

## **Cabinet Decision No. (23) of 2018**

### **Concerning the Formation of Tax Dispute Resolution Committees, their Work System, and the Procedures Followed by Them**

#### **The Cabinet:**

Having reviewed the Constitution,

And Federal Law No. (1) of 1972 concerning the competencies of ministries and the powers of ministers, and its amendments,

And Federal Law No. (11) of 1973 concerning the organization of judicial relations between the member Emirates of the Union,

And Federal Law No. (3) of 1983 concerning the Federal Judiciary, and its amendments,

And the Civil Procedures Law issued by Federal Law No. (11) of 1992, and its amendments,

And Federal Decree-Law No. (13) of 2016 concerning the establishment of the Federal Tax Authority,

And Federal Law No. (7) of 2017 concerning Tax Procedures,

And Federal Decree-Law No. (7) of 2017 concerning Excise Tax,

And Federal Decree-Law No. (8) of 2017 concerning Value Added Tax,

And Cabinet Decision No. (36) of 2017 concerning the Executive Regulation of Federal Law No. (7) of 2017 on Tax Procedures,

And Cabinet Decision No. (37) of 2017 concerning the Executive Regulation of Federal Decree-Law No. (7) of 2017 on Excise Tax,

And Cabinet Decision No. (38) of 2017 concerning Excise Goods, the tax rates imposed thereon, and the method of calculating the excise price,

And Cabinet Decision No. (39) of 2017 concerning the fees for services provided by the Federal Tax Authority,

And Cabinet Decision No. (40) of 2017 concerning the administrative penalties imposed for violating tax laws in the State,

And Cabinet Decision No. (52) of 2017 concerning the Executive Regulation of Federal Decree-Law No. (8) of 2017 on Value Added Tax,

And based on the proposal of the Minister of Finance and the approval of the Cabinet,

## **Has decided:**

### **Article (1)**

#### **Definitions**

For the purposes of implementing the provisions of this Decision, the following words and phrases shall have the meanings assigned to them below, unless the context requires otherwise:

The Ministry	: The Ministry of Justice.
The Minister	: The Minister of Justice.
Objection	: The written or electronic objection submitted to the Committees in accordance with the provisions of the Law and this Decision.
Objector	: The natural or legal person submitting the objection, whether by himself or through his legal representative or tax agent.
The Authority	: The Federal Tax Authority established under Federal Decree-Law No. (13) of 2016.
The Committee / The Committees	: The Tax Disputes Resolution Committee.
The Competent Department	: The Department of Tax Disputes Resolution Committees at the Ministry.

### **Article (2)**

#### **Formation of Committees**

1. Permanent Tax Disputes Resolution Committees shall be formed as follows:

- a. Tax Disputes Resolution Committee - Emirate of Abu Dhabi.
  - b. Tax Disputes Resolution Committee - Emirate of Dubai.
  - c. Tax Disputes Resolution Committee - Emirate of Sharjah.
2. Each committee shall be chaired by a member of the judiciary and shall include two experts registered in the roll of tax experts. Their appointment shall be issued by a decision from the Minister in coordination with the Minister of Finance.
  3. Each committee shall have a member of the judiciary and an expert from the roll of tax experts as alternates. Their appointment shall be issued by a decision from the Minister in coordination with the Minister of Finance.
  4. The term of membership in the Committees shall be one year, renewable for a similar period or periods not exceeding (3) years in total.
  5. If the term ends without a decision to renew the membership, the Committee shall continue its work until a decision is issued to renew it or to reconstitute the Committee.

### **Article (3)**

#### **Venue of Committee Meetings**

1. The Committees formed under this Decision shall hold their meetings at the headquarters determined by the Minister through a decision from him.
2. The territorial jurisdiction of each Committee shall be determined based on the location of the Objector's address as stated in his tax registration file with the Authority.
3. Notwithstanding clause (2) of this Article, the Tax Disputes Resolution Committee in the Emirate of Sharjah shall have jurisdiction if the Objector's address as stated in his tax registration file with the Authority is located in the Emirate of Sharjah, the Emirate of Ras Al Khaimah, the Emirate of Ajman, the Emirate of Fujairah, or the Emirate of Umm Al Quwain.
4. If the Objector is a foreign company and its address as stated in its tax registration file with the Authority is outside the State, the Tax Disputes Resolution Committee - in the Emirate of Abu Dhabi - shall have jurisdiction to hear objections submitted by it.

5. In the event of a dispute over jurisdiction, the competent chamber formed under Article (15) of this Decision shall rule on the jurisdictional conflict.

## **Article (4)**

### **Subordination of the Committees**

1. The Committees formed under the provisions of this Decision shall be subordinate to the Ministry of Justice and supervised by it from administrative and financial aspects.
2. The tax experts who are members of the Committees shall be subject to all the controls and obligations to which judges and those of similar status are subject, in accordance with the laws, regulations, and decisions in force in the State.

