Tax Procedures Public Clarification
Amendments to the Penalties Regime

Issue

On 28 April 2021, the Cabinet issued Decision No. 49 of 2021 on Amending some Provisions of Cabinet Decision No. 40 of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE (“Cabinet Decision No. 49 of 2021”). Cabinet Decision No. 49 of 2021 amended some of the administrative penalties applicable to certain violations and allows for a redetermination of some of the penalties already imposed.

This Public Clarification provides detailed information on the introduced amendments to some of the administrative penalties.

Summary

Cabinet Decision No. 49 of 2021 amends certain penalties applicable to violations listed in the Tables appended to Cabinet Decision No. 40 of 2017 on Administrative Penalties for Violations of tax laws in the UAE (collectively referred to as “Cabinet Decision”).
Detailed discussion

Background

The UAE introduced Excise Tax and VAT with effect from 1 October 2017 and 1 January 2018, respectively.

In order to offer consistency in the administration of different taxes, a set of common tax procedures concerning the rights and obligations of the FTA and taxpayers has been developed and prescribed in Federal tax procedures legislation, including in Federal Law No. 7 of 2017 on Tax Procedures ("FTP Law"). These Federal tax procedures apply to all Federal taxes under the jurisdiction of the FTA.

Article 25 of the FTP Law specifies a number of violations which are subject to administrative penalties. This Article also directs the Cabinet to issue a decision that specifies administrative penalties for each of the violations listed in the Article, on condition that each of such penalties cannot be less than AED 500 for any violation and cannot exceed three times the amount of tax in respect of which the penalty was levied.

The specific penalties for each violation are prescribed in the Cabinet Decision No. 40 of 2017, which was issued on 24 September 2017. These penalties have been applied to violations since the introduction of the VAT and Excise Taxes.

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The specific penalties for each violation are prescribed in the Cabinet Decision No. 40 of 2017, which was issued on 24 September 2017. These penalties have been applied to violations since the introduction of the VAT and Excise Taxes.

Detailed discussion

Background

The UAE introduced Excise Tax and VAT with effect from 1 October 2017 and 1 January 2018, respectively.

In order to offer consistency in the administration of different taxes, a set of common tax procedures concerning the rights and obligations of the FTA and taxpayers has been developed and prescribed in Federal tax procedures legislation, including in Federal Law No. 7 of 2017 on Tax Procedures ("FTP Law"). These Federal tax procedures apply to all Federal taxes under the jurisdiction of the FTA.

Article 25 of the FTP Law specifies a number of violations which are subject to administrative penalties. This Article also directs the Cabinet to issue a decision that specifies administrative penalties for each of the violations listed in the Article, on condition that each of such penalties cannot be less than AED 500 for any violation and cannot exceed three times the amount of tax in respect of which the penalty was levied.

The specific penalties for each violation are prescribed in the Cabinet Decision No. 40 of 2017, which was issued on 24 September 2017. These penalties have been applied to violations since the introduction of the VAT and Excise Taxes.
On 28 April 2021, the Cabinet has issued the Decision No. 49 of 2021, which amends some of the administrative penalties applicable on the violations stated in Tables appended to Cabinet Decision No. 40 of 2017. This Public Clarification discusses some of the more significant amendments in more detail to ensure that there is certainty regarding the application of these amended penalties.

The first part of this Public Clarification lists the administrative penalties, while the second part of this Public Clarification discusses administrative penalties in Table 1 annexed to Cabinet Decision No. 40 of 2017 and its amendments where the mechanism of calculation has been changed.

Details relating to the redetermination of administrative penalties in accordance with the Third Article of Cabinet Decision No. 49 of 2021 are discussed in the Tax Procedures Public Clarification “TAXP002 - Redetermination of Administrative Penalties Levied Prior to the Effective Date of Cabinet Decision No. 49 of 2021”, available on the FTA’s website.
### Table No. 1

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

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Penalty (AED)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>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. *Reduced</td>
<td>10,000 for the first time. 20,000 in case of repetition.</td>
</tr>
<tr>
<td>2</td>
<td>The failure of the Person conducting Business to submit the data, records, and documents related to Tax in Arabic to the Authority when requested. *Not amended</td>
<td>20,000</td>
</tr>
<tr>
<td>3</td>
<td>The failure of the Taxable Person to submit a registration application within the timeframe specified in the Tax Law. *Reduced</td>
<td>10,000</td>
</tr>
<tr>
<td>4</td>
<td>The failure of the Registrant to submit a deregistration application within the timeframe specified in the Tax Law. *New mechanism explained below</td>
<td>1,000 in case of delay, and on the same date monthly thereafter, up to a maximum of 10,000.</td>
</tr>
<tr>
<td>5</td>
<td>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. *Reduced</td>
<td>5,000 for the first time. 10,000 in case of repetition.</td>
</tr>
<tr>
<td>6</td>
<td>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.</td>
<td>10,000</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>7</td>
<td>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.</td>
<td>1,000 for the first time. 2,000 in case of repetition within 24 months.</td>
</tr>
<tr>
<td>8</td>
<td>The failure of the Registrant to submit the Tax Return within the timeframe specified in the Tax Law.</td>
<td>1,000 for the first time. 2,000 in case of repetition within 24 months.</td>
</tr>
<tr>
<td>9</td>
<td>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. <em>New mechanism explained below</em></td>
<td>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: a. 2% of the unpaid Tax shall be due on the day following the due date of</td>
</tr>
</tbody>
</table>

