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Amending some Provisions of Cabinet Decision No. 40 of 2017 on the Administrative Penalties for Violation of Tax Laws in the UAE

Cabinet Decision No. 49 of 2021

Issue Date: 28 April 2021

The Cabinet has decided:

- Having reviewed the Constitution,
- Federal Decree-Law No. 13 of 2016 on the Establishment of the Federal Tax Authority and its amendments;
- Federal Law No. 14 of 2016 on Violations and Administrative Penalties in the Federal Government;
- Federal Law No. 7 of 2017 on Tax Procedures;
- Federal Decree-Law No. 7 of 2017 on Excise Tax;
- Federal Decree-Law No. 8 of 2017 on Value Added Tax;
- Federal Decree-Law No. 26 of 2019 on Public Finance;
- Cabinet Decision No. 40 of 2017 on the Administrative Penalties for Violation of Tax Laws in the UAE; and
- Pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

First Article – Replacement of Tables

The tables of Violations and Administrative Penalties annexed to the Cabinet Decision No. 40 of 2017 on Administrative Penalties for Violation of Tax Laws in the UAE, shall be replaced with the following tables:



Table No. 1

**On Violations and Administrative Penalties related to the Implementation of
Federal Law No. 7 of 2017 on Tax Procedures**

| No. | Description of Violation | Administrative Penalty in AED |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| 1 | The failure of the Person conducting Business to keep the required records and other information specified in the Tax Procedures Law and the Tax Law. | 10,000 for the first time. 20,000 in case of repetition. |
| 2 | The failure of the Person conducting Business to submit the data, records, and documents related to Tax in Arabic to the Authority when requested. | 20,000 |
| 3 | The failure of the Taxable Person to submit a registration application within the timeframe specified in the Tax Law. | 10,000 |
| 4 | The failure of the Registrant to submit a deregistration application within the timeframe specified in the Tax Law. | 1,000 in case of delay, and on the same date monthly thereafter, up to a maximum of 10,000. |
| 5 | The failure of the Registrant to inform the Authority of any circumstance that requires the amendment of the information pertaining to its Tax record kept by Authority. | 5,000 for the first time. 10,000 in case of repetition. |
| 6 | The failure of the Legal Representative of the Taxable Person to inform the Authority of its appointment as Legal Representative within the specified timeframe, in which case the Penalties will be due from the Legal Representative's own funds. | 10,000 |



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| 7 | The failure of the Legal Representative for the Taxable Person to file a Tax Return within the specified timeframe, in which case the Penalties will be due from the Legal Representative's own funds. | 1,000 for the first time. 2,000 in case of repetition within 24 months. |
| 8 | The failure of the Registrant to submit the Tax Return within the timeframe specified in the Tax Law. | 1,000 for the first time. 2,000 in case of repetition within 24 months. |
| 9 | The failure of the Taxable Person to settle the Payable Tax stated in the submitted Tax Return or Voluntary Disclosure, or the Tax Assessment he was notified of, within the timeframe specified in the Tax Law. | <ol style="list-style-type: none"> 1. The Taxable Person shall be obliged to pay the penalty applicable to late payment of Payable Tax up to a maximum of 300%, pursuant to the following: <ol style="list-style-type: none"> a. 2% of the unpaid Tax shall be due on the day following the due date of payment, where the settlement of Payable Tax is late. b. 4% monthly penalty is due after one month from the due date of payment, and on the same date monthly thereafter, on the unsettled Tax amount to date. 2. For the purposes of this penalty, the due date of payment in the case of the Voluntary Disclosure and Tax Assessment, shall be as follows: <ol style="list-style-type: none"> a. 20 business days from the date of submission, in the case of a Voluntary Disclosure. b. 20 business days from the date of receipt, in the case of a Tax Assessment. |
| 10 | The submittal of an incorrect Tax Return by the Registrant. | <ol style="list-style-type: none"> 1. Fixed penalty shall be applied: <ol style="list-style-type: none"> 1,000 for the first time. 2,000 in case of repetition. 2. As an exception to Clause 1 of this penalty, if the incorrect Tax Return results in a Tax difference less than the |



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| | | <p>fixed penalty listed in Clause 1 of this penalty, a penalty equal to the that Tax difference of at least 500 shall be imposed.</p> <p>3. Anyone correcting their Tax Return prior to the due date of payment shall be excluded from the penalty imposed under Clauses 1 and 2 of this penalty.</p> |
| 11 | <p>The submittal of a Voluntary Disclosure by the Person/Taxpayer on errors in the Tax Return, Tax Assessment or refund application pursuant to Article 10(1) and 10(2) of the Tax Procedures Law.</p> | <p>Without prejudice to the potential consequences of the penalty mentioned in Clause 10 of this Table, a percentage-based penalty shall be applied on the difference between the Tax that was calculated and that which should have been calculated, pursuant to the following:</p> <ol style="list-style-type: none"> 1. 5% on the difference, where the Voluntary Disclosure is submitted within one year from the due date of submission of the Tax Return, the Tax Assessment, or the relevant refund application; 2. 10% on the difference, where the Voluntary Disclosure is submitted within the second year following the due date of submission of the Tax Return, the Tax Assessment, or the relevant refund application; 3. 20% on the difference, where the Voluntary Disclosure is submitted within the third year following the due date of submission of the Tax Return, the Tax Assessment, or the relevant refund application; 4. 30% on the difference, where the Voluntary Disclosure is submitted within the fourth year from the due date of submission of the Tax Return, the Tax Assessment, or the relevant refund application; |



