effect today, 1 November 2021. The FTA has indicated that any person shall have the right to submit a request to the FTA for reconsideration of any decision issued by the FTA, provided it is a reasoned request and meets the prescribed conditions, within (40) working days from the date of its notification of the decision. The FTA shall examine the request for reconsideration, decide thereon, under a reasoned resolution, within (40) working days from the date of receiving the request, and inform the applicant within five working days from the date of the issuance of the decision.

The taxpayer has (40) working days from receiving the decision to submit an objection before the TDRC. Under Article (30) of the amended law, the taxpayer is no longer considered inadmissible if the penalty has not been settled in connection with the objection (only the tax should be settled).

The FTA has also explained that the Decree-Law specifies the procedures for appealing before the competent courts. The appeal request should be submitted within (40) working days from the date the FTA or the taxpayer is notified of the TDRC's decision, in the event of an objection to the decision of the TDRC or if the committee fails to issue a decision.

The Decree-Law states that the appeal shall not be accepted by the competent court in specific cases. These include failure to provide evidence that the person has paid no less than 50% of the value of the prescribed administrative penalty, either through cash payment or bank guarantee in favor of the authority.

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Below is an unofficial translation of the key amendments to the law (a copy of the full Arabic text can be accessed below):

Article (30) - Procedures for Submitting an Objection and Cases of Non-admission Thereof

1. An objection to the Committee's decision regarding the reconsideration application shall be submitted within forty (40) business days as of the date of notification of the Committee's decision.
2. The objection submitted to the Committee shall not be admitted in the following cases:
 - a. If a reconsideration application was not submitted to FTA in the first place;
 - b. If the tax associated with the objection is not paid; and
 - c. If the objection is not submitted within the period specified in Clause (1) hereof.

Article (32) – Implementation of Committee Decisions

1. A final decision issued by the Committee in disputes whose value does not exceed one hundred thousand dirhams (AED 100,000) shall be considered a writ of execution.
2. Final decisions for disputes whose value exceeds one hundred thousand dirhams (AED 100,000) shall be considered to be writs of execution if they are not challenged before the competent court within a period of forty (40) business days following the date of notification of the outcome of the objection.
3. The final decisions of the Committee, which have the power of a writ of execution, are implemented by the execution judge at the competent court in accordance with the provisions of the said Federal Law No. (11) of 1992.

Article (32) *bis* – Special Procedures for Objection and Appeal

As an exception to the provisions of Articles (29), (30), (31), (32) and (33) hereof, the Cabinet shall, upon recommendation of the Minister, issue a resolution to adopt an alternative mechanism for objection and appeal if the party to the dispute is a federal or local government authority specified in such decision. Until the Cabinet resolution is issued and implemented, the provisions stipulated herein regarding the objection or appeal of federal and local government authorities related to tax disputes shall apply.

Article (33) - Procedures of Appeal Before Courts

1. Without prejudice to the provisions of Articles (32) and (32) *bis* hereof, FTA and the person, as the case may be, may appeal against the Committee's decision before the competent court within forty (40) business days as of the date on which FTA or the person, as the case may be, is notified of the Committee's decision, in the following two cases:
 - a. If the Committee's decision is objected to in whole or in part;
 - b. No decision is issued by the Committee regarding an objection submitted thereto in accordance with the provisions hereof.
2. The competent court shall rule against the inadmissibility of the appeal against FTA in the following cases:
 - a. There is a case of inadmissibility of the objection to the Committee, as stipulated in Clause (2) of Article (30) hereof.
 - b. The person failed to submit evidence of payment of tax to FTA in accordance with the Committee's decision, or the judgment of the court, as the case may be.
 - c. The person failed to provide evidence of payment of no less than (50%) of the value of the administrative penalties prescribed in accordance with the

Committee's decision, or the judgment of the court, as the case may be, by paying in cash to FTA or by submitting an approved bank guarantee in favor of FTA.

3. The Cabinet may, upon the recommendation of the Minister, make any amendments to the percentage stipulated in Paragraph (C) of Clause (2) of this Article.

Article (46) – Controls for Installment, Exemption or Refunds of Administrative Penalties

If FTA imposed or collected an administrative penalty from any person for violating the provisions hereof or the tax law, the committee stipulated in the second paragraph of this article may, upon the recommendation of the Director General, issue a decision approving the payment of the penalty amount in installments or the exemption or refund thereof in whole or in part, in accordance with the controls and procedures issued by a decision of the Council of Ministers based on a suggestion by the Minister.

The Chairman of FTA's Board of Directors shall issue a decision to form the Committee stipulated in the first paragraph of this Article under his chairmanship or the chairmanship of his deputy and with the membership of two members of the Board. The decision issued to form the Committee shall set out its mode of operations and how the meetings thereof shall be held.

The UAE is showing, inspiring and motivating leadership in giving top priority to nurturing the development and investment goals of the country and to the interests the country and its citizens. The recent amendments continue a series of amendments related to the Tax Procedures Law which the Government is introducing to resolve the ongoing tax disputes and facilitating the resolution mechanism for any future tax disputes.

It is very interesting to see the interplay of the recent amendments with the ongoing cases which are still being litigated before the various federal courts.

Challenge process

This latest development reinforces the necessity for taxpayers to adequately consider adopting appropriate strategies before or when pursuing tax challenges before the TDRC and Federal Courts, and align these with the new legislative developments. We at Baker McKenzie Habib Al Mulla have to date successfully assisted many clients to navigate these. We would be pleased to support you throughout the challenge process relating to your tax dispute and litigation matters.

Seek legal counsel

Over the last three years, Baker McKenzie Habib Al Mulla has increasingly been instructed to handle multiple first-of-its kind cases involving complex issues of VAT, excise duty, and penalties relating to tax returns and voluntary disclosures and others. Our tax litigation team, led by senior lawyer **Mohamed El Baghdady**, has successfully represented clients across various industries, including consumer goods and retail, services and banking and finance, before the tax tribunals and courts. Our clients have been successful in multiple tax disputes before the committees and courts.

We are happy to support you throughout the challenge process in relation to your taxes and penalties. For further information, please contact [Mohamed El Baghdady](#) and [Reggie Mezu](#).