*New mechanism explained below*

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:
   a. 2% of the unpaid Tax shall be due on the day following the due date of
الضريبة المستحقة الدفع.
ب. (4%) غرامة شهرية تستحق بعد شهر واحد من تاريخ استحقاق الدفع، وبدأت التاريخ شهريا بعد ذلك، على مبلغ الضريبة الذي لم يسدد حتى تاريخه.

2. لغاييات هذه الغرامة، يكون تاريخ استحقاق الدفع في حال التصريح الطوعي والتقييم الضريبي كالآتي:
ا. في حال التصريح الطوعي (20) يوم عمل من تاريخ تقديمه.
ب. في حال التقييم الضريبي (20) يوم عمل من تاريخ استلامه.

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:

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.
## The submittal of an incorrect Tax Return by the Registrant

*New mechanism explained below*

<table>
<thead>
<tr>
<th>Clause</th>
<th>Description</th>
</tr>
</thead>
</table>
| 1. | Fixed penalty shall be applied:  
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 penalty listed in Clause 1 of this penalty, a penalty equal to the that Tax difference of at least 500 shall be imposed. |
| 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. |

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## 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

*New mechanism explained below*

<table>
<thead>
<tr>
<th>Clause</th>
<th>Description</th>
</tr>
</thead>
</table>
| 1. | قيام المسجل بتقديم إقرار ضريبي غير صحيح.  
*تم شرح الآلية الجديدة أدناه* |
| 2. | يتم فرض غرامة ثابتة:  
(1,000) عن المرة الأولى.  
(2,000) في حالة التكرار. |
| 3. | ويستثنى من فرض الغرامة المحددة في البندين (1) و (2) من هذه الغرامة كل من الشخص/دافع الضريبة يصحح إقراره الضريبي قبل تاريخ استحقاق الدفع. |

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*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 was paid.*
which should have been calculated, pursuant to the following:

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 following the due date of submission of the Tax Return, the Tax Assessment, or the relevant refund application.

1. (5%) على المبلغ الفارق في حالة تم تقديم التصريح الطوعي خلال سنة من تاريخ استحقاق الإقرار الضريبي أو التقييم الضريبي أو طلب الاسترداد ذو الصلة.

2. (10%) على المبلغ الفارق في حالة تم تقديم التصريح الطوعي خلال السنة الثانية من تاريخ استحقاق الإقرار الضريبي أو التقييم الضريبي أو طلب الاسترداد ذو الصلة.

3. (20%) على المبلغ الفارق في حالة تم تقديم التصريح الطوعي خلال السنة الثالثة من تاريخ استحقاق الإقرار الضريبي أو التقييم الضريبي أو طلب الاسترداد ذو الصلة.

4. (30%) على المبلغ الفارق في حالة تم تقديم التصريح الطوعي خلال السنة الرابعة من تاريخ استحقاق الإقرار الضريبي أو التقييم الضريبي أو طلب الاسترداد ذو الصلة.
| 12 | The failure of the Person/Taxpayer to voluntarily disclose an error in the Tax Return, Tax Assessment, or refund | Without prejudice to the potential consequences of the penalty mentioned in Clause 10 of this | 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; | 5. (40\%) على المبلغ الفارق في حال تم تقديم التصريح الطوعي بعد السنة الرابعة من تاريخ استحقاق الإقرار الضريبي أو التقييم الضريبي أو طلب الاسترداد ذو الصلة. | 12 |

|  |  | Without prejudice to the potential consequences of the penalty mentioned in Clause 10 of this | 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; | 5. (40\%) على المبلغ الفارق في حال تم تقديم التصريح الطوعي بعد السنة الرابعة من تاريخ استحقاق الإقرار الضريبي أو التقييم الضريبي أو طلب الاسترداد ذو الصلة. | 12 |
13 عدم قيام الشخص الذي يمارس الأعمال بتقديم التسهيلات لمدقق الضريبة، بالتفتيش الضريبي عليه.
*تم شرح الآلية الجديدة أدناه.*