## **Article (5)**

### **Independence and Conflict of Interest**

1. Any member of the Committees is prohibited from participating in the Committee's work when considering any objection in which he or his spouse has a direct or indirect interest, or if he is related to the Objector by blood or marriage up to the fourth degree, or is a current or former agent for him in his private business, or his legal representative, or his guardian or custodian.
2. In all cases, a Committee member must recuse himself from considering an objection when any of the situations referred to in clause (1) of this Article exists. The alternate Committee member shall replace him, as the case may be, and the objection shall be decided with that composition.

## **Article (6)**

### **Competencies of the Committees**

The Committees shall have the following competencies:

1. To decide on objections submitted against the Authority's decision regarding reconsideration requests.

2. To decide on requests submitted to the Authority for which the Authority has not made a decision in accordance with the provisions of the aforementioned Federal Law No. (7) of 2017.

3. An objection request that has been previously submitted and decided upon by one of the Committees may not be submitted to any other Committee.

## **Article (7)**

### **Submitting the Objection**

1. The objection request shall be submitted to the Competent Department, and it may be submitted through the electronic objections system prepared by the Authority.

2. The objection shall be submitted using the specified form for this purpose, and it must include the following documents and data:

- a. The applicant's name, details, and address.
- b. A summary of the request's subject matter and the claims made therein.
- c. Documents and papers supporting the request.
- d. The electronic notification addresses of the legal representative or tax agent of the Objector, in addition to any other electronic address specified by the Objector.
- e. Any other documents related to the grounds of the objection.

3. The objection shall be registered in the designated records according to its date of receipt, and the Objector shall be provided with proof of submission of the objection, including the objection number and the competent Committee to hear it.

4. The Competent Department shall send the objection to the competent Committee within a period not exceeding two working days following its submission.

## **Article (8)**

### **Considering the Objection**

1. The Committee shall study the objection submitted to it and decide on it within twenty working days from the date of receiving the objection.
2. The Committee may, on its own initiative or upon the request of the applicant, allow for hearings to be held in the presence of the Objector, his legal representative, or his tax agent. The Committee may also decide on the request based on the documents submitted to it.
3. The Committee may extend the deadline for deciding on the objection for a period not exceeding an additional (20) twenty working days after the expiry of the period mentioned in clause (1) of this Article if it sees reasonable grounds for the purpose of deciding on the objection.
4. Subject to the provisions of clause (3) of this Article, the Committee may allow the applicant to submit any new documents that were not attached to his request, based on an excuse accepted by the Committee or if it deems these documents necessary to decide on the objection.
5. In all cases, tax dispute claims shall not be accepted before the competent court if an objection has not first been filed with the Committee.

## **Article (9)**

### **Cases for Rejecting the Objection**

The Committee shall issue a decision to reject the objection submitted to it in the following two cases:

1. If the objection was not preceded by a request to the Authority to reconsider its decision.
2. If the tax and administrative penalties being objected to have not been paid.

## **Article (10)**

### **Finality of Decisions Issued by the Committees**

1. The Committee's decision on an objection shall be considered final if the total amount of the due tax and the administrative penalties related to that tax does not exceed AED (100,000).
2. The final decisions issued by the Committee in tax disputes not exceeding AED (100,000) shall be considered an executory instrument in accordance with the provisions of Federal Law No. (7) of 2017 referred to in this Decision.
3. The final decisions issued by the Committee in tax disputes exceeding AED (100,000) shall be considered an executory instrument if they are not appealed before the competent court within a period of (20) twenty working days from the date of the objection's rejection.

## **Article (11)**

### **Appealing Committee Decisions**

1. Without prejudice to the provisions of Article (10) of this Decision, the Authority and the Objector may appeal the Committee's decision before the competent court within (20) working days from the date of notification of the Committee's decision, otherwise the Committee's decision shall be considered final and may not be appealed by any means of appeal.
2. The Secretary of the Committee shall send the objection file, along with all its documents and the Committee's decision, to the competent court within a period not exceeding two working days following the receipt of a copy of the statement of appeal submitted to the competent court.

## **Article (12)**

### **Secretary of the Committee**

Each Committee shall have a secretary appointed by a decision of the Minister, who shall be responsible for the following:

1. Receiving objections from the Competent Department and providing the Committee members with the objection file to schedule a hearing.
2. Copying the decisions issued by the Committee and presenting them to the Chairman of the Committee for signature.
3. Notifying the Competent Department, the Authority, and the Objector of the decisions issued by the Committee regarding the objection.
4. Sending the objection file and its documents to the competent court as stated in clause (2) of Article (11) of this Decision.
5. Preparing a report every 3 months on the work carried out by the Committee and the objections that have been decided, which shall be approved by the Chairman of the Committee before being sent to the Competent Department.
6. Any other tasks assigned to him by the Chairman of the Committee.

