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Controls and Procedures for Paying Administrative Penalties by Instalments, and Waiving and Refunding Administrative Penalties

Cabinet Decision No. 105 of 2021

Issue Date: 28 December 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. 7 of 2017 on Tax Procedures, and its amendments,
- Federal Decree-Law No. 7 of 2017 on Excise Tax,
- Federal Decree-Law No. 8 of 2017 on Value Added Tax,
- Cabinet Resolution No. 40 of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE, and its amendments, and
- Pursuant to the presentation of the Minister of Finance, and approval of the Cabinet,

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 requires otherwise:

State	: United Arab Emirates.
Ministry	: Ministry of Finance.
Authority	: Federal Tax Authority.
Committee	: A committee created by a decision of the Chairman of the Authority's board of directors in accordance with



	Article 46 of the Federal Law No. 7 of 2017 on Tax Procedures and its amendments.
Tax Procedures Law	: Federal Law No. 7 of 2017 on Tax Procedures, and its amendments.
Tax Law	: Any Federal law under which a Federal tax is imposed.
Administrative Penalties	: Monetary amounts imposed on a Person by the Authority for breaching the provisions of the Tax Procedures Law or the Tax Law.
Person	: A natural or legal person on whom an administrative penalty has been imposed.
Category of Persons	: Group of persons affected by the same administrative penalties, and the circumstances that led to the imposition of administrative penalties on them are similar.
Settlement of Administrative Penalties by instalments	: Settlement of Administrative Penalties in specified periodic payments as determined by the Committee and based on the controls and procedures stipulated in this Decision.
Waiver of Administrative Penalties	: Exemption of a person or a category of persons in whole or in part from administrative penalties, in accordance with a percentage or periods determined by the Committee, and subject to fulfilment of the controls and procedures stipulated in this Decision (whether or not such penalties have been settled).
Refund of Administrative Penalties	: Refund of administrative penalties paid by a person or a category of persons, without requesting proof of a specific justification, for equality between taxable persons, as determined by the Committee, and after verification of the fulfilment of the controls and procedures stipulated in this Decision.
Request	: What a person submits seeking Settlement of Administrative Penalties by instalments or Waiver of Administrative Penalties.
Person Entitled to Pay by Instalments	: The Applicant for whom the Committee issued a decision approving the Settlement of Administrative Penalties by instalments.

Article 2 – Scope of Application

The provisions of this Decision shall apply to the requests for Settlement of

Administrative Penalties by instalments, Waiver and Refund of Administrative Penalties, in whole or in part, which are imposed on any Person for violating the provisions of the Tax Procedures Law or Tax Law.

Article 3 – Controls for Settlement of Administrative Penalties by Instalments

The Committee may approve the Settlement of Administrative Penalties by instalments if the following are met:

1. The Request to pay by instalments shall be in respect of unsettled Administrative Penalties only.
2. The Administrative Penalties required to be paid in instalments by the Person shall not be less than (50,000) fifty thousand Dirhams, and the Committee may make any adjustments to that amount.
3. The Administrative Penalties, which are the subject of the Request to pay by instalments, shall not be subject to dispute before the Tax Dispute Resolution Committee, the competent courts, or any other entity involved in the consideration of tax objections or appeals in accordance with the mechanism stated in the Federal Law No. 7 of 2017, except objection through the reconsideration mechanism.
4. The Person should not owe any payable tax in respect of the tax period which is the subject of the Request.

Article 4 – Controls and Cases for Waiver of Administrative Penalties

The Committee may approve the Waiver of Administrative Penalties if the following are met:

1. The violation for which the Administrative Penalties arose should not be in connection to a tax evasion crime.
2. The submission of the request shall be within the period specified by the Committee.
3. The Person's request shall relate to one of the following cases:

- a. Death of the registered natural person or the owner of a sole establishment, if the death was a direct cause for failing to fulfil the tax obligation.
- b. Illness of the registered natural person or the owner of a sole establishment, if the illness prevented the person from fulfilling the tax obligation on time.
- c. Death, illness, or resignation of a key employee of a registered establishment, provided that it is proven that this was a direct cause for not fulfilling the tax obligation on time.
- d. Restrictions, or precautionary or preventive procedures imposed by government authorities in the State, if these restrictions or procedures were a direct cause for not fulfilling the tax obligation.
- e. A general malfunction in the Authority's systems, payment gateways or used telecommunication services, where that was a direct cause for not fulfilling the tax obligations of a Category of Persons on time.
- f. Execution of a custodial sentence on the registered person or the owner of a sole establishment.
- g. The person carries out the tax obligations and settles all due tax amounts in accordance with the Tax Law through an account of another person registered for tax purposes with the Authority.
- h. If the Person has been declared insolvent or bankrupt, and due taxes before the declaration of bankruptcy or insolvency were settled, unless the purpose of declaring the bankruptcy or insolvency is to evade paying such Administrative Penalties.
- i. Any other cases assessed by the Committee.

Article 5 – Procedures for Submitting Requests for Paying by Instalment and Waiver

1. Requests for Settlement of Administrative Penalties by instalments or Waiver of Administrative Penalties shall be submitted to the Authority in the forms prepared by the Authority for this purpose. The request shall contain the following documents and data:
 - a. Name and information related to the Person, including email and correspondence address.