<table>
<thead>
<tr>
<th>Table, the person will be subject to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A penalty of 50% on the amount of error.</td>
</tr>
<tr>
<td>2. A penalty of 4% for every month or part of the month, of the following:</td>
</tr>
<tr>
<td>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.</td>
</tr>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>

| أ. الضريبة غير المدفوعة للهيئة، من تاريخ استحقاق الدفع للفترة الضريبية المعنية حتى تاريخ استلام التقييم الضريبي. |
| ب. الضريبة التي لم يتم ردها للهيئة بسبب استرداد ضريبة دون حق، من تاريخ استلام الضريبة من الهيئة وحتى تاريخ استلام التقييم الضريبي. |

<table>
<thead>
<tr>
<th>The failure of the Person conducting Business to facilitate the work of the Tax Auditor in violation of</th>
</tr>
</thead>
<tbody>
<tr>
<td>20,000</td>
</tr>
</tbody>
</table>

| 20,000 |

| عدم قيام الشخص الذي يمارس الأعمال بتقديم التسهيلات لمدقق الضريبة بالتفتيش الضريبي عليه، بالتفتيش الضريبي، وفقاً للبندين (1) و(2) من المادة (10) من قانون الإجراءات الضريبية، قبل تبليغه بقيام الهيئة بالتفتيش الضريبي عليه. |

<p>| 13 |</p>
<table>
<thead>
<tr>
<th>the provisions of Article 21 of the Tax Procedures Law. <strong>Not amended</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>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. <strong>New mechanism explained below</strong></td>
</tr>
</tbody>
</table>

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:
   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.
   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

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<table>
<thead>
<tr>
<th>من قانون الإجراءات الضريبية. <strong>لم يتم تعديله</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>14 عدم قيام المسجل باحتساب الضريبة نيابة عن شخص آخر عندما يكون الخاضع للضريبة المسجل ملزمًا بذلك وفقًا للقانون الضريبي. <strong>لم يتم شرح الآلية الجديدة أدناه</strong></td>
</tr>
</tbody>
</table>

1. بلزم المسجل بدفع الغرامة المطبقة على التأخر بسداد الضريبة المستحقة الدفع وبعد أقصى (300%) وفقًا للأتي:
   a. (2%) من الضريبة غير المدفوعة تستحق في اليوم التالي لتاريخ استحقاق الدفع، عند التأخر في سداد الضريبة المستحقة الدفع.
   b. (4%) غرامة شهريا تستحق بعد شهر واحد من تاريخ استحقاق الدفع، وبدأت التاريخ شهريا بعد ذلك، على مبلغ الضريبة الذي لم يسدده حتى تاريخه.

2. لغابات هذه الغرامة، يكون تاريخ استحقاق الدفع في حال التصريح الطوعي والتقييم الضريبي كالآتي:
   a. في حال التصريح
in the case of Voluntary Disclosure and Tax Assessment, shall be as follows:

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 case of a Tax Assessment.

15 A Person not accounting for any Tax that may be due on the import of goods as per the Tax Law.

*Not amended

15 عدم قيام الشخص باحتساب أيّ ضريبة قد تكون مستحقة على استيراد السلع وفقا للقانون الضريبي.

*لم يتم تعديلها

50% of unpaid or undeclared Tax.

1. The failure of the Taxable Person to display prices inclusive of Tax.

*Reduced

2. The failure to comply with the conditions and procedures of transferring Excise Goods from a Designated Zone to

The penalty shall be the higher of 50,000 or 50% of the Tax, if applicable, chargeable on the

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Penalty (AED)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The failure of the Taxable Person to display prices inclusive of Tax.</td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td>*Reduced</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>The failure to comply with the conditions and procedures of transferring</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Excise Goods from a Designated Zone to</td>
<td></td>
</tr>
</tbody>
</table>

1. عدم قيام الشخص بالاحتساب بإيّ ضريبة قد تكون مستحقة على استيراد السلع وفقا للقانون الضريبي.

*تم تخفيضها

2. عدم التقيد بشروط وإجراءات نقل السلع الانتقائية من منطقة محددة إلى منطقة اخرى، والالتزام بالمحافظة عليها وتخزينها ومعالجتها فيها.

