October 2025 Amendments to the UAE Tax Procedures Law and Relevant Federal Supreme Court Case Law

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The legislative framework governing taxation in the United Arab Emirates is subject to periodic revision to address evolving administrative requirements and ensure legal clarity. The foundational statute, Federal Decree-Law No. 28 of 2022 concerning Tax Procedures (published in Official Gazette Issue 737 on 10-10-2022, effective 01-03-2023), has been subsequently amended. The first amendment occurred via Federal Decree-Law No. 17 of 2024 (published in Issue 784 on 30-09-2024, effective 30-10-2024). Most recently, the statute was amended by Federal Decree-Law No. 17 of 2025 (published in Issue 809 on 14-10-2025). This analysis examines the substantive changes introduced by Federal Decree-Law No. 17 of 2025, which enters into force on 01-01-2026, in the context of established principles derived from the jurisprudence of the UAE Federal Supreme Court.

1. Temporal Application of the Amendments (Effective Date and Retroactivity)

The application of these legislative amendments is governed by established principles regarding the temporal effect of legislation. The amendments introduced by Federal Decree-Law No. 17 of 2025 are effective from 01-01-2026.

The Federal Supreme Court adheres strictly to the principle of the non-retroactivity of laws (مبدأ عدم رجعية القوانين). It is

settled jurisprudence that a law applies only to situations arising after its publication and enforcement, and does not extend to legal positions established and finalized before its issuance (*Federal Supreme Court No. 627/2023, Administrative-Tax*).

Concurrently, the Court recognizes the principle of the immediate and direct effect (الأثـــر الـفـــوري الـمبـــاشر) of new legislation. This principle dictates that new legislation governs all facts and effects occurring subsequent to its effective date. Furthermore, the immediate effect may extend to the ongoing consequences of situations that originated before the new law, in order to unify the legal treatment of similar positions. This is construed as an immediate application, not a retroactive one (*Federal Supreme Court Nos. 1480/2022 and 1/2023, Administrative-Tax*).

Consequently, the amendments, being primarily procedural, will apply with immediate effect to procedures initiated on or after 01-01-2026. This includes the mechanisms for error correction (Article 10(5)) and the issuance of Guiding Decisions (Article 54 repeated).

The application of the newly introduced statutes of limitation, particularly the definitive time bar for refund applications under Article (38), requires precise application of these principles. While procedural timelines generally apply immediately, the explicit extinguishment of the right to a refund (Article 38(6)) impacts substantive rights. The application of these new limitations to credit balances that arose prior to the effective date will be determined by the principles of non-retroactivity and immediate effect, particularly concerning rights pertaining to tax periods that concluded prior to 01-01-2026.

Furthermore, jurisprudence distinguishes between administrative and criminal law concerning retroactivity. The Federal Supreme Court has held that administrative penalties

are governed by administrative rules which apply with direct effect. They differ from criminal rules, which may apply retroactively if they are more favorable to the accused. Consequently, amendments to administrative penalties generally do not apply retroactively to violations that occurred prior to the amendment (*Federal Supreme Court No. 1108/2021, Administrative-Tax; Federal Supreme Court No. 578/2022, Administrative-Tax*).

2. The Formalization of Guidance and the Definition of Administrative Decisions

A pivotal legislative development is the introduction of Article (54) repeated. This provision empowers the Federal Tax Authority (FTA) to issue "Guiding Decisions" (القـــــــــرارات التـوجيهيـــــة) concerning the application of the Tax Procedures Law and substantive Tax Laws to specific transactions. Crucially, the article stipulates that these decisions are binding on both the FTA and the taxpayer.

This amendment must be analyzed against the backdrop of established administrative law principles regarding the justiciability of administrative acts. The Federal Supreme Court has consistently defined an administrative decision as an expression of the administration's binding will, pursuant to its public authority, intended to create, modify, or abolish a legal position (*Federal Supreme Court No. 25/2021, Administrative-Tax; Federal Supreme Court No. 772/2021, Administrative-Tax*).

Historically, jurisprudence has held that mere clarifications (التـوضيحـــــات), explanations, or interpretations issued by the FTA, including private clarifications issued to individual taxpayers, do not constitute administrative decisions capable of appeal. The rationale has been that such communications serve an interpretive (revealing) rather than a creative (constitutive) function regarding the law, and thus do not inherently alter a taxpayer's legal status (*Federal Supreme*

Court No. 206/2022, Administrative-Tax). The courts characterized these clarifications as preparatory procedures (*Federal Supreme Court Nos. 79/2021 and 95/2021, Administrative-Tax*). Consequently, taxpayers generally could not directly challenge an unfavorable clarification; they were required to proceed, potentially incur a liability (e.g., via an assessment or Voluntary Disclosure), and then dispute the resulting administrative decision.

The introduction of Article (54) repeated legislatively alters this landscape by creating a specific category of formalized, binding guidance. By explicitly rendering "Guiding Decisions" binding *ex lege* (by operation of law), the legislature has conferred upon them the essential characteristic of an administrative act: the capacity to immediately affect the legal position of the addressed taxpayer.

