

Cabinet Resolution No. (40) of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE

The Cabinet:

- Having reviewed the Constitution;
- Federal Law No. (1) of 1972 on the Competencies of the Ministries and Powers of the Ministers and its amendments;
- Federal Law No. (1) of 2011 on the State's Public Revenues;
- Federal Decree-Law No. (8) of 2011 on the Rules of the Preparation of the General Budget and Final Accounts
- Federal Law No. (14) of 2016 on Violations and Administrative Penalties in the Federal Government,
- Federal Decree-Law No. (13) of 2016 on the Establishment of the Federal Tax Authority;
- 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,
- And pursuant to what was presented by the Minister of Finance and approved by the Cabinet,

Has decided:

Article 1

Definitions

In the application of the provisions of this Decision, the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

State: United Arab Emirates.

Minister: Minister of Finance.

Authority: Federal Tax Authority.

Chairman: Chairman of Authority's board of directors.

Tax Law: Any Federal law pursuant to which a Federal Tax is imposed.

Administrative Penalties: Monetary amounts imposed on a Person by the Authority for breaching the provisions of the Federal Law No. (7) of 2017 on Tax Procedures or the Tax Law.

Person: A natural or legal person.

Business: Any activity conducted in an ongoing, regular and independent manner by any Person and in any location, such as industrial, commercial, agricultural, professional, vocational or service activity, drilling activities or anything related to the use of material or non-material property.

Taxable Person: A Person who is subject to Tax under the provisions of the relevant Tax Law.

Tax Return: Information and data specified for Tax purposes and submitted by a Taxable Person in accordance with the form prepared by the Authority.

Tax Registration: A procedure according to which the Taxable Person or his Legal Representative registers for Tax purposes with the Authority.

Registrant: The Taxable Person who has been issued a Tax Registration Number.

Legal Representative: The manager of a company or a guardian or custodian of a minor or an incapacitated person, or the bankruptcy trustee appointed by the court for a company that is in bankruptcy, or any other Person legally appointed to represent another Person.

Payable Tax: Tax that has become due for payment to the Authority.

Tax Assessment: A decision issued by the Authority in relation to the Payable Tax or Refundable Tax.

Administrative Penalties Assessment: A decision issued by the Authority concerning any Administrative Penalties due.

Notification: A notification sent to the concerned Person or his Tax Agent or Legal Representative of any decisions issued by the Authority through the means stated in this Law and its Executive Regulation.

Voluntary Disclosure: A form prepared by the Authority pursuant to which the Taxpayer notifies the Authority of an error or omission in the Tax Return, Tax Assessment or Tax refund application in accordance with the provisions of the Tax Law.

Article 2

Scope

Administrative Penalties shall be imposed on the violations listed in the tables (1), (2) and (3) appended to this Decision.

Article 3

General Provisions

The imposition of any Administrative Penalty pursuant to the provisions of this Decision shall not exempt any Person of his liability to pay the Payable Tax in accordance with the provisions of the Federal Tax Laws.

Article 4

Amending Administrative Penalties

Any amendments to the Administrative Penalties specified in this Decision, whether addition, deletion or amendment thereof, shall be made by Cabinet.

Article 5

Objections

The Person has the right to object to the Administrative Penalties imposed on him in accordance with the procedures specified in the Federal Law No. (7) of 2017 on Tax Procedures

Article 6

Issuing Executive Decisions

The Minister shall issue the necessary decisions to implement the provisions of this Decision.

Article 7

Coming into Effect

This Decision shall come into effect as of the date of its issuance, except for the following:

1. Table No (2) on Violations and Administrative Penalties related to the Federal Decree-Law No. (7) of 2017 on Excise Tax shall come into effect as of October 1, 2017.
2. Table No (3) on Violations and Administrative Penalties related to the Federal Decree-Law No. (8) of 2017 on Value Added Tax shall come into effect as of January 1, 2018.

Article 8

Publication

This Decision shall be published in the Official Gazette.

Mohammed Bin Rashid Al Maktoum
Prime Minister

Issued by us:

On: 4 Muharram 1439H

Corresponding to: 24 September 2017

Tables of Violations and Administrative Penalties
Appendix to the Cabinet Decision No. (40) of 2017

Table (1): Violations and Administrative Penalties related to the Implementation of the Federal Law No. (7) of 2017 on Tax Procedures		
Description of Violation	Administrative 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.
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	(20,000)
4	The failure of the Registrant to submit a deregistration application within the timeframe specified in the Tax Law	(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
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)
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.
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.
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.	The Taxable Person 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.

		<ul style="list-style-type: none"> - (1%) daily penalty charged on any amount that is still unpaid one calendar month following the deadline for payment with upper ceiling of (300%).
10	<p>The submittal of an incorrect Tax Return by the Registrant.</p>	<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. 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 he made the voluntary disclosure after being notified of the tax audit and the Authority has started the tax audit process, or after being 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 being notified of the tax audit by the Authority.
11	<p>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>	<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. 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 voluntary disclosure before being notified of the tax audit by the Authority.

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.	Two penalties are applied: 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.
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 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 upper ceiling of (300%).
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.

Table (2): Violations and Administrative Penalties related to the Implementation of the Federal Decree-Law No. (7) of 2017 on Excise Tax	
Description of Violation	Administrative Penalty (AED)
Failure by the Taxable Person to display prices inclusive of Tax.	(15,000).
Failure to comply with the conditions and procedures related to transfer the Excise Goods from a Designated Zone to another Designated Zone, and the mechanism of processing and storing of such Excise Goods.	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.
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

Table (3): Violations and Administrative Penalties related to the Implementation of the Federal Decree-Law No. (8) of 2017 on Value Added Tax	
Description of Violation	Administrative Penalty (AED)
Failure by the Taxable Person to display prices inclusive of Tax.	(15,000)
Failure by the Taxable Person to notify the Authority of applying Tax based on the margin.	(2,500)
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.
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.
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.
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.