<table>
<thead>
<tr>
<th>الغرامه</th>
<th>الوصف</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,000</td>
<td>عدم قيام الشخص بالاحتساب بإيّ ضريبة بعرض الأسعار شاملة للضريبة.</td>
</tr>
<tr>
<td></td>
<td>تم تخفيضها</td>
</tr>
<tr>
<td></td>
<td>تكون الغرامه هي المبلغ الأعلى من (50,000) أو (50%) من الضريبة.</td>
</tr>
</tbody>
</table>

| 1      | عدم قيام الشخص بالاحتساب بإيّ ضريبة بعرض الأسعار شاملة للضريبة. |
|        | تم تخفيضها |
| 2      | عدم التقيد بشروط وإجراءات نقل السلع الانتقائية من منطقة محددة إلى منطقة أخرى، والالتزام بالمحافظة عليها وتخزينها ومعالجتها فيها. |
Table No. 3
On Violations and Administrative Penalties related to the Implementation of Federal Decree-Law No. 8 of 2017 on Value Added Tax

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Penalty (AED)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The failure of the Taxable Person to display prices inclusive of Tax.</td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td>*Reduced</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>The failure of the Taxable Person to notify the Authority of applying Tax based on Margin.</td>
<td>2,500</td>
</tr>
<tr>
<td></td>
<td>*Not amended</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td></td>
<td>*Not amended</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>The failure of the Taxable Person to issue a Tax Invoice or the alternative document when making any supply.</td>
<td>2,500 for each detected case.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Penalty (AED)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The failure of the Taxable Person to display prices inclusive of Tax.</td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td>*Reduced</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>The failure of the Taxable Person to notify the Authority of applying Tax based on Margin.</td>
<td>2,500</td>
</tr>
<tr>
<td></td>
<td>*Not amended</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td></td>
<td>*Not amended</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>The failure of the Taxable Person to issue a Tax Invoice or the alternative document when making any supply.</td>
<td>2,500 for each detected case.</td>
</tr>
</tbody>
</table>
Part 2: Administrative Penalties in Table 1 annexed to the Cabinet Decision where the Mechanism of Calculation has been Changed

Violation 9

Violation 9 of Table 1 annexed to the Cabinet Decision imposes a penalty for failure of a taxable person to settle the payable tax stated in the submitted tax return or voluntary disclosure, or the tax assessment that the taxable person was notified of, within the timeframe specified in the Tax Law.

The amended penalties imposed on the taxable person are as follows:

- 2% penalty on the amount of unsettled tax, due on the day following the due date of payment.
- 4% monthly penalty is due after one month from the original due date of payment, then on the same date monthly thereafter. This penalty is imposed on the amount which is still unsettled on the corresponding date each month.

The failure of the Taxable Person to issue a Tax Credit Note or the alternative document.

*Amended and reduced

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.

*Amended and reduced

<table>
<thead>
<tr>
<th>5</th>
<th>The failure of the Taxable Person to issue a Tax Credit Note or the alternative document. *Amended and reduced</th>
<th>2,500 for each detected case.</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>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. *Amended and reduced</td>
<td>2,500 for each detected case.</td>
<td>6</td>
</tr>
</tbody>
</table>

(2,500) (2,500) عن كل حالة

(USD 2,500) (USD 2,500) for each detected case.

غرامة بنسبة (2%) من مبلغ الضريبة غير المدفوع

غرامة شهرية بنسبة (4%) تُستحق بعد شهر واحد من التاريخ الأصلي لاستحقاق الدفع، وذلك بتاريخ شهرًا بعد ذلك. تُفرض هذه الغرامة على مبلغ الضريبة الذي لم يُسدد في التاريخ المقابل من كل شهر.

المخالفة رقم (9)

بموجب المخالفة رقم (9) من الجدول رقم (1) المرفق بقرار مجلس الوزراء، تُفرض غرامة على عدم قيام الخاضع للضريبة بسداد الضريبة المثبتة على أنها ضريبة مستحقة الدفع في الإقرار الضريبي أو التصريح الطوعي الذي تم تقديمه أو التقييم الضريبي الذي تم تبلغه به خلال المهلة المحددة في القانون الضريبي.

تفرض الغرامات المعدلة على الخاضع للضريبة على النحو التالي:

- غرامة بنسبة (2%) من مبلغ الضريبة غير المدفوع تُستحق في اليوم التالي لتاريخ استحقاق الدفع.
- غرامة شهرية بنسبة (4%) تُستحق بعد شهر واحد من التاريخ الأصلي لاستحقاق الدفع، وذلك التاريخ شهرًا بعد ذلك. تُفرض هذه الغرامة على مبلغ الضريبة الذي لم يُسدد في التاريخ المقابل من كل شهر.
For example, where a taxable person failed to pay due tax by 28 June in respect of its tax return for the tax period ending in May, the late payment penalty of 2% will be imposed on 29 June on the amount of unsettled tax. Where such tax amount or part of it is still outstanding on 28 July, the amount outstanding will be subject to the monthly penalty of 4%. Such 4% penalty will again be imposed on any unsettled tax amounts on the 28th day of each subsequent month up to 300% of the tax amount in respect of which the penalty is levied.