## **Article (13)**

### **Competencies of the Department**

The Competent Department shall undertake the following:

1. Receive objections to the Authority's decisions and verify that they meet the following data requirements:
  - a. Proof of the Objector's name and details.
  - b. The number of the decision being objected to, its date of notification, and the grounds for the objection.
  - c. The date of submitting the reconsideration request to the Authority and the outcome.
  - d. Payment by the Objector of the due tax and administrative penalties subject to the objection.
  - e. Verification that there is no prior objection by the applicant on the same Authority decision or subject matter.
  - f. Confirmation of clear addresses for the Objector and identification of his legal representative or tax agent.
2. Standardize the paper and electronic forms used by the Committees.



3. Prepare a report every three months on the results of monitoring the Committees' work, including proposals and recommendations, to be presented to the Head of the Judicial Inspection Department. The report shall include the following data:
  - a. The number of objections submitted to the Committees regarding the Authority's decisions.
  - b. The regularity of the Committees' sessions.
  - c. The number of postponed sessions and the reasons for postponement.
4. Develop and propose solutions for practical problems identified from monitoring the workflow of the Committees, and present them to the Committee chairmen for rectification.
5. Compile the principles contained in the Committees' decisions and circulate them to the other Committees for guidance.
6. Receive requests for the recusal of any Committee members and refer them to the chamber stipulated in Article (15) of this Decision.
7. Refer jurisdictional conflict requests received from the Committees to the chamber stipulated in Article (15) of this Decision within three working days of its receipt.

## **Article (14)**

### **Recusal of Committee Members and its Procedures**

The Objector or the Authority may request the recusal of any of the Committee members, in accordance with the following procedures:

1. The recusal request shall be submitted to the Competent Department, accompanied by its reasons and supporting documents.
2. The Competent Department shall notify the concerned Committee on the first working day following receipt of the recusal request, and the Committee shall suspend its decision on the objection until the recusal request is decided.
3. The Competent Department shall refer the recusal request to the chamber stipulated in Article (15) of this Decision within three working days of its receipt.

## **Article (15)**

### **Chamber for Deciding on Recusal Requests and Jurisdictional Conflicts**

A chamber shall be formed by a decision of the Minister at the Abu Dhabi Federal Court of Appeal, which shall be competent to decide on requests for the recusal of members of the Tax Disputes Resolution Committees and jurisdictional conflicts referred to it by the Department of Tax Disputes Resolution Committees.

## **Article (16)**

1. The chamber formed under the provisions of Article (15) of this Decision shall decide on the recusal request or jurisdictional conflict, as the case may be, within (3) working days from the date of its receipt, and its decision shall be final in this regard.

2. If a request to recuse any of the Committee members is accepted, making it impossible to complete the legal quorum for its meeting, the alternate member from the judges or experts, as the case may be, shall replace the recused member, and the consideration of the objection shall be completed with that composition.

3. If a decision is issued by the competent chamber accepting the recusal of all members of the Committee, its decision must include the referral of the objection to another Committee, as an exception to the provisions of territorial jurisdiction mentioned in clause (2) of Article (3) of this Decision.

4. If the recusal request is rejected, the objection shall be returned to the Competent Department on the first working day following the issuance of the decision, and it shall refer it within three working days to the Committee, which must complete its decision on it in accordance with the procedures stipulated in this Decision.

5. If a decision is issued by the competent chamber that the Committee lacks jurisdiction to hear the objection, its decision must specify the competent Committee to hear it, and it shall be referred to the Department to take its measures in accordance with the provisions of this Decision.

In all cases, the period allocated for deciding on recusal requests or jurisdictional conflicts shall not be counted as part of the period allocated to the Committee for deciding on the objection request.

## **Article (17)**

### **Remunerations**

The Cabinet shall issue a decision determining the remunerations of the primary and alternate members of the Committees and the secretaries, based on the Minister's proposal.

## **Article (18)**

Subject to and without prejudice to the provisions of clause (1) of Article (7) of this Decision:

1. The Authority shall establish the records, forms, and electronic systems to link the Authority, the Committees, the Competent Department, and the competent courts to carry out their competencies as stated in this Decision, in coordination with the Ministry of Finance and the Ministry for this purpose.
2. The Minister shall issue regulatory decisions regarding the mechanism of work under these records, forms, and electronic systems, including the conditions, controls, and procedures.

## **Article (19)**

### **Repeals**

Any provision that contradicts or conflicts with the provisions of this Decision is hereby repealed.

## **Article (20)**

### **Publication and Entry into Force**

This Decision shall come into effect from the date of its issuance and shall be published in the Official Gazette.

Mohammed bin Rashid Al Maktoum Issued by us:

Prime Minister

Date: 15 \ Sha'ban \ 1439 H

Corresponding to: 1 \ May \ 2018 G