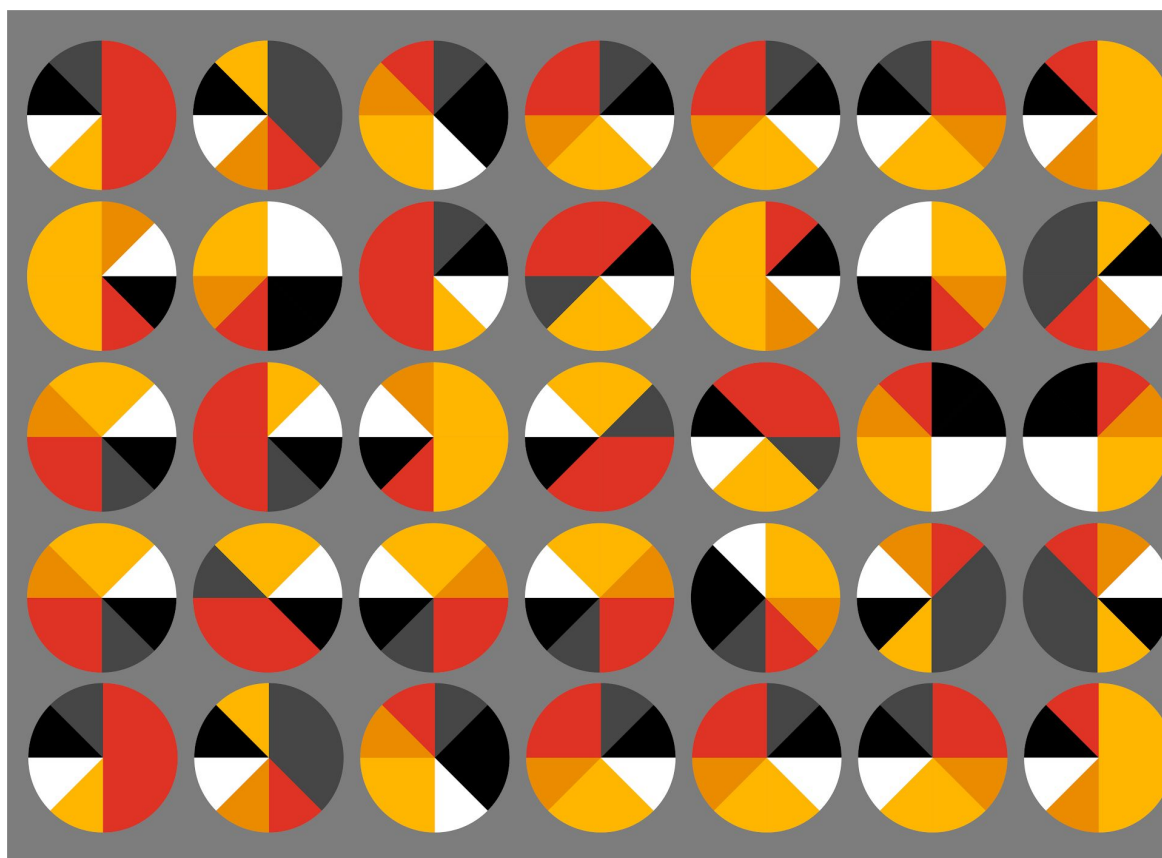


# United Arab Emirates: Amendment of administrative penalties imposed for violation of Tax Laws and reduction of previously imposed penalties

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## In brief

On 28 April 2021, the UAE Cabinet of Ministers issued Resolution No. 49/2021 to amend the provisions of Cabinet Resolution No. 40/2017 relating to administrative penalties imposed for violation of Tax Laws in the UAE.

The new resolution grants the UAE Federal Tax Authority (“FTA”) the right to reduce previously unpaid administrative penalties to 30% of the total penalties where the registrant has paid all taxes due by 31 December 2021.

The new resolution is applicable effective sixty (60) days as of the date of its issuance.

## In detail

Cabinet Decision no. 49/2021 replaced Cabinet Decision no. 40/2017 relating to administrative penalties imposed for the violation of Tax Laws in the UAE.

### 1. Amendment of administrative penalties

The new resolution amends the administrative penalties listed in Table No.(1), Table No.(2) and Table No. (3) of Cabinet Decision No. 40/2017.

Some of the key amendments to the administrative penalties listed in the new resolution are as follows (non-exhaustive list):

- AED 20,000 reduced to AED 10,000 for failure of the taxable person to submit a registration application within the timeframe specified in the Tax Law.
- AED 10,000 reduced to AED 1,000 monthly (not exceeding AED 10,000) for failure of the registrant to submit a deregistration application within the timeframe specified in the Tax Law.
- AED 15,000 reduced to AED 5,000 for failure by the taxable person to display prices inclusive of VAT.
- AED 5,000 (for each tax invoice) reduced to AED 2,500 (for each instance discovered) for failure by the taxable person to issue a tax invoice / tax credit note or an alternative document when making any supply.
- AED 5,000 (for each tax invoice) reduced to AED 2,500 (for each instance discovered) for failure by the taxable person to comply with the conditions and procedures regarding the issuance of electronic tax invoices and electronic tax credit notes.

Moreover, the percentage based penalties applicable to the late payment of the tax due - in the tax return or in the voluntary disclosure or in the tax assessment - are reduced and the 1% daily penalty previously imposed is eliminated.

The new late payment penalty is now calculated as follows (the 300% cap still applies):

- 2% of the unpaid tax due on the day following the payment due date,
- 4% monthly penalty due after one (1) month from the payment due date, and on the same date every month thereafter, on the amount of tax that has not been paid to date.

The voluntary disclosure penalties that are applicable to the difference between the tax declared and the tax due are now linked to the period during which the taxpayers amend the previously submitted VAT returns and range between 5% (in case the voluntary disclosure was submitted within 1 year from the due date of tax return or tax assessment or refund application) and 40% (in case the voluntary disclosure was submitted after the 4th year).

Please refer to the Cabinet Resolution No.49/2021 for a comprehensive list of the amended administrative penalties for violations of tax laws in the UAE.

## 2. Calculation of penalties

The new resolution stipulates that the payment due date for the purposes of calculating the late payment penalty shall be as follows:

- 20 business days as of the date of submission of a voluntary disclosure.
- 20 business days as of the date of receipt of a tax assessment.

The above overrides the application of late payment penalties retrospectively from the due date of filing of the tax return subject to amendment or assessment.

## 3. Discounts for previously imposed penalties

Administrative penalties - that have not been paid - imposed before the effective date of the new resolution will be reduced to 30% of total unpaid penalties if all of the following conditions are met:

- a. The penalties were applied under the previous Cabinet Resolution No. 40/2017;
- b. The registrant has paid all taxes due by 31 December 2021; and
- c. By 31 December 2021, the registrant has paid 30% of the total administrative penalties due and unpaid by the effective date of the new resolution (i.e. 60 days as of 28 April 2021).

## 4. Effective date of the new Cabinet Resolution

The new resolution shall be effective after sixty (60) days from the date of its issuance on 28 April 2021, i.e. effective as from 28 June 2021.

## Key takeaway

Taxpayers can now benefit from the reduced administrative penalties that would notably apply when amending the previously submitted VAT returns to adjust errors or omissions. The period in which the related voluntary disclosures are filed will determine the percentage based penalty that would apply.

Taxpayers should also evaluate the conditions stipulated in the new resolution to benefit from the reduction of previously imposed penalties, which will be applicable until 31 December 2021.

## Let's talk

For a deeper discussion of how these changes might affect your business, please contact:

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