It should be noted that, for the purposes of this penalty, the deadline for payment of additional tax resulting from a voluntary disclosure is 20 business days from the date of submission of the voluntary disclosure. Consequently, the 2% penalty will be imposed on the amount of unsettled tax on the first day following the 20th business day from the date the voluntary disclosure is submitted.

Similarly, the deadline for payment of additional tax in the case of a tax assessment is 20 business days from the date on which the tax assessment was received. Hence, the 2% penalty will be imposed on the amount of unsettled tax on the first day following the 20th business day from the date the tax assessment is received.

This means that a late payment penalty will not be imposed in respect of additional amounts of tax payable to the FTA by a taxable person following a
Voluntary disclose or a tax assessment, where the person has settled such due tax prior to the due date of payment, i.e. 20 business days from the date of submitting a voluntary disclosure or receiving a tax assessment. However, once the deadline for settlement of tax has passed, the penalty will be imposed as described above.

Cabinet Decision No. 49 of 2021 provides a special mechanism to determine the date on which the penalty shall be imposed in respect of monthly penalties. The mechanism is discussed in detail in a following section in this Public Clarification.

Violation 10

Violation 10 of Table 1 annexed to the Cabinet Decision imposes a penalty on the Registrant upon submitting an incorrect tax return.

Whenever an error is made in a tax return, a fixed penalty will first apply. This penalty is AED 1,000 for the first violation and AED 2,000 for any repeated violation.

It should be noted that where the incorrect tax return results in a tax difference which is less than the fixed penalty amount of AED 1,000 or AED 2,000, as the case may be, the FTA will impose a penalty equal to higher of the tax difference and AED 500.

Furthermore, the fixed penalty will not be imposed on anyone who corrects their tax return prior to the due date for submission of the return.

Violation 10

المخالفة رقم (10)

بموجب المخالفة رقم (10) من الجدول رقم (1) المرفق بقرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحدد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

بنص قرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحديد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

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It should be noted that where the incorrect tax return results in a tax difference which is less than the fixed penalty amount of AED 1,000 or AED 2,000, as the case may be, the FTA will impose a penalty equal to higher of the tax difference and AED 500.

Furthermore, the fixed penalty will not be imposed on anyone who corrects their tax return prior to the due date for submission of the return.

Violation 10

المخالفة رقم (10)

بموجب المخالفة رقم (10) من الجدول رقم (1) المرفق بقرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحديد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

بنص قرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحديد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

Violation 10 of Table 1 annexed to the Cabinet Decision imposes a penalty on the Registrant upon submitting an incorrect tax return.

Whenever an error is made in a tax return, a fixed penalty will first apply. This penalty is AED 1,000 for the first violation and AED 2,000 for any repeated violation.

It should be noted that where the incorrect tax return results in a tax difference which is less than the fixed penalty amount of AED 1,000 or AED 2,000, as the case may be, the FTA will impose a penalty equal to higher of the tax difference and AED 500.

Furthermore, the fixed penalty will not be imposed on anyone who corrects their tax return prior to the due date for submission of the return.

Violation 10

المخالفة رقم (10)

بموجب المخالفة رقم (10) من الجدول رقم (1) المرفق بقرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحديد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

بنص قرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحديد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

Violation 10 of Table 1 annexed to the Cabinet Decision imposes a penalty on the Registrant upon submitting an incorrect tax return.

Whenever an error is made in a tax return, a fixed penalty will first apply. This penalty is AED 1,000 for the first violation and AED 2,000 for any repeated violation.

It should be noted that where the incorrect tax return results in a tax difference which is less than the fixed penalty amount of AED 1,000 or AED 2,000, as the case may be, the FTA will impose a penalty equal to higher of the tax difference and AED 500.

Furthermore, the fixed penalty will not be imposed on anyone who corrects their tax return prior to the due date for submission of the return.

Violation 10

المخالفة رقم (10)

بموجب المخالفة رقم (10) من الجدول رقم (1) المرفق بقرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحديد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

بنص قرار مجلس الوزراء رقم (49) لسنة 2021 على آلية خاصة تحديد التاريخ الذي يجب فيه تطبيق الغرامة فيما يتعلق بالغرامات الشهرية. وسيتم تناول هذه الآلية بالتفصيل في قسم لاحق من هذا التوضيح العام.

Violation 10 of Table 1 annexed to the Cabinet Decision imposes a penalty on the Registrant upon submitting an incorrect tax return.

Whenever an error is made in a tax return, a fixed penalty will first apply. This penalty is AED 1,000 for the first violation and AED 2,000 for any repeated violation.

