

On 28 April 2021, the UAE Cabinet of Ministers issued Decision No. 49/2021, amending provisions of Cabinet Decision No. 40/2017 regulating tax penalties (the “new Decision”).

Article (1)

Replacement of Tables

The below tables shall compare and replace the tables on the administrative violations and penalties attached to Cabinet Resolution No. (40) of 2017 on Administrative Penalties imposed on violations to the tax laws of the UAE:

Table (1): Violations and Administrative Penalties related to the Implementation of the Federal Law No. (7) of 2017 on Tax Procedures			
SR#	Description of Violation	Old penalty (AED)	New penalty (AED)
1	The failure of the Person conducting Business to keep the required records and other information specified in Tax Procedures Law and the Tax Law	<ul style="list-style-type: none"> (10,000) for the first time. (50,000) in case of repetition. 	<ul style="list-style-type: none"> (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)	(20,000)
3	The failure of the Taxable Person to submit a registration application within the timeframe specified in the Tax Law	(20,000)	(10,000)
4	The failure of the Registrant to submit a deregistration application within the timeframe specified in the Tax Law	(10,000)	(1,000) upon delay in submitting the application and on the same date per month, with 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 his tax record kept by Authority.	<ul style="list-style-type: none"> (5,000) for the first time. (15,000) in case of repetition 	<ul style="list-style-type: none"> (5,000) for the first time. (10,000) in case of repetition.
6	The failure of the Person appointed as a Legal Representative for the Taxable Person to inform the Authority of his appointment within the specified timeframe. The penalties will be due from the Legal Representative’s own funds.	(20,000)	(10,000)
7	The failure of the Person appointed as a Legal Representative for the Taxable Person to file a Tax Return within the specified timeframe. The penalties will be due from the Legal Representative’s own funds.	<ul style="list-style-type: none"> (1,000) for the first time. (2,000) in case of repetition within (24) months. 	<ul style="list-style-type: none"> (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.	<ul style="list-style-type: none"> • (1,000) for the first time. • (2,000) in case of repetition within (24) months. 	<ul style="list-style-type: none"> • (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 Tax Assessment he was notified of, within the timeframe specified in the Tax Law.	<p>The Taxable Person shall be obligated to pay a late payment penalty consisting of:</p> <ul style="list-style-type: none"> - (2%) of the unpaid Tax is due immediately once the payment of Payable Tax is late; - (4%) is due on the seventh day following the deadline for payment, on the amount of Tax which is still unpaid. - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with an upper ceiling of (300%). 	<ol style="list-style-type: none"> 1. The Taxable Person shall pay the penalty applicable to the late payment of the payable Tax, with a maximum of (300%), in accordance with the following: <ol style="list-style-type: none"> a. (2%) of the unpaid Tax due on the day following the due date for payment, upon late payment of the payable Tax. b. (4%) monthly penalty due after one month from the payment due date, and on the same date every month after that, on the amount of Tax that has not been paid to date. 2. For the purposes of this penalty, the due date for payment in the event of voluntary declaration and tax assessment is as follows: <ol style="list-style-type: none"> a. In the case of the voluntary declaration, (20) business days from the date of its submission. b. In the case of tax assessment, (20) business days from the date of its receipt.
10	The submittal of an incorrect Tax Return by the Registrant.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. A fixed penalty of: <ul style="list-style-type: none"> • (3,000) for the first time. • (5,000) in case of repetition 2. Percentage based penalty shall be applied on the amount unpaid to the Authority due to the error and resulting in a tax benefit as follows: <ul style="list-style-type: none"> - (50%) if the Registrant does not make a voluntary disclosure or made the voluntary disclosure after being notified of the tax audit and the Authority has started the tax audit process or asked for information relating to the tax audit, whichever takes place first. - (30%) if the Registrant makes the voluntary disclosure after being notified of the tax audit and before the Authority starts the tax audit. - (5%) if the Registrant makes a voluntary disclosure before 	<ol style="list-style-type: none"> 1. A fixed penalty is imposed: <ul 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 fixed fine mentioned in Clause (1) of this penalty, a fine equal to the tax difference shall be imposed, provided it is not less than AED (500). 3. Whoever corrects its tax return before the payment due date shall be exempted from the penalty specified in Clauses (1) and (2) of this penalty.