A communication formally issued as a "Guiding Decision" under Article (54) repeated, due to its statutorily mandated binding nature, may meet the criteria for an appealable administrative decision as defined by the Federal Supreme Court. This suggests that taxpayers may challenge such decisions directly, without awaiting a subsequent tax assessment, as the binding guidance itself establishes the requisite legal effect. It remains necessary, however, to distinguish between formalized "Guiding Decisions" and other, less formal clarifications which may continue to be governed by historical jurisprudence.

3. Statutes of Limitation: Refunds and Assessments

The amendments introduce greater specificity to the temporal limitations governing both the taxpayer's right to claim refunds and the FTA's authority to audit, primarily through modifications to Article (38) and Article (46).

A. Limitation Period for Tax Refunds (Article 38)

Article (38) has been substantially revised to introduce explicit statutes of limitation for refund applications. The

amended Article (38)(2) mandates that a request to recover any credit balance must be submitted within five years from the end of the relevant tax period. Article (38)(6) explicitly states that the right to claim the refund or credit balance is extinguished if the application is not submitted within these statutory timelines, subject to limited exceptions in Articles (38)(3) and (38)(4) for credits arising near or after the end of the five-year period.

B. Limitation Period for FTA Audits and Assessments (Article 46)

Article (46) maintains the general five-year limitation period for audits and assessments, subject to existing exceptions (e.g., timely audit notification, tax evasion). The amendments introduce Article (46)(4), which coordinates the audit window with the new refund limitations. It permits the FTA to conduct an audit or issue an assessment beyond the five-year period if it relates to a refund claim submitted during the fifth year (or during the exceptional periods under Article 38). In such cases, the audit or assessment must be completed within two years from the date of the refund application.

Furthermore, Article (46)(6) clarifies the general prohibition on submitting Voluntary Disclosures after five years, adding an exception for Voluntary Disclosures related to a pending refund request.

These modifications ensure symmetry between the taxpayer’s timeframe for claiming refunds and the FTA’s timeframe for verifying those claims. The jurisprudence emphasizes the strict application of statutory timelines in tax matters, recognizing them as matters of public order (*Federal Supreme Court No. 760/2021, Administrative-Tax; Federal Supreme Court No. 853/2020, Administrative-Tax*).

4. Procedural Refinements and Technological Modernization

A. Allocation of Payments and Credit Balances (Article 9)

The amendment to Article (9)(3) introduces a temporal constraint on the FTA's authority to allocate overpayments or credit balances against other outstanding liabilities. The allocation must occur within five years from the end of the relevant tax period, aligning this power with the limitation periods under Article (38). The courts have held that while the taxpayer has the primary option to specify the allocation of a payment, if they fail to do so, the right transfers to the FTA (*Federal Supreme Court No. 354/2024, Administrative-Tax; Federal Supreme Court No. 477/2024, Administrative-Tax*).

B. Correction of Errors (Article 10)

Article (10)(5) addresses the correction of errors or omissions in a tax return where there is no difference in the amount of tax due. The amended text provides flexibility, requiring a Voluntary Disclosure only in cases specified by the FTA, while allowing correction through a subsequent tax return in other instances. This adjustment aligns with the judicial principle that tax procedures are a means to achieve the legislative intent of collecting the tax legally due, not an end in themselves (*Federal Supreme Court No. 151/2022, Administrative-Tax*).

C. Technological Modernization

The amendments (Articles 1 and 4 repeated) introduce the "Electronic Invoicing System," establishing the legislative foundation for mandatory electronic fiscalization. This is consistent with judicial recognition of electronic methods in tax procedures, including the validity of electronic notifications (*Federal Supreme Court No. 1034/2021, Administrative-Tax*) and the probative value of electronic evidence (*Federal Supreme Court No. 212/2023, Administrative-Tax*).

Conclusion

The amendments introduced by Federal Decree-Law No. 17 of

2025, effective 01-01-2026, provide greater clarity on limitation periods, formalize the status of certain FTA guidance, and advance the digitization of the tax system. The application of these amendments will be governed by the principles of non-retroactivity and immediate effect. The establishment of definitive time limits for refund claims enhances legal certainty, while the introduction of binding "Guiding Decisions" marks a significant procedural shift, potentially allowing for direct challenges to formalized FTA interpretations. These changes must be interpreted in conjunction with established judicial principles, which emphasize that the source of tax liability is the law itself (*Federal Supreme Court No. 277/2022, Administrative-Tax*), and that the relationship between the FTA and the taxpayer is regulatory, governed by mandatory legal rules (*Federal Supreme Court No. 319/2023, Administrative-Tax*).

Comparative Table of Amendments and Applicable Case Law

Article / Subject	Provision Before Amendment (Summary)	Amended Provision (Current Text Summary)	Applicable Legal Principles and Case Law

Temporal Application of Law (Retroactivity and Immediate Effect)	Governed by general principles of non-retroactivity and immediate effect of procedural laws.	Amendments (Federal Decree-Law No. 17 of 2025) are effective from 01-01-2026. Application governed by established principles.	Laws apply prospectively and do not affect stabilized legal positions. ***Federal Supreme Court No. 627/2023 (Administrative-Tax)***. New legislation applies with immediate effect to facts occurring after its effective date and to ongoing effects of prior situations. ***Federal Supreme Court Nos. 1480/2022 and 1/2023 (Administrative-Tax)***. Administrative penalties generally do not apply retroactively, even if more favorable. ***Federal Supreme Court No. 1108/2021 (Administrative-Tax); Federal Supreme Court No. 578/2022 (Administrative-Tax)***.

