

Tax Procedures Alert

November 2, 2021

Key Changes in the Tax Disputes Procedures

Introduction

In the UAE, the procedures and the timelines for a person to contest tax (VAT or Excise) disputes and for the relevant authority to adjudicate the matters are set out in the Tax Procedures Law¹. In the recent amendment², some of the key provisions related to the said procedures/timelines have been relaxed with the effect from 01 November 2021.

In this alert, we have summarized the changes along with our comments.

Key amendments

1. Timelines

- a. The time limits for filing a reconsideration application before the Federal Tax Authority ('FTA'), an objection before the Tax Dispute Resolution Committee ('TDRC'), and an appeal before the Competent Courts have been increased from 20 to 40 business days
- b. The time limit for the FTA to review the reconsideration application and issue a decision has been increased from 20 to 40 business days, whereas for the TDRC, the erstwhile provisions remain unchanged i.e., 20 business days with further extension of 20 additional business days at the discretion of the TDRC.

¹ Federal Decree-Law No. 7 of 2017 – Issued 11 Jun 2017

² Federal Decree-Law No. 28 of 2021 – Issued 16 Sep 2021



Dhruva Comments: The increase in time limit is a significant relief and will give enough time for affected businesses to plan, strategize and present the case with adequate documentation.

At the same time, it is important for Businesses, to carefully track the date when they were being notified of the decision and deadline to file the application or objection or appeal, to ensure the matter is heard in terms of the provisions of the UAE VAT Law.

2. Payment of Tax & Penalties

- a. For filing objection before the TDRC, it was earlier necessary to settle the entire disputed amount (tax and administrative penalties). The said condition has now been relaxed with only the tax amount to be settled (by cash) for objection to be admissible before the TDRC.
- b. With only the tax amount being payable before filing objections with the TDRC, for filing an appeal before the Competent Courts, at least 50% of the administrative penalties, as decided by the TDRC or as ruled by the Court, must be settled either by cash or by furnishing a bank guarantee in favour of the FTA.
- c. The Cabinet may, at the suggestion of the Minister, make amendments to the percentage prescribed above.

Dhruva Comments: Payment of only tax amount for the admissibility of a case before the TDRC level and furnishing a bank guarantee for 50% of the administrative penalties before Competent Courts will significantly ease the financial burden for businesses to pursue tax litigation.

It would be important to see if businesses who have already paid 100% of administrative penalties and whose case is currently pending before Competent Courts can take benefit of this amendment and seek refund of the penalty amount from the FTA by furnishing a bank guarantee for 50% instead.

3. Objections before the TDRC

- a. An objection will not be admissible if it is not submitted within 40 business days from the date of being notified of the decision issued by the FTA
- b. For disputes below AED 100,000, the decisions issued by the TDRC are deemed as executory instruments (i.e., final judgments). On the other hand, for disputes exceeding AED 100,000, the decisions issued by the TDRC are deemed as executory instruments (final judgments) if these are not appealed before the



Competent Court within 40 business days from the date of notification of the TDRC decision.

Dhruva Comments: It was practically seen that the TDRC and the Competent Courts were rejecting an objection/appeal submitted if it was not filed within the prescribed time limit; now, it has been expressly specified in the Law. In other words, any scope of the relevant authority condoning the delay in filing of objections or appeals has been explicitly taken away.

4. Alternate Mechanism for Objection and Appeal for Federal or Local Government Entities

The Cabinet shall, upon suggestion by the Minister, issue a decision adopting an alternative mechanism of objection and appeal if the parties to the dispute are any of the federal or local government entities specified in the decision.

Dhruva Comments: It would be important to see what the alternate mechanism is and which type of federal or local government entities would be covered.

5. Cases for payment in instalments, waiver, refund of administrative penalties

A special Committee, chaired by FTA's Director General, may issue a decision approving the payment by instalments of the administrative penalties imposed, or totally/partially waiving/refunding it.

The decision for forming the Committee, its bylaws, and the manner of holding its meetings is expected to be issued.

Dhruva Comments: In April 2021, there was an amendment in the Executive Regulations to the Tax Procedures Law³ about a tripartite committee to be set up by a decision of the Director General, with the mandate to review such cases. However, there was no further development known in the public domain in this regard. Now, with the amendments in the Tax Procedures Law, it needs to be seen how businesses can seek penalty waiver/refund or payment in instalments.

³ Cabinet Decision No. 36 of 2017 – Issue Date: 24th of September 2017 as amended by Cabinet Decision No. 51 of 2021 – Issue Date: 28th of April 2021



WTS Dhruva Consultants

UAE

WTS Dhruva Consultants
Emaar Square Building 4, 2nd Floor,
Office 207, Downtown,
Dubai, UAE
Tel: + 971 4240 8477

Dhruva Advisors

Mumbai

One World Center, 11th floor,
Tower 2B, 841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai 400013
Tel: +91 22 6108 1000/1900

Ahmedabad

B3, 3rd Floor, Safal Profitaire,
Near Auda Garden,
Prahlanagar, Corporate Road,
Ahmedabad 380015
Tel: +91-79-6134 3434

Bengaluru

Prestige Terraces, 2nd Floor
Union Street, Infantry Road,
Bengaluru 560001
Tel: +91-80-4660 2500

Delhi/NCR

101 & 102, 1st Floor, Tower 4B
DLF Corporate Park
M G Road, Gurgaon
Haryana 122002
Tel: +91-124-668 7000

Pune

305, Pride Gateway, Near D-Mart,
Baner, Pune 411 045
Tel: +91-20-67301000

Kolkata

4th Floor, Unit No 403, Camac Square,
24 Camac Street, Kolkata
West Bengal 700016
Tel: +91-33-66371000

Singapore

Dhruva Advisors (Singapore) Pte. Ltd.
20 Collyer Quay, #11-05
Singapore 049319
Tel: +65 9105 3645

KEY CONTACTS

Dinesh Kanabar

Chief Executive Officer
dinesh.kanabar@dhruvaadvisors.com
Tel: +91 9820020647

Nimish Goel

Partner
nimish.goel@dhruvaadvisors.com
Tel: +971 50106 6531

Deepak Agarwal

Associate Partner
Deepak.agarwal@dhruvaadvisors.com
Tel: +971 58282 3753

Ujjwal Kumar Pawra

Director
ujjwal.pawra@dhruvaadvisors.com
Tel: +971 50199 3363

Geet Shah

Director
Geet.shah@dhruvaadvisors.com
Tel: +971 50106 9034

Naishadh Soneta

Director
naishadh.soneta@dhruvaadvisors.com
Tel: +971 50384 9202

WTS Dhruva Consultants has been recognised as the **“Best Newcomer Firm of the Year”** at the ITR European Tax Awards 2020.

Dhruva Advisors has been consistently recognised as the **“India Tax Firm of the Year”** at the ITR Asia Tax Awards in 2017, 2018, 2019, 2020 and 2021.

Disclaimer:

This information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and opinion. Before acting on any matters contained herein, reference should be made to subject matter experts and professional judgment needs to be exercised. WTS Dhruva Consultants will not accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.