		being notified of the tax audit by the Authority.	
11	The Voluntary Disclosure by the Person/Taxpayer of errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of the Tax Procedures Law.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. A fixed penalty of: <ul style="list-style-type: none"> • (3,000) for the first time. • (5,000) in case of repetition 2. Percentage based penalty shall be applied on the amount unpaid to the Authority due to the error and resulting in a tax benefit as follows: <ul style="list-style-type: none"> - (50%) if the Person/Taxpayer makes a voluntary disclosure after being notified of the tax audit and the Authority starting the tax audit or after being asked for information relating to the tax audit, whichever takes place first. - (30%) if the Person/Taxpayer makes the voluntary disclosure after being notified of the tax audit but before the start of the tax audit. - (5%) if the Person/Taxpayer makes a voluntary disclosure before being notified of the tax audit by the Authority. 	<p>Without prejudice to the consequences of the penalty mentioned in Clause (10) hereof, a proportional penalty shall be imposed on the amount of the difference between the Tax calculated and the Tax that should have been calculated, in accordance with the following:</p> <ol style="list-style-type: none"> 1. (5%) on the difference amount in the event that the voluntary declaration was submitted within one year of the due date of the tax return, tax assessment, or related refund application. 2. (10%) on the difference amount in the event that the voluntary declaration was submitted during the second year from the due date of the tax return, tax assessment, or related refund application. 3. (20%) on the difference amount in the event that the voluntary declaration was submitted during the third year from the due date of the tax return, tax assessment, or related refund application. 4. (30%) on the difference amount in the event that the voluntary declaration was submitted during the fourth year from the due date of the tax return, tax assessment, or related refund application. 5. (40%) on the difference amount in the event that the voluntary declaration was submitted after the fourth year from the due date of the tax return, tax assessment, or related refund application
12	The failure of the Taxable Person to voluntarily disclose errors in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this the Tax Procedures Law before being notified that he will be subject to a Tax Audit.	<p>Two penalties are applied:</p> <ol style="list-style-type: none"> 1. Fixed penalty of: <ul style="list-style-type: none"> • (3,000) for the first time. • (5,000) in case of repetition 2. (50%) of the amount unpaid to the Authority due to the error resulting in a tax benefit for the Person/Taxpayer. 	<p>Without prejudice to the consequences of the penalty mentioned in Clause (10) hereof, shall be imposed a person:</p> <ol style="list-style-type: none"> 1. A penalty of (50%) on the amount of error; 2. A penalty of (4%) for each month or part of the month from any of the following: <ol style="list-style-type: none"> a. Tax unpaid to FTA, from the date, that payment is due for the relevant tax period until the date of receipt of the tax assessment.

			b. The Tax that has not been refunded to FTA due to an unjust tax refund, from the date of the tax refund from FTA until the date of receiving 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)	(20,000)
14	The failure of the Registrant to calculate Tax on behalf of another Person when the registered Taxable Person is obligated to do so under the Tax Law.	The Registrant shall be obligated to pay a late payment penalty consisting of: <ul style="list-style-type: none"> - (2%) of the unpaid Tax is due immediately once the payment of Payable Tax is late; - (4%) is due on the seventh day following the deadline for payment, on the amount of Tax which is still unpaid. - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with an upper ceiling of (300%). 	1. The Registrant shall pay the penalty applicable to the late payment of the payable Tax, with a maximum of (300%), in accordance with the following: <ol style="list-style-type: none"> a. (2%) of the unpaid Tax due on the day following the due date for payment, upon late payment of the payable Tax. b. (4%) monthly penalty due after one month from the payment due date, and on the same date every month after that, on the amount of Tax that has not been paid to date. 2. For the purposes of this penalty, the due date for payment in the event of voluntary declaration and tax assessment is as follows: <ol style="list-style-type: none"> a. In the case of the voluntary declaration, (20) business days from the date of its submission. b. In the case of tax assessment, (20) business days from the date of its receipt.
15	A Person not accounting for any tax that may be due on import of goods as required under the Tax Law.	(50%) of unpaid or undeclared Tax.	(50%) of unpaid or undeclared Tax.