It should be noted that where the incorrect tax return results in a tax difference which is less than the fixed penalty amount of AED 1,000 or AED 2,000, as the case may be, the FTA will impose a penalty equal to higher of the tax difference and AED 500.

Furthermore, the fixed penalty will not be imposed on anyone who corrects their tax return prior to the due date for submission of the return.
Violation 11

Violation 11 of Table 1 annexed to the Cabinet Decision imposes a penalty where a person/taxpayer submits a voluntary disclosure on errors in the tax return, tax assessment or refund application pursuant to Article 10(1) and 10(2) of the FTP Law\(^3\). As such, this penalty is imposed where payable tax per the tax return or tax assessment, has been calculated at a value less than the required by the tax legislation, or where tax which the person is entitled to recover has been calculated at a value higher than the entitlement as per the legislation.

The penalty on Violation 11 is imposed in addition to the penalty imposed on Violation 10 of Table 1 annexed to the Cabinet Decision. This penalty is a percentage-based penalty which is applied on the difference between the tax that was calculated and that which should have been calculated, as follows:

- **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;

- **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;

And the penalty on the violation of paragraph (11) in addition to the penalty imposed on paragraph (10) of Table 1 annexed to the cabinet decision. This penalty is a percentage-based penalty which is applied on the difference between the tax which was calculated and that which should have been calculated as follows:

- **5%** on the difference, where the voluntary disclosure is submitted within one year from the due date of submission of the tax return, tax assessment, or the relevant refund application;

- **10%** on the difference, where the voluntary disclosure is submitted within the second year following the due date of submission of the tax return, tax assessment, or the relevant refund application;
• 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;

• 30% on the difference, where the voluntary disclosure is submitted within the fourth year following the due date of submission of the tax return, the tax assessment, or the relevant refund application;

• 40% on the difference, where the voluntary disclosure is submitted after the fourth year following the due date of submission of the tax return, the tax assessment, or the relevant refund application.

For example, a person/taxpayer submits a voluntary disclosure to correct a tax return, tax assessment, or a tax refund application, where the difference to be settled to the FTA resulting from that voluntary disclosure is AED 100,000. The voluntary disclosure was relating to an error in a tax return, tax assessment, or a tax refund application dated 1 September 2021. The penalty will be imposed on Violation 11 of Table 1 annexed to the Cabinet Decision according to the following:

If the person/taxpayer submits the voluntary disclosure in the period between 2 September 2021 and 1 September 2022, the penalty imposed on Violation 11 will be 5% of the AED 100,000, which is equivalent to AED 5,000.

على سبيل المثال، قام الشخص/دافع الضريبة بتقديم تصريح طوعي لتصحيح الإقرار الضريبي أو التقييم الضريبي أو طلب استرداد الضريبة، وكان الفارق الواجب السداد للهيئة هو AED 100,000. في ظل ذلك، سي是怎样ي غرامة على المخالفة رقم 11 من الجدول (1) المرفق بقرار مجلس الوزراء وفق الآتي:

- إذا قام الشخص/دافع الضريبة بتقديم تصريح طوعي لتصحيح الإقرار الضريبي أو التقييم الضريبي أو طلب استرداد الضريبة في الفترة من 2 سبتمبر 2021 إلى 1 سبتمبر 2022، فإن الغرامة التي ستفرض عن المخالفة رقم (11) ستكون 5% من الفارق AED (100,000) درهم، والتي تساوي AED (5,000) درهم.
• If the person/taxpayer submits the voluntary disclosure in the period between 2 September 2022 and 1 September 2023, the penalty imposed on Violation 11 will be 10% of the AED 100,000, which is equivalent to AED 10,000.

• If the person/taxpayer submits the voluntary disclosure in the period between 2 September 2023 and 1 September 2024, the penalty imposed on Violation 11 will be 20% of the AED 100,000, which is equivalent to AED 20,000.

• If the person/taxpayer submits the voluntary disclosure in the period between 2 September 2024 and 1 September 2025, the penalty imposed on Violation 11 will be 30% of the AED 100,000, which is equivalent to AED 30,000.

• If the person/taxpayer submits the voluntary disclosure on or after 2 September 2025, the penalty imposed on Violation 11 will be 40% of the AED 100,000, which is equivalent to AED 40,000.

Since the amount of the penalty increases as it takes longer for the person to submit a voluntary disclosure, the new rules reward the timely disclosure of errors.

Violation 12

Violation 12 of Table 1 annexed to the Cabinet Decision imposes a penalty for the failure of the person/taxpayer to voluntarily disclose an error in the tax return, tax assessment or refund application.

