# First Inheritance Tax Disputes

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During the Summer of 2020, the first inheritance tax disputes in the UAE made their way to the Federal Primary Court.

As the UAE tax systems develop and tax liabilities and consequences become more commonplace, business owners and high-net-worth persons begin evaluating how any liability to the Federal Tax Authorities may pass on during inheritance to their beneficiaries.

Initially, when a taxpayer passes away, the payable tax owed by them prior to their date of death shall continue to be owed to the Federal Public Treasury, and payment shall be made from the deceased's legacy prior to its distribution among the heirs or legatees.

**If it appears following the distribution of the legacy that a payable tax is still outstanding, the Federal Tax Authority may take legal recourse against the heirs and legatees for the payment of such outstanding tax**, unless a clearance certificate has been obtained from the Federal Tax Authority for the legacy representative or any of the heirs.

It is also important to recognize that the Federal Tax Authority's right to claim payable taxes and penalties is not time-barred; there is no time limitation on when the Federal Tax Authority may make its claim against a recorded debt.

In other words, if a person owes taxes (or penalties) and passes away, the debt will continue perpetually against the person's kin (inheritors) until the debt is paid off, or until the Federal Tax Authority enforces the debt via court actions, or waives its right against the debt.

If inheritors disagree with a particular position of the Federal Tax Authority, there are two means to grieve a decision taken by the Authority. Either through waiver and exemption request, or through a reconsideration request.

A wavier and exemption request is based on an excuse that the Authority would be convinced is justifiable. In other words, it is not a discussion over certain interpretation of law or fact, but rather an implicit admission of liability but with a request to waive such liability on the basis of excusability.

For example, if a person subject to value-added tax falls into a coma, and during that period, they cannot submit their tax returns and have no legal representative to do so for them, they may consequently receive tax penalties for non-filing of returns or any other reason arising out of their incapacitation. If the person then passes away whilst in a coma, the tax liabilities and penalties are inherited by the legatees.

In this particular scenario, one could argue that the fact that the person was in a coma with no legal representative registered could not allow them to comply with their tax obligations, and as such – in this hypothetical – these particular sets of facts may be deemed a justified excuse by the Federal Tax Authority to waive penalties.

But the important factor here is the differentiation that the waiver and exemption request is not an argument over interpretation of law and fact, but rather a plea for exemptive treatment.

On the other hand, if the disagreement between the inheritors and the Federal Tax Authority is over interpretation of law and/or fact, the second option (other than the waiver and exemption request) is a request for reconsideration.

The request for reconsideration triggers the dispute resolution process which is generally a five stage process

depending on the value of the dispute, and includes; i) the reconsideration before the Federal Tax Authority, ii) an objection before the competent tax dispute resolution committee, iii) the Federal Primary Court, iv) the Federal Appeals Court, and v) the Federal Supreme Court.

This Summer of 2020, the first tax inheritance cases made their way to the Federal Primary Court.

As tax liabilities increase, and as family wealth is distributed further and further, high-net-worth individuals need to manage generational liabilities with care – and inheritors need to account and prepare for the fact that they will inherit tax liabilities and may be held accountable before the Federal Tax Authority.

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