Table (2): Violations and Administrative Penalties related to the Implementation of the Federal Decree-Law No. (7) of 2017 on Excise Tax

SR#	Description of Violation	Old penalty (AED)	New penalty (AED)
1	Failure by the Taxable Person to display prices inclusive of Tax.	(15,000)	(5,000)
2	Failure to comply with the conditions and procedures related to transfer the Excise Goods from a Designated Zone to another Designated Zone, and the	The penalty shall be the higher of AED (50,000) or (50%) of the Tax, if any, chargeable in respect of the goods as the result of the violation.	The penalty shall be the higher of AED (50,000) or (50%) of the Tax, if any, chargeable in respect of the goods as the result of the violation.

	mechanism of processing and storing of such Excise Goods.		
3	Failure by the Taxable Person to provide the Authority with price lists for the Excise Goods produced, imported or sold thereby.	<ul style="list-style-type: none"> • (5,000) for the first time. • (20,000) in case of repetition 	<ul style="list-style-type: none"> • (5,000) for the first time. • (10,000) in case of repetition

Table (3): Violations and Administrative Penalties related to the Implementation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax

SR#	Description of Violation	Old penalty (AED)	New penalty (AED)
1	Failure by the Taxable Person to display prices inclusive of Tax.	(15,000)	(5,000)
2	Failure by the Taxable Person to notify the Authority of applying Tax based on the margin.	(2,500)	(2,500)
3	Failure to comply with 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 AED (50,000) or (50%) of the Tax, if any, chargeable in respect of the goods as the result of the violation.	The penalty shall be the higher of AED (50,000) or (50%) of the Tax, if any, chargeable in respect of the goods as the result of the violation.
4	Failure by the Taxable Person to issue the Tax invoice or an alternative document when making any supply.	(5,000) for each tax invoice or alternative document.	(2,500) for each case discovered.
5	Failure by the Taxable Person to issue a Tax Credit Note or an alternative document	(5,000) for each tax credit note or alternative document.	(2,500) for each case discovered.
6	Failure by the Taxable Person to comply with the conditions and procedures regarding the issuance of electronic Tax Invoices and electronic Tax Credit Notes	(5,000) for each incorrect document.	(2,500) for each case discovered.

Article (2)

Determination of Penalties Application Date in Special Cases

For the purposes of Clauses (4), (9) and (14) of Table No. (1) referred to in Article (1) hereof, if any penalty is applied monthly on the same date, the date for any month in which there is no charge for that date shall be the first day of the following month, provided that it applies for the other months on the same date on which the monthly penalty was first imposed.

Article (3)

Redefinition of Administrative Penalties Imposed Before Effective date

1. FTA shall define the administrative penalties imposed on the Registrant prior to the effective date hereof that have not been paid, so that they are equal to (30%) of the total unpaid penalties if all of the following conditions are met:
 - a) Any of the administrative penalties stipulated in Cabinet Resolution No. (40) of 2017 referred to above was imposed on the Registrant prior to the effective date hereof and has not been fully paid;

- b) The Registrant has paid the following:
- 1) The due and payable Tax, up to 31 December 2021 at most; *and*
 - 2) (30%) of the total payable administrative penalties unpaid until the effective date hereof up to 31 December 2021 at most.
2. FTA shall determine the procedures for implementing the provisions of this Article.

Article (4)

Repeals

Any provision violates to contradicts the provisions hereof shall be repealed.

Article (5)

Resolution Promulgation and Application

This Decision shall be promulgated in the official gazette and shall be applied 60 days after the date of issuance thereof.