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Violation 12 imposes a penalty for the failure of the person/taxpayer to voluntarily disclose an error in the tax return, tax assessment or refund application.
و(2) من المادة (10) من قانون الإجراءات الضريبية، وذلك قبل تبليغ بأنه سي triumesh تدقيق ضريبي. وبناءً على ذلك، ففرض هذه الغرامة في حال تم استحباب الضريبة المستحقة الدفع بموجب الإقرار الضريبي أو التقييم الضريبي بأقل من القيمة التي تتطلبتها التشريعات الضريبية أو في حال تم استخبار الضريبة المستحقة لشخص استردادها بأكثر من القيمة التي يحق له طلبها وفقًا للتشريعات الضريبية.

وإذا ما طبقت هذه الغرامة، ففُرضت على الشخص بالإضافة إلى الغرامة المفروضة بموجب المخالفة رقم (10) من الجدول رقم (1) المرفق بقرار مجلس الوزراء، على النحو التالي:

1. غرامة بنسبة (50%) على مقدار الخطأ.
2. أي من الغرامتين التاليتين وفقًا للحال:

- غرامة بنسبة (4%) من الضريبة غير المدفوعة للهيئة، عن كل شهر أو جزء من الشهر من تاريخ استحقاق الدفع لللفترة الضريبية المعنية حتى تاريخ استلام التقييم الضريبي.
- غرامة بنسبة (4%) من الضريبة التي لم ترد للهيئة بسبب استرداد ضريبة دون حق، عن كل شهر أو جزء من الشهر من تاريخ استرداد الضريبة من الهيئة وحتى تاريخ استلام التقييم الضريبي.

Violation 14

Violation 14 of Table 1 annexed to the Cabinet Decision imposes a penalty for failure of the registrant to calculate tax on behalf of another
person when the registered taxable person is obliged to do so under any Tax Law.

The penalty imposed on the responsible registrant is similar to the penalty which would be imposed on the underlying taxable person under Violation 9 of Table 1 annexed to the Cabinet Decision. Thus, the responsible registrant is obliged to pay a penalty applicable to the late payment of payable tax as follows:

- **2% penalty on the amount of the unsettled tax is due on the first day following the due date of payment, where the settlement of payable tax is late.**

- **4% monthly penalty which is due after one month from the due date of payment, then on the same date of every month thereafter, on the amount of tax which is still unsettled on those dates.**

For the purposes of this penalty, the deadline for payment of tax in the case of the voluntary disclosure or a tax assessment is 20 working days from the date of submission or receipt, respectively. Hence, in such cases, the trigger date of the penalty on the unsettled Tax would be the first day following the 20th business day from the date of submitting the voluntary disclosure or the date of receiving the tax assessment, as the case may be.

Cabinet Decision No. 49 of 2021 provides a special mechanism to determine the date on which the penalty shall be imposed in respect of monthly penalties of this nature, which is dependent on the date of submission of the voluntary disclosure or the date of receiving the tax assessment.

In the case of late payment of tax, the penalty is imposed on the responsible registrant and is similar to the penalty imposed on the underlying taxable person under Violation 9 of Table 1 annexed to the Cabinet Decision.

The penalty is calculated as follows:

- **2% penalty on the amount of the unsettled tax is due on the first day following the due date of payment, where the settlement of payable tax is late.**

- **4% monthly penalty which is due after one month from the due date of payment, then on the same date of every month thereafter, on the amount of tax which is still unsettled on those dates.**

- **(2%) from the amount of the unsettled tax which is due on the first day following the due date of payment, where the settlement of payable tax is late.**

- **(4%) monthly penalty which is due after one month from the due date of payment, then on the same date of every month thereafter, on the amount of tax which is still unsettled on those dates.**

For the purposes of this penalty, the deadline for payment of tax in the case of the voluntary disclosure or a tax assessment is 20 working days from the date of submission or receipt, respectively. Hence, in such cases, the trigger date of the penalty on the unsettled Tax would be the first day following the 20th business day from the date of submitting the voluntary disclosure or the date of receiving the tax assessment, as the case may be.

Cabinet Decision No. 49 of 2021 provides a special mechanism to determine the date on which the penalty shall be imposed in respect of monthly penalties of this nature, which is dependent on the date of submission of the voluntary disclosure or the date of receiving the tax assessment.
penalties. The mechanism is discussed in the following section of this Public Clarification.

**Mechanism to Specify the Date of Imposition of some Penalties**

Cabinet Decision No. 49 of 2021 provides in its Second Article a mechanism that clarifies how to specify the date of penalty imposition for penalties imposed on the same date monthly. For the purpose of the imposition of penalties on violations No. 4, 9, and 14 of Table 1 annexed to the Cabinet Decision, Cabinet Decision No. 49 of 2021 takes into consideration the difference in the number of days of the calendar months.

