

# United Arab Emirates

## Introduction of a new Tax Procedures Decree-Law

November 2022



## In brief

On 30 September 2022, the President of the UAE, H.H. Sheikh Mohamed Bin Zayed Al Nahyan issued Federal Decree-Law No. 28 of 2022 on Tax Procedures (the new TPL) which revokes Federal Decree-Law No. 7 of 2017 on Tax Procedures as amended by Federal Decree-Law No. 28 of 2021 (the current TPL).

The new TPL will be effective as of 1 March 2023.

## In detail

The Arabic version of Decree-Law No. 28 of 2022 on Tax Procedures Law was published in the official gazette (issue no. 773 of 10 October 2022).

The application of Executive Regulations of Federal Decree-Law No.7 of 2017 will continue to take effect, to the extent that they do not contradict with the new Tax Procedures Law and until the new Executive Regulations are published.

The key differences between the new TPL and the current TPL are summarized below:

1. **Definitions** - The new TPL amended some of the existing definitions in the current TPL (e.g. Tax Law, Business, Legal Representative, Tax Auditor, etc.) and introduced new definitions for Business Day, Tax Residency Certificate and Tax Resident.
2. **Language** - A new clause (No.3) has been added to Article 5 stating that the person providing documents translated into Arabic shall be responsible for the accuracy and validity of information, and the Authority will retain discretion on relying on such documents.
3. **Allocation of unidentified tax payments** - Article 9 on allocating payable taxes now provides the Authority with the right to allocate overpaid taxes or tax credits to outstanding tax liabilities (in the absence of the taxable person specifying the allocation order) - further details to be stipulated in the Executive Regulations of the new TPL.
4. **Voluntary disclosures** - A new clause (No. 5) was added to Article 10 stipulating that taxpayers are now required to submit a voluntary disclosure to correct an error or report an omission even in cases where the error or omission does not result in a difference in the tax due.



The new Tax Procedures Law will be effective from 1 March 2023.

The Executive Regulations will also be amended to capture the changes made in the new Tax Procedures Law.





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5. **Registration of tax agents** - A new Article (No. 13) was introduced on the conditions for tax agents registration - further details to be stipulated in the Executive Regulations of the new TPL.
6. **Recordkeeping by tax agents** - Tax agents are required to maintain records of the currently and previously represented taxpayers for a period of time - to be stipulated in the Executive Regulations. The clause stating that the Authority may rely on documents provided by the tax agent for the purpose of tax audit after the expiry of the tax agency has been removed.
7. **Tax audit** - A new clause (No. 2) has been added to Article 16 on the period for the Authority to notify the taxpayer of the initiation of tax audit procedures. The new period is now 10 business days (initial period was 5 business days).
8. **Notification period** - The Authority shall now notify the concerned person of the tax assessment within 10 business days from the date of issuance (initial period was 5 business days).
9. **Penalties imposed on tax agents and legal representatives** - Article 24 states that administrative penalties will also extend to tax agents and legal representatives of the person under audit, for failure to facilitate and offer assistance to the tax auditor.
10. **Maximum limit of administrative penalties imposed by the Authority** - Article 24 on administrative penalties assessment has now capped the administrative penalties that may be imposed in a tax assessment to (2) times the tax amount (initial limit was set to 3 times). Also, the minimum value of administrative penalties that can be imposed of AED 500 has been removed.
11. **Tax refund** - Article 39 specified that when a taxpayer is under a tax audit, the Authority should not hold on processing a tax refund application to the taxpayer subject to meeting the conditions applicable for tax refunds.
12. **Collection of taxes** - New clauses have been added to Article 40 stating that where it was made available that the payable taxes due to the Authority are subject to potential loss, the Director General of the Authority may request from the judge at the Competent Court to issue an order for the seizure of property owned by the person as equivalent to the payable taxes. The payable taxes due to the Authority shall prevail over other liabilities due to other parties. It is also now mandatory for the taxable person to make any payments received as taxes to the Authority.



