

Cabinet Resolution No. (23) of 2018 Concerning the Formation of Tax Disputes Resolution Committees, and its Relevant Regulations and Procedures

The Cabinet,

- Upon review of the Constitution; and
- Federal Law No (1) of 1972 concerning the competences of the Ministries and the authorities of the ministers, as amended; and
- Federal Law No. (11) of 1973 regulating Judicial Relations between member Emirates in the Federation; and
- Federal Law No. (3) of 1983 on the federal judicial authority and its amendments; and
- The Civil Procedures Law promulgated by of Federal Law No. (11) of 1992 and its amendments; and
- Federal Decree-Law No. (13) of 2016 On the Establishment of the Federal Tax Authority; and
- Federal Law No. (7) of 2017 on tax Procedures; and
- Federal Decree-Law No. (7) of 2017 on Excise Tax; and
- Federal Decree-Law No. (8) of 2017 on Value Added Tax; and
- Cabinet Resolution No. (36) of 2017 on the regulation of Federal Law No. (7) of 2017 on tax Procedures; and
- Cabinet Resolution No. (37) of 2017 on the regulation of Federal Decree-Law No. (7) of 2017 on Excise Tax; and
- Cabinet Resolution No. (38) of 2017 on Excise Goods, Excise Tax Rates and the Method of Calculating the Excise Price; and
- Cabinet Resolution No. (39) of 2017 on Fees for Services Provided by the Federal Tax Authority; and
- Cabinet Resolution No. (40) of 2017 on Administrative Penalties for Violations of Tax Laws in the UAE; and

- Cabinet Resolution No. (52) of 2017 on the regulation of Federal Decree-Law No. (8) of 2017 on Value Added Tax; and
- Based on what has been presented by the Minister of Finance, and the approval of the Cabinet,

Resolves:

Article (1)

Definitions

In application of Provisions of this Resolution, the following words and phrases shall have the meanings assigned to them, unless the context indicates otherwise:

- Ministry** : The Ministry of Justice.
- Competent Minister** : The Minister of Justice.
- Object** : A written or electronic objection submitted to committees subject to provisions of law and this Resolution.
- Objector** : A natural or legal person submitting the objection either this is made by himself/itself, legal representative or tax agent.
- Authority** : The Federal Tax Authority established pursuant to Federal Decree-Law No. (13) of 2016.
- Committee(s)** : Tax disputes resolution committee(s).
- Competent Department** : Department of tax disputes resolution committees at the Ministry.

Article (2)

Formation of Committees

1. Permanent committees for tax disputes resolution shall be formed as follows:
 - a. Tax disputes resolution committee-Abu Dhabi.
 - b. Tax disputes resolution committee-Dubai.

- c. Tax disputes resolution committee-Sharjah.
2. Each committee shall be headed by a judicial authority member and two expert members registered at tax roll of experts and a resolution by the Minister shall be issued for their appointment in coordination with the Minister of Finance.
3. Each committee shall have one judicial authority member and an expert listed in the tax roll of experts standing-by, and a resolution by the Minister shall be issued for their appointment in coordination with the Minister of Finance.
4. Membership period in committees shall be one year and may be renewed for a similar period(s) for not more than three (3) years.
5. If the period expires and no resolution is taken to renew the membership, the committee shall proceed its work until a resolution of renewal or reformation is issued.

Article (3)

Venue for the Committees' Meetings to be Convened

1. Committees formed pursuant to this Resolution shall convene its meetings at the headquarter determined by a resolution of the Minister.
2. Territorial jurisdiction of each committee shall be determined according to the place in which the address of the objector indicated in the tax registration file at the Authority is located.
3. The exception of clause (2) of this article is that tax disputes resolution committee in Sharjah Emirate shall be the competent jurisdiction if the address of the objector as indicated in the tax resignation file at the Authority locates in Sharjah, Ras al-Khaimah, Ajman, Fujairah, or Umm al-Quwain Emirates.
4. If the objector is a foreign company and its address indicted in its tax registration file at the Authority outside UAE, tax disputes resolution committee in Abu Dhabi shall be the competent one to hear the objections submitted by such objector.
5. If there is a jurisdiction dispute, the competent Department formed pursuant to article (15) of this Resolution on the dispute of jurisdiction.

Article (4)

Subordination of Committees

1. Committees formed pursuant to provisions of this Resolution shall be subject to Ministry of Justice and under its supervision with respect to administrative and financial aspects.
2. Tax experts who are members of committees shall be subject to same obligations and controls of judges and their equals subject to laws, regulations, and resolutions applicable in the State.