Articles 1 and 4 repeated: Electronic Invoicing System	No definition or specific provision for an Electronic Invoicing System.	Introduces the definition of "Electronic Invoicing System" (Article 1). Authorizes the Minister to issue decisions for the implementation of the system and to specify the persons subject to it (Article 4 repeated).	The courts recognize the validity of electronic communications and evidence in tax procedures. ***Federal Supreme Court No. 1034/2021 (Administrative-Tax)*:** Notification via electronic means is valid once transmission is proven. ***Federal Supreme Court No. 212/2023 (Administrative-Tax)*:** Electronic evidence has probative value if it meets legal authentication requirements.
Article 9(3): Allocation of Overpayments/Credit Balances	The FTA had the right to allocate overpayments or credit balances to settle any outstanding tax or amounts due, in accordance with the Executive Regulation.	The FTA retains the right to allocate overpayments or credit balances, but this allocation must occur **within 5 years** from the end of the relevant tax period (as referenced in Article 38(2)).	The taxpayer has the primary option to allocate payments. If unspecified by the taxpayer, the FTA has the authority to allocate the payment against outstanding liabilities. ***Federal Supreme Court Nos. 354/2024 and 477/2024 (Administrative-Tax)*:** Affirmed the FTA's right to allocate payments if the taxpayer does not specify the allocation. The amendment imposes a temporal limit on this authority.

Article 10(5): Voluntary Disclosure (Error with No Tax Impact)	If a taxpayer discovered an error or omission with no difference in the amount of tax due, they were required to correct it by submitting a Voluntary Disclosure.	Correction of errors with no tax impact requires a Voluntary Disclosure only **in cases specified by the FTA**; otherwise, it can be corrected **through a subsequent tax return**.	Tax procedures are a means to achieve the legislative intent of collecting the tax due, not an end in themselves. ***Federal Supreme Court No. 151/2022 (Administrative-Tax)*:** If the state receives the full tax on time, even under an incorrect procedure that is later corrected, grounds for imposing late payment penalties on that tax may not exist.
Article 38: Request for Refund of Credit Balance (Statute of Limitations)	Taxpayers had the right to request a refund of overpaid tax or credit balances. No explicit statutory limitation period for submitting the request was defined in this article.	Introduces a strict time bar: Refund requests must be submitted **within 5 years** from the end of the relevant tax period (Article 38(2)). Exceptions exist if the credit arises after the 5-year period or within the last 90 days (Articles 38(3) and 38(4)). Failure to apply within the timelines **extinguishes the right** to the refund (Article 38(6)).	Statutory timelines in tax procedures are strictly applied and relate to public order. ***Federal Supreme Court No. 760/2021 (Administrative-Tax)*:** Procedures and timelines for appeals are matters of public order. ***Federal Supreme Court No. 853/2020 (Administrative-Tax)*:** Emphasizes strict adherence to statutory timelines for initiating procedural steps.

Article 46: Statute of Limitations (Audits/Assessments)	The FTA generally could not audit or assess after 5 years. Specific extensions applied (e.g., ongoing audits notified timely, VDs submitted in the 5th year). VDs were prohibited after 5 years.	Retains the 5-year general limitation and existing extensions. **New additions:** 1. **(Art. 46(4))**: Allows audit/assessment after 5 years if related to a refund request submitted in the 5th year (or Art. 38 extension periods). The audit must be completed within **(2) two years** of the refund application. 2. **(Art. 46(6))**: Allows VDs after 5 years only if related to a pending refund request for which the FTA has not issued a decision.	The source of tax liability is the law; assessments are declaratory. Procedural delays do not alter the effective date of liability. ***Federal Supreme Court No. 277/2022 (Administrative-Tax)***.

Article 54 repeated: Guiding Decisions	(New Article – No previous provision).	Authorizes the FTA to issue "Guiding Decisions" regarding the application of tax laws. These decisions are explicitly stated to be **binding on both the FTA and the taxpayer.**	Historically, FTA clarifications were not appealable administrative decisions because they lacked binding legal effect. Taxpayers often had to incur liability (e.g., via VD or assessment) before initiating a dispute. ***Federal Supreme Court No. 25/2021 (Administrative-Tax)*:** Defines an administrative decision as requiring an intent to effect a specific legal position. ***Federal Supreme Court Nos. 79/2021 and 95/2021 (Administrative-Tax)*:** Clarifications are preliminary procedures, not appealable decisions. ***Federal Supreme Court No. 206/2022 (Administrative-Tax)*:** Clarifications are revealing (interpretive), not creating (constitutive). The binding nature conferred by Art. 54 repeated may render "Guiding Decisions" appealable administrative acts.

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