- b. Tax registration number (TRN), if applicable.
 - c. Amount of Administrative Penalties and violations relating to the Request.
 - d. Date of imposition of the Administrative Penalties subject of the Request.
 - e. Reasons for submitting the Request.
 - f. Attaching an undertaking by the Person to settle the required payment in accordance with the Administrative Penalties instalment plan approved by the Committee, in case the request relates to the Settlement of Administrative Penalties by instalments.
 - g. Attaching an undertaking by the Person that the person has corrected the violation and undertakes not to repeat the violation, in case the request relates to the Waiver of Administrative Penalties.
 - h. Any other documents or details requested by the Committee or the Authority.
2. The Person shall not make more than one request for Settlement of Administrative Penalties by instalments or Waiver of Administrative Penalties in respect to same Administrative Penalties under review.
 3. The Request shall be disregarded if the provisions of this Article are not met.

Article 6 – Review of Requests for Paying by Instalment and Waiver

1. The Authority shall review the Requests submitted by the Person, and verify whether the controls and procedures stated in this Decision have been met.
2. The Authority's Director-General shall present to the Committee the requests that are received and that meet the procedures prescribed in Article 5 of this Decision, within a period not exceeding 40 business days from the date of receipt of the request, including the extent to which such Requests are consistent with the controls specified in this Decision.

Article 7 – Procedures of the Committee and Consideration of Requests

1. The Committee shall specify the period during which waiver Requests shall be submitted.
2. The Committee shall specify the Administrative Penalties Instalment Scheme and its plans pursuant to the tables approved by the Committee, as well as the controls and payment dates of the advance payment.
3. The Committee shall review the Requests for Settlement of Administrative Penalties by instalments and Waiver of Administrative Penalties, and approve them if it is established that these requests have met all controls and procedures set forth in this Decision. In order to do so, the Committee may request any additional clarifications, documents or data from the Person in coordination with the Authority.
4. The Committee shall determine the amount of waiver from the penalties at its discretion.
5. The Committee shall decide on the requests submitted to it within 60 business days from the submission of the matter to the Committee, otherwise, non-response shall be deemed a rejection of the request, and the decision of the Committee shall be deemed final.
6. The Committee may request the person to provide to the Authority any guarantee it deems appropriate for the implementation of the instalment plan.

Article 8 – Implementation of Committee's Decisions

1. The Authority shall notify the Person, through the address or email shown in his request, of the Committee's decision within 10 business days from the date of issuance of the Committee's decision.
2. In case the settlement of the imposed Administrative Penalties is approved to be by instalments, the Authority shall inform the Person of the details of the plan specified by the Committee.
3. The Person Entitled to Pay by Instalments shall commit to pay the instalments in accordance with the instalment decision specified by the Committee.

4. The Authority shall follow up on the execution of the decisions of the Committee and ensure the Person's commitment to pay the instalments due on time. The Authority shall report cases of non-payment to the Committee to take a decision on the matter.

Article 9

The Committee may revoke the decision to pay by instalments in case of non-payment, and may take the following actions:

1. Specify a new plan for the Person, if the Person submitted the reasons of non-payment, and such reasons were accepted by the Committee.
2. To direct the Authority to take the necessary legal actions to collect the Administrative Penalties.

Article 10

As an Exception from the obligation to apply for Waiver of Administrative Penalties, the Director-General may present any of the cases specified in Clause (3) of Article (4) of this Decision to the Committee for the purpose of the Waiver of Administrative Penalties imposed on a Category of Persons, provided that the reasons for raising such case is specified including the extent to which the case is in line with the controls and procedures.

Article 11 – Controls and Procedures of the Refund of Administrative Penalties

1. The Committee shall specify the cases and rules for the refund of penalties collected during the 5 five years preceding the date of reviewing the refund of the penalties, in order to achieve tax justice and equality between the legal positions of Taxable Persons.
2. The Authority should consider the financial implications of the Refund of Administrative Penalties and make recommendations to the Committee.

Article 12

1. The Director-General shall present to the Committee the proposed cases of Refund of Administrative Penalties.
2. For the purposes of this Article, the Committee shall determine the Administrative Penalties for which it approves to refund, the reasons for the Refund of the Administrative Penalties and their total value for each category of registered persons covered by the refund.

Article 13

The refund of Administrative Penalties shall be as follows:

1. Adding to the Person's tax account within 90 days from the decision to approve the Refund of the Administrative Penalties.
2. Cash refund in case the Person is deregistered, in accordance with the procedures followed by the Authority.

Article 14

If the Committee decides to reject the request for Settlement of Administrative Penalties by instalments or the Waiver of Administrative Penalties, the Authority shall take the necessary legal procedures to collect it.

Article 15 – Transitional Rules

1. The Authority shall submit all reduction and waiver requests to the Committee, if they were submitted to the Authority and no decision was taken by the Authority prior to the entry into force of Federal Decree Law No. 28 of 2021 on the Amendment of Certain Provisions of the Federal Law No. 7 of 2017 on Tax Procedures, or if they were received before the issuance of this Decision.
2. Requests specified in Clause 1 of this Article shall be forwarded after considering the controls contained in this Decision, and the Authority may request any additional data for such purposes.

Article 16 – Cancellations

Article 26 of Cabinet Decision No. 36 of 2017 on the Executive Regulation of the Federal Law No. 7 of 2017 on Tax Procedures, and its amendments, and every provision contrary to or inconsistent with the provisions of this Decision shall be abrogated.

Article 17 – Publication and Application of this Decision

This Decision shall be published in the Official Gazette and shall come into effect from 1 March 2022.