Article (5)

Independence and Non-Conflict of Interest

1. Any member in the committees shall be prohibited to participate in the works of the committee when hearing any objection in which the member or his wife has a direct or indirect interest, or there is affinity, kinship or fourth degree to objector, or is the legal representative, guardian, or administrator of the objector.
2. In all cases, a committee member shall abstain to hear an objection when any of the above cases stated in clause (1) of this article exists. The stand-by committee member shall replace such member, as in the case, and the objection shall be decided by that formation.

Article (6)

Functions of the Committee

The committees shall do the following:

1. Decides the objections submitted against the Authority decision on the motions for reconsideration.
2. Decides motions submitted to the Authority and the Authority does not issue a decision subject to provisions of the referred to Federal law No. (7) of 2017.

3. No objection motion may not be submitted to any other committee if it was previously submitted to one committee and that committee decided it.

Article (7)

Submitting an Objection

1. Objection motion shall be submitted to the competent administration. It may be submitted through electronic objection system that is prepared by the Authority.
2. The objection shall be submitted according to the form determined for this purpose, provided that it shall include the following documents and details:
 - a. Name, details and address of the objector.
 - b. Summary of the subject of the motion and other motions submitted.
 - c. Supportive documents of the motion
 - d. Electronic addresses of the legal representative or tax agent of the objector, in addition to any other email determined by the objector.
 - e. Any other documents relevant to the reasons of objection.
3. An objection shall be recorded in the registers prepared for this purpose according to its date of submittal. The objector shall get a receipt of objection submittal that includes number of objection and the competent committee that shall hear it.
4. Competent administration shall send the objection of the competent committee within a period that shall not exceed two working days following its submittal day.

Article (8)

Hearing the Objection

1. The committee shall examine the objection submitted to it and shall decide it within twenty-one working days from the date of receiving the objection.
2. The committee may, upon its discretion or subject to the motion of the objector, permit to hold hearings where the objector, his legal representative or tax agent attends. The committee may decide the motion pursuant to documents provided.

3. The committee may extend the period to decide the objection to a period that shall not exceed additional (20) twenty working days after the expiry of the period stated in clause (1) of this article, if the committee have considerable reasons for the purpose of deciding the objection.
4. Without prejudice to clause (3) of this article, the committee may allow the objector to submit any new documents that were not attached to his motion, subject to an excuse acceptable by the committee or if the committee considers such documents necessary for deciding the objection.
5. In all cases, tax disputes claims shall not be accepted before competent court if no objection is submitted first to the committee.

Article (9)

Events to Reject the Objection

The committee shall issue a decision to refuse the objection submitted in the two following cases:

1. If a motion is not submitted to the Authority to reconsider its decision before the objection is presented.
2. If objected taxes and administrative penalties are not paid.

Article (10)

Decisions issued by the committees are final in the following cases:

1. Decision of the committee shall be deemed final against the objection of the total due taxes and administrative penalties relevant to that tax does not exceed AED 100,000.
2. Final decisions issued by the committee for tax disputes that does not exceed AED 100,000 shall be deemed a writ of execution subject to the provisions of Federal Law No. (7) of 2017 referred to in this resolution.
3. Final decisions issued by the committee for tax disputes that does not exceed AED 100,000 shall be deemed a writ of execution if they are not appealed before the

competent court within twenty (20) working days from the date the objection is refused.

Article (11)

Appeal Against the Committees' Decisions

1. Without prejudice to article (10) of this Resolution, the Authority and the objector may appeal against the decision of the committee before the competent court within twenty (20) days from the date of the decision is issued by the committee, otherwise the decision of the committee shall be deemed final and can be appealed by any means.
2. Secretary of the committee shall send the objection file and all documents and decision of the committee attached with it to the competent court within the following two working days after the secretary receives a copy of the appeal brief presented to the competent court.

Article (12)

The Committee's Secretary

Each committee shall have a secretary appointed by the Minister's resolution and shall perform the following:

1. Receives objections from the relevant administration and provides the committee members with the objection file with a date set for hearing.
2. Copies the decisions issued by the committee and presents them to the chairman of the committee for execution.
3. Informs the relevant administration and the objector with the decisions issued by the committee with respect to the objection.
4. Sends the objection file with its documents to the competent court pursuant to clause No. (2) of article No. (11) of this Resolution.

5. Makes a quarterly report about the works made by the committee and the objections decided, then such report is approved by the chairman of the committee before sending it to the relevant administration.
6. Any other duties assigned by the chairman of the committee.

