



United Arab Emirates

New rules on administrative penalties waivers and installments

January 2022



In brief

Following the issuance of Federal Decree Law No. 28 of 2021 to amend the provisions of Federal Decree Law No. 7 of 2017 on Tax Procedures relating to tax disputes and resolution in the UAE, a new Cabinet Decree No.105 of 2021 was issued on 28 December 2021 covering the controls and procedures related to the waiver and installment of administrative penalties.

The new Cabinet Decree comes into effect on 1 March 2022.

In detail

Administrative penalties installments

The approval of requests to pay administrative penalties in installments is subject to the following conditions:

- The installment request must be in respect of unsettled penalties only;
- The amount of penalties subject to installment should not be less than AED 50,000;
- Penalties subject to installment should not be currently disputed in front of the Tax Disputes Resolution Committee (TDRC) or Federal Courts (excluding the reconsideration process);
- The tax due for the tax period subject to the installment request is settled.

Administrative penalties waivers

The approval of requests to waive administrative penalties is subject to penalties not be associated with tax evasion case(s).

The new Cabinet Decree lists the accepted reasons to grant penalty waivers as follows:

The request should be related to any of the following cases:

- Death or illness of the taxpayer if the taxpayer is a natural person or owner of an establishment.
- Death, illness, or resignation of a key employee of the tax registrant.
- Evidence of restrictions, precautionary or preventive measures, applied on the taxpayer by UAE government agencies.
- Evidence of system failure of the Federal Tax Authority (FTA), or payment and communication systems failure that affects a class of persons.
- Causes relating to restrictions on liberty and freedom of a natural person taxpayer or owner of an establishment.
- Payment of all taxes through the tax account of another registered taxpayer.
- In cases of insolvency or bankruptcy, penalties may be waived if they have been paid prior to the insolvency or bankruptcy, and if it is evident that the insolvency or bankruptcy was not for purposes of tax evasion.

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Taxable persons who have been subject to penalties can now request a waiver or installment of penalties.

Taxpayers must now choose between either disputing tax penalties through the TDRC and the Federal Courts or filing request for installment.

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Procedures related to the submission of installment or waiver requests

- The request for either an installment or waiver request must include the general details e.g. tax identification number, penalty amounts, reasons, etc.
- An undertaking should be filed by the taxpayer:
 - For installment requests, the undertaking should state that the penalties will be paid in accordance with the payment schedule that is accepted by the Committee.
 - For waiver requests, the undertaking should state that the cause of the penalties shall be rectified, and that the cause shall not occur again.
- Breach of the undertakings will nullify and void the underlying request.
- A taxpayer may not file more than one request for the same penalty[ies].
- Failing to adhere to an installment payment plan may result in either:
 - A new payment plan if there is a justifiable excuse for non-compliance with the schedule, or
 - Action by the FTA against the taxpayer to collect the penalties.

Timelines

- The FTA has 40 business days to review the request for compliance with all requirements. If the request is valid, it shall be referred to the Committee.
- The Committee has 60 business days to decide on the request and 10 days to notify the applicant thereafter.
- Lack of a decision is deemed a final rejection.

Committee role

The Committee will be responsible for:

- Setting the time limit for filing waiver requests.
- Draw the payment procedures and schedules for installment requests.
- Decide the percentage of penalties to be waived in respect of waiver requests.
- Request any guarantee it sees fit to process an installment request.

Retrospective penalty refund

The Cabinet Decree grants the Committee the authority to stipulate the circumstances and rules in respect of paid penalties within the previous 5 years.

If paid penalties are waived retrospectively, the paid penalties subject of the waiver will be credited to the taxpayer's account with the FTA within 90 business days or refunded in cash in case the taxpayer has canceled their tax registration.

The takeaway

New rules on administrative penalties waivers and installments

Taxable persons who have been subject to administrative penalties can now request a waiver or installment of penalties.

Taxable persons should evaluate whether the conditions stipulated in the new Cabinet Decree for submitting a request to the Committee for installment / waiver of administrative penalties are satisfied in order to benefit from these initiatives.

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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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Thank you