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| | | 5. 40% on the difference, where the Voluntary Disclosure is submitted after the fourth year from the due date of submission of the Tax Return, the Tax Assessment, or the relevant refund application. |
| 12 | The failure of the Person/Taxpayer to voluntarily disclose an error in the Tax Return, Tax Assessment, or refund application pursuant to Article 10 (1) and 10(2) of the Tax Procedures Law before being notified by the Authority that it will be subject to a Tax Audit. | <p>Without prejudice to the potential consequences of the penalty mentioned in Clause 10 of this Table, the person will be subject to:</p> <ol style="list-style-type: none"> 1. A penalty of 50% on the amount of error. 2. A penalty of 4% for every month or part of the month, of the following: <ol style="list-style-type: none"> a. The unpaid Tax to the Authority, from the date the payment is due for the relevant Tax Period until the date of receipt of the Tax Assessment. b. The Tax that was not returned to the Authority due to ineligible refund, from the date of Tax refund until the date of receipt of the Tax Assessment. |
| 13 | The failure of the Person conducting Business to facilitate the work of the Tax Auditor in violation of the provisions of Article 21 of the Tax Procedures Law. | 20,000 |
| 14 | The failure of the Registrant to calculate Tax on behalf of another Person where the Registrant Taxable Person is obliged to do so under the Tax Law. | <ol style="list-style-type: none"> 1. The Registrant shall be obliged to pay the penalty applicable to late settlement of Payable Tax up to a maximum of 300%, pursuant to the following: <ol style="list-style-type: none"> a. 2% of the unpaid Tax is due on the day following the due date of payment, where the settlement of Payable Tax is late. |



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| | | <p>b. 4% monthly penalty is due after one month from the due date of payment, and on the same date monthly thereafter, on the unsettled Tax amount to date.</p> <p>2. For the purposes of this penalty, the due date of payment in the case of Voluntary Disclosure and Tax Assessment, shall be as follows:</p> <p>a. 20 business days from the date of submission, in the case of a Voluntary Disclosure.</p> <p>b. 20 business days from the date of receipt, in case of a Tax Assessment.</p> |
| 15 | A Person not accounting for any Tax that may be due on the import of goods as per the Tax Law. | 50% of unpaid or undeclared Tax. |

| Table No. 2 | | |
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| On Violations and Administrative Penalties related to the Implementation of Federal Decree-Law No. 7 of 2017 on Excise Tax | | |
| No. | Description of Violation | Administrative Penalty in AED |
| 1 | The failure of the Taxable Person to display prices inclusive of Tax. | 5,000 |
| 2 | The failure to comply with the conditions and procedures of transferring Excise Goods from a Designated Zone to another Designated Zone, and the mechanism of preserving, storing, and processing such Excise Goods. | The penalty shall be the higher of 50,000 or 50% of the Tax, if applicable, chargeable on the goods in relation to the violation. |
| 3 | The failure of the Taxable Person to provide the Authority with the price lists of the Excise Good that it produces, imports or sells. | 5,000 for the first time. 10,000 in case of repetition. |



Table No. 3

**On Violations and Administrative Penalties related to the Implementation of
Federal Decree-Law No. 8 of 2017 on Value Added Tax**

| No. | Description of Violation | Administrative Penalty in AED |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| 1 | The failure of the Taxable Person to display prices inclusive of Tax. | 5,000 |
| 2 | The failure of the Taxable Person to notify the Authority of applying Tax based on Margin. | 2,500 |
| 3 | The failure to comply with the required conditions and procedures related to keeping the Goods in a Designated Zone or moving them to another Designated Zone. | The penalty shall be the higher of 50,000 or 50% of the Tax, if applicable, chargeable on the goods in relation to the violation. |
| 4 | The failure of the Taxable Person to issue a Tax Invoice or the alternative document when making any supply. | 2,500 for each detected case. |
| 5 | The failure of the Taxable Person to issue a Tax Credit Note or the alternative document. | 2,500 for each detected case. |
| 6 | The failure of the Taxable Person to comply with the conditions and procedures regarding the issuance of a Tax Invoice and a Tax Credit Note electronically. | 2,500 for each detected case. |



Second Article – Specifying the Date of Penalty Imposition in Special Cases

For the purposes of Clauses 4, 9, and 14 of Table No. 1 referenced in the First Article of this Decision, if any penalty is to be imposed on the same date monthly, the date for a month that does not contain a corresponding date shall be considered as the first day of the following month. The penalty for all other months shall be imposed on the date the monthly penalty was first imposed.

Third Article – Redetermination of Administrative Penalties Levied Prior to Effective Date

1. The Authority shall determine the Administrative Penalties levied on the Registrant prior to the effective date of this Decision and that have not been settled, to be equal to 30% of the total unpaid penalties where all of the following conditions are met:
 - a. Any of the Administrative Penalties set forth in the above referred Cabinet Decision No. 40 of 2017 has been imposed on the Registrant prior to the effective date of this Decision and were not settled in full;
 - b. The Registrant has settled each of the following:
 - 1) Payable Tax in full, no later than 31 December 2021.
 - 2) 30% of the total Administrative Penalties payable and not paid up to the effective date of this Decision, no later than 31 December 2021.
2. The Authority shall determine the procedures for implementing the provisions of this Article.

Fourth Article – Cancellation of Conflicting Provisions

Any provision contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Fifth Article – Publication and Coming into Effect

This Decision shall be published in the Official Gazette and shall come into effect 60 days after the date of its issuance.