Article (13)

Functions of the Administration

Relevant administration shall perform the following:

1. Receives objections submitted against the decisions of the Authority and checks that such objections fulfil the following details:
 - a. Name and details of the objector.
 - b. Number of the objected resolution, date of reporting and reasons of objection.
 - c. Date of submitting the motion to rehear to the Authority and the procedures taken.
 - d. Payment of the due objected tax and administrative penalties, the subject of the objection.
 - e. Ensures that there was no previous objection submitted by the objector against the same decision of the Authority.
 - f. Ensures that clear address of the objector exists, his legal representative or tax agent is identified.
2. Unifies the paper and electronic forms used by these committees.
3. Prepares a quarterly report about the results of following up the committees' work, including suggestions and recommendations. Such report shall be presented to the head of the judicial inspection department, provided that the report shall include the following details:
 - a. Number of objections submitted to committees concerning the decisions of the Authority.
 - b. How regular are the committees holding its sessions.
 - c. Number of sessions adjourned reasons for such action.

4. Suggesting solutions of practical problems showing the committees' progress of work and submitting such solutions to the heads of the committees for consideration.
5. Gathering the principles contained in the decisions of committees and to circulate them to other committees as preferential.
6. Receiving requests to committee member recusance and to refer such requests to the department stipulated in article (15) of this Resolution.
7. Referral of jurisdiction disputes requests coming from the committees and to refer them to the department stipulated in article (15) of this Resolution within three working days from the date on which such requests are received.

Article (14)

Recusance of Committee Members and its Procedures

An objector or the Authority may request recusance of any of the committee members pursuant to the following procedures:

1. Recusance request shall be submitted to the relevant administration with its reasons and supportive documents attached.
2. Relevant administration shall advise the specific committee on the first working day following the receipt of the recusance request. The committee shall suspend deciding the objection until the recusance request is resolved.
3. Relevant administration shall refer the recusance request to the department-stipulated in article (15) of this resolution within three working days from the date the request is received.

Article (15)

Department Competent to Resolve Recusance and Jurisdiction

Disputes Requests

A department at Abu Dhabi Federal Court of Appeal Department shall be formed by a resolution of the Minister. Such department will resolve the recusance requests

concerning the members of tax disputes resolution committees and jurisdiction dispute referred to the department by tax disputes resolution committees.

Article (16)

1. The department formed pursuant to provisions of article (15) of this Resolution shall resolve the recusance requests or jurisdiction dispute requests-as in the case-within three (3) working days from the date of receipt and its decision shall be final in this respect.
2. If a recusance request for any committee member is accepted in a way that may cause non-quorum to convene, the stand-by judge member or expert shall replace the one recused and the objection shall be heard by such formation.
3. If a decision from the relevant depratment is resolved to accept the full members of the committee, such decision shall contain a referral of the objection to another committee. This shall be an exception of the territorial jurisdiction provisions stated in clause (2) of article (50) of this Resolution.
4. If a recusance request is dismissed, the objection shall be referred to the relevant administration on the first working day following the issue date of the decision. The relevant administration shall refer the objection within three days to the committee which shall resume its work subject to procedures stipulated in this Resolution.
5. If a decision is issued by the relevant department resolving lack of jurisdiction of the committee to hear the objection, such decision shall include the relevant committee to hear the objection and shall be referred to the administration to take its procedures subject to provisions of this Resolution.

In all cases, the period determined for resolving the recusance or jurisdiction disputes requests shall not be deducted from the period decided for the committee to resolve the objection motion.

Article (17)

Reimbursements

The Cabinet shall issue a resolution determining the reimbursements of the basic and stand-by committee members and secretaries as suggested by the Minister.

Article (18)

Without prejudice to the provisions of clause (1) of article (7) of this Resolution:

1. The Authority shall make electronic records, forms, and systems to connect between the Authority, committees, relevant administration, and competent courts in order to manage their competences stipulated in this Resolution and in collaboration with the Ministry of Finance and the Ministry for this end.
2. The Minister shall issue regulatory resolutions on the mechanism of work subject to these electronic records, forms, and systems, including the requirements, controls, and procedures.

Article (19)

Repeals

Any provision contrary to or inconsistent with the provisions of this decision shall be repealed.

Article (20)

Publication and Enforcement

This Resolution shall come into force as of the date it is issued and shall be published in the Official Gazette.

Mohammed bin Rashid Al Maktoum

Prime Minister

Issued by us:

Date: 15 Sha'ban 1439 A.H.

Corresponding to: 1 May 2018 AD