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13. **Tax crimes and applicable penalties** - Article 25 on tax crimes (labelled in the current TPL as tax evasion cases) includes the following key changes:
- Prison sentence and monetary penalty not exceeding (3) times the evaded tax (initial limit was set to 5 times) for violations of deliberately failing to settle payable taxes, understatement of business value for registration purposes, collecting taxes without being registered and decreasing payable taxes or violations of deliberately failing to settle administrative penalties, unless a decision of waiving such penalties has been issued.
  - Prison sentence or monetary penalty not exceeding AED 1,000,000 or both for violations of deliberately providing false information, concealing or destroying documents or other material, stealing, mis-using or causing the destruction of documents or preventing or hindering the Authority's employees from performing their duties.
  - Furthermore, two additional articles were added in relation to tax crimes:
    - i. Article 26 stipulates the general procedures and considerations in relation to tax crimes.
    - ii. Article 27 lists specific circumstances in which the Authority and the Public Prosecution reach a settlement whereby the person settles the full taxes, administrative penalties and a percentage of evaded taxes.
14. **Statute of limitation** - This has been amended in Article 46 as follows:
- The statute of limitation of 5 years will not apply to cases where the Authority has issued a notice to audit the taxable person, provided such an audit is completed within 4 years from the date of issuance of the notice.
  - In the case where the taxable person files a voluntary disclosure in the 5th year from the end of the relevant tax period, the statute of limitation will be extended by one year.
  - A voluntary disclosure cannot be filed by the taxable person after the lapse of 5 years from the end of the relevant tax period.





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### Changes to dispute resolution process

- **Tax Assessment Review Request** - [Introduction of a new layer to the tax dispute process]  
A new article (No. 28) has been added in the new TPL which allows any person to submit an application to the Authority to review its tax assessments and related administrative penalties (in part or in full) issued within 40 business days from the date of receiving the tax and penalty assessment, and subject to that the person has not submitted a reconsideration application in relation to the same assessment prior to submitting the tax assessment review request.
- **Objection to the Committee** - Article 32 on the requirements for submitting an objection to the Tax Disputes Resolution Committee (TDRC) has been amended to include a clause stating that the Cabinet may issue a decision adjusting the required amount of payable tax that should be paid to the Authority prior to submitting the objection application.
- **Extension of timelines** - A new Article (No. 35) has been added whereby a person submitting tax assessment review request, reconsideration and objection applications as well as the Authority and TDRC reviewing relevant applications, can now be granted the right to request for an extension of the standard timelines of (40) business days subject to meeting certain conditions as stipulated in the Executive Regulations. If the person is not granted the extension, the decision issued by the Authority or the TDRC would be considered as final and can not be further appealed.

# The takeaway

Taxable persons are required to review the new Decree-Law to understand and assess the impact on their business and activities and to ensure implementation readiness by the effective date of 1 March 2023.

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## Let's talk

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

### Mohammed Yaghmour

Partner, Middle East Tax & Legal Services  
Leader

+971 (0) 56 406 3384

[mohammed.yaghmour@pwc.com](mailto:mohammed.yaghmour@pwc.com)

### Camiel Van Der Meij

Partner, UAE Corporate Tax Leader

+971 50 732 3930

[camiel.m.meij@pwc.com](mailto:camiel.m.meij@pwc.com)

### Antoni Turczynowicz

Partner, Middle East TLS Managed Services  
Leader

+971 (0) 54 791 5259

[antoni.a.turczynowicz@pwc.com](mailto:antoni.a.turczynowicz@pwc.com)

### Driaan Ruppig

Partner, UAE Corporate Tax

+971 54 793 5385

[driaan.r.ruppig@pwc.com](mailto:driaan.r.ruppig@pwc.com)

### Maher ElAawar

Partner, Middle East Indirect Tax and Fiscal  
Policy

+971 (0) 56 216 1109

[maher.elaawar@pwc.com](mailto:maher.elaawar@pwc.com)

### Charles Collett

Partner, UAE Corporate Tax

+971 (0) 54 793 4780

[charles.c.collett@pwc.com](mailto:charles.c.collett@pwc.com)

### Carlos Garcia

Partner, Middle East Customs and  
International Trade Leader

+971 (0) 56 682 0642

[c.garcia@pwc.com](mailto:c.garcia@pwc.com)

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