As per the mechanism specified in the Second Article of Cabinet Decision No. 49 of 2021, the date of the monthly penalty is specified as follows:

- **Where the new month includes a date corresponding to the date the penalty was originally imposed on, the date on which the penalty will be imposed in the new month is the date it was originally imposed the first time.**

- **Where a month does not include a date corresponding to the date the penalty was originally imposed on, the date on which the penalty will be imposed for the such month will be the first day of the following month. However, for the month following the month which did not include a corresponding date, the penalty shall be imposed on the first day of the following month.**
be imposed on the date corresponding to the date the penalty was originally imposed.

For example, if a penalty that is due on the same date monthly was imposed for any of violations No. 4, 9, or 14 of Table 1 annexed to the Cabinet Decision on 30 January, as February does not include a 30th day, the date the penalty is imposed for February would be 1 March. However, as March includes a 30th day, March’s penalty will be imposed on the 30th of March.

This Public Clarification issued by the FTA is meant to clarify certain aspects related to the implementation of Cabinet Decision No. 49 of 2021 on Amending some Provisions of Cabinet Decision No. 40 of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE.

This Public Clarification states the position of the FTA and neither amends nor seeks to amend any provision of the aforementioned legislation. Therefore, it is effective as of the date of implementation of the relevant legislation, unless stated otherwise.

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1 Cabinet Decision No. 49 of 2021 as published on the FTA’s website www.tax.gov.ae.

2 Article 25 of the FTP Law stated that:
   1. The Authority shall issue an Administrative Penalties Assessment for a Person and notify him within (5) five business days for any of the following violations:
      a. The failure of the Person conducting Business to keep the required records and other information specified in this Law and the Tax Law.

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1 قرار مجلس الوزراء رقم (49) لسنة 2021 كما هو منشور على موقع الهيئة الإلكترونية www.tax.gov.ae.

2 نص المادة (25) من قانون الإجراءات الضريبية على أن:
   1. على الهيئة إصدار قياس الغرامات الإدارية للشخص وتبلغه به خلال (5) خمسة أيام عمل وذلك في أي من المخالفات الآتية:
      a. عدم قيام الشخص الذي يمارس الأعمال بحفظ السجلات المطلوبة وغيرها من المعلومات المحددة في هذا القانون والقانون الضريبي.
b. The failure of the Person conducting Business to submit the data, records and documents related to Tax in Arabic to the Authority when requested.

c. The failure of the Taxable Person to submit a registration application within the timeframe specified in the Tax Law.

d. The failure of the Registrant to submit a deregistration application within the timeframe specified in the Tax Law.

e. 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 the Authority.

f. 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, in which case, the penalties will be due from the Legal Representative’s own funds.

g. The failure of the Person appointed as a 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.

h. The failure of the Registrant to submit the Tax Return within the timeframe specified in the Tax Law.

i. 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.

j. The submittal of an incorrect Tax Return by the Registrant.

k. The voluntarily disclosure by the Person of errors occurring in the Tax Return, Tax Assessment or Refund Application pursuant to Article 10 (1) and (2) of this Law.

l. 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 Law before being notified that he will be subject to a Tax Audit.
m. The failure of the Person conducting Business to facilitate the work of the Tax Auditor in violation of the provisions of Article (21) of this Law.

n. 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.

o. Any other violation for which a Cabinet Decision is issued.

2. The Executive Regulation of this Law shall specify the information and data that must be included in the Administrative Penalties Assessment.

3. The Cabinet shall issue a resolution that specifies the Administrative Penalties for each of the violations listed in Clause (1) of this Article. Such Administrative Penalties shall be no less than 500 Dirhams for any violation and shall not exceed three times the amount of Tax in respect of which the Administrative Penalty was levied.

4. The imposition of any Administrative Penalty pursuant to the provisions of this Law or any other law shall not exempt any Person of his liability to settle the Due Tax in accordance with the provisions of this Law or the Tax Law.

3 Article 10(1) and 10(2) of the FTP Law state that:

1. If a Taxpayers Person becomes aware that a Tax Return submitted by him to the Authority or a Tax Assessment sent to him by the Authority is incorrect, which resulted in calculating the Payable Tax according to the Tax Law at a value that is less than it should have been, the Taxpayer Person shall, in this case, apply to correct such Tax Return by submitting a Voluntary Disclosure within the time limit specified in the Executive Regulation of this Law.

2. If a Taxpayer becomes aware that a Tax refund application that he has submitted to the Authority is incorrect, which resulted in calculating the refund to which he is entitled according to the Tax Law, at a value that is more than it should have been, he shall, in this case, apply to rectify the Tax refund application by submitting a Voluntary Disclosure within the time limit specified in the Executive Regulation of this Law.
The Second Article of Cabinet Decision No. 49 of 2021 states that “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.”