

## UAE: Latest update on tax administrative penalties

The UAE Federal Tax Authority (FTA) announced that any person or group proven to have violated the provisions of tax legislation has the right to apply to the FTA to reduce or be exempted from an administrative penalty, provided that there is an excuse acceptable to the FTA, and that there is evidence available justifying the excuse and the violation related thereto, which led to the imposition of an administrative penalty.

The FTA clarified that according to Cabinet Resolution No. (51) of 2021 regarding amending the Executive Regulations of the Federal Law on Tax Procedures, any person or group whose violation of the provisions of the law or tax law is proven may submit a request to the FTA to reduce or be exempted from the penalties imposed by the FTA, according to a set of controls.

It pointed out that this set of controls are that:

- there is an excuse acceptable to the FTA
- there is evidence available justifying the excuse and the violation related thereto, which led to the imposition of administrative penalties
- the person notifies the FTA of the request for the reduction or exemption according to the mechanism defined by the FTA within 40 business days of the removal of the acceptable excuse
- the person proves that it has rectified its violation
- the request for reduction or exemption is submitted in accordance with the form specified by the FTA

The FTA stressed that according to the amendment, which came into effect as of 28 April 2021, the excuse upon which the violation was committed, will not be acceptable if it is proven that the person committed the violation intentionally. A tripartite committee to be formed by a decision issued by the Director General of the FTA will decide whether the excuse will be acceptable. The committee will be concerned with examining, accepting or rejecting the excuse, provided that the FTA issues its decision to reduce or exempt from the administrative penalties within 40 business days as from the date of receiving the application. The non-official translation of the relevant decree is set out in the Annex to this alert.

This is a major development in the UAE tax landscape, as the new amendments may affect the upcoming decisions to be issued by the various Tax Dispute Resolution

### Contact information

**Dr. Habib Al Mulla**  
Executive Chairman  
Dubai  
Habib.AIMulla  
[@bakermckenzie.com](mailto:@bakermckenzie.com)

**Mohamed El Khatib**  
Partner  
Dubai  
Mohamed.ElKhatib  
[@bakermckenzie.com](mailto:@bakermckenzie.com)

**Mohamed El Baghdady**  
Senior Associate  
Dubai  
Mohamed.ElBaghdady  
[@bakermckenzie.com](mailto:@bakermckenzie.com)

**Reggie Mezu**  
Senior Tax Counsel  
Dubai  
[Reggie.Mezu](mailto:Reggie.Mezu)  
[@bakermckenzie.com](mailto:@bakermckenzie.com)

Committees (TDRC) and Federal Courts and may also affect the existing avenues to settle tax disputes.

### **Seek legal counsel**

Over the last two 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. Led by senior lawyer Mohamed El Baghdady who is the firm's go-to specialist on tax litigation, we have successfully represented clients across various industries, including consumer goods and retail, services and banking and finance, before the tax tribunals and courts. Mohamed's track record shows multiple successes achieved on behalf of a growing client base in the field of tax disputes.

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**, members of our UAE Tax Litigation team.

*This alert is prepared by Mohamed El Baghdady (Senior Associate, Tax Litigation, Dubai).*

### **Annex (Non-Official Translation – Draft Version)**

**Cabinet Resolution No. (51) of 2021**  
**Modifying some provisions of Cabinet Resolution No. (36) of 2017 on the**  
**Executive Regulations of Federal Law No. (7) of 2017 on Tax Procedures**

#### **The Cabinet,**

- Having reviewed the Constitution;
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority, as amended;
- Federal Law No. (7) of 2017 on Tax Procedures;
- Cabinet Resolution No. (36) of 2017 on the Executive Regulations of Federal Law No. (7) of 2017 on Tax Procedures;
- Based on what was presented by the Minister of Finance and approved by the Cabinet,

#### **Has decided:**

**Article (1)**

The provision of Article (26) of Cabinet Resolution No. (36) of 2017 on the Executive Regulations of Federal Law No. (7) of 2017 on Tax Procedures, shall be replaced by the following:

1. The Authority may reduce or exempt administrative penalties for any person or group proven to have violated the provisions of the law or the tax law in the event that the following conditions are met:
  - a. There is an excuse acceptable to the Authority;

- b. Evidence available justifying the excuse and the violation thereof, which led to the imposition of an administrative penalty.
2. Without prejudice to the provisions of Clause (1) of this Article, any person or group whose violation of the provisions of the law or the tax law has been proven may apply to the Authority to reduce or exempt the penalties imposed by the Authority, in accordance with the following controls:
  - a. There is an excuse acceptable to the Authority;
  - b. Evidence available justifying the excuse and the violation thereof, which led to the imposition of administrative penalties;
  - c. Notifying the Authority of the request for the reduction or exemption according to the mechanism defined by the Authority, within (40) business days of the removal of the acceptable excuse;
  - d. The person proved that it has rectified its violation;
  - e. The submission of an exemption or reduction request to the Authority in accordance with the form the Authority specified.
3. The excuse shall not be acceptable if it is proven that the person committed the violation intentionally.
4. For the purposes of implementing the provisions of Paragraph (a) of Clause (1) and Paragraph (a) of Clause (2) of this Article, acceptance of the excuse shall be based on a resolution by a tripartite committee to be formed by a decision issued by the Director General. Such committee shall be concerned with examining, accepting or rejecting the excuse.
5. The Authority shall issue its decision to reduce or exempt the administrative penalties within (40) business days as from the date of receiving the application, if any, and the applicant shall be notified of such decision within (10) days as from the date of the issuance thereof.

#### **Article (2)**

Any provision that contradicts or conflicts with the provisions of this resolution shall be repealed.

#### **Article (3)**

This resolution shall be promulgated in the official gazette and enforced as of the date of the issuance thereof.

**Mohammed bin Rashid Al-Maktoom**

Prime Minister

Issued by us:

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