

Two Trends to Expect from the Tax Dispute Resolution Committees in 2020

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TDRCs from 2019 – 2020

The tax dispute resolution committees (“TDRC” / “TDRCs”) began operation in 2019. There are three TDRCs in the United Arab Emirates:

- in Abu Dhabi dedicated to taxpayers with a registered address in Abu Dhabi and out-of-State registered taxpayers;
- in Dubai dedicated to taxpayers with a registered address in Dubai; and
- in Sharjah dedicated to taxpayers with a registered address in the other five emirates.

After submitting a reconsideration application to the Federal Tax Authority (“FTA”) requesting a review of an FTA respective decision, the person submitting the reconsideration application may subsequently file an objection to the competent TDRC against the FTA’s response to the reconsideration application, or lack thereof.

In 2019, the Dubai TDRC had almost 38 tax objections registered.

In 2020, up until mid-February, 15 tax objections registered in 2020 with the Dubai TDRC have already been ruled on.

Here we look at two trends to expect from the TDRCs in 2020.

Trend 1: Speed of TDRC Ruling Issuance

In 2020, so far, the average timeframe from the date of submitting the objection till issuance of a TDRC ruling has been about three weeks from the date of filing the objection.

Albeit the Tax Procedures Law, its bylaws, and the legislation forming the TDRCs grant the TDRCs 20 working days to issue their ruling, and the ability to extend another 20 working days; i.e. 40 working days in total, looking at the current trend so far, it is expected that the TDRCs increase or maintain their admirable promptness in issuing rulings.

This is partly due to various matters of dispute (such as applicability of late penalties on voluntary disclosures or the 'pay now, argue later' rule) having already been addressed in part or in whole by the TDRCs, the Federal Primary Court, the Federal Appeals Court, and the Federal Supreme Court – or the Constitutional Circuit of the Federal Supreme Court.

Trend 2: Objections in Case of No Response on a Reconsideration Application

As a general matter, grievances against a government agency require explicit statute on the consequences of a lack of response to such grievance.

For example, the Civil Procedures Law states that *"...if 60 days lapse from the date of submission of the grievance without a reply from the competent authorities, the grievance shall be deemed rejected."*

Or in another example, the CbCR Law states that where a person submits an appeal against CbCR penalties to the Ministry of Finance and does not receive a response within 60 business days *"...then the appeal will be deemed to have been successful and any penalty imposed shall be canceled."*

The Tax Procedures Law grants the FTA 20 working days to decide on a reconsideration application and notify the applicant within 5 working days of making its decision, but

the law is then silent on whether no response from the FTA is to be deemed a rejection or acceptance of the reconsideration application by the FTA.

However, the Tax Procedures Law grants the TDRCs jurisdiction to decide in respect of applications for reconsideration that were submitted to the FTA to which the FTA has not decided upon. This is also confirmed by the powers granted to the TDRCs in the Cabinet Decision forming the TDRCs.

The necessity to pay the tax and administrative penalty liabilities in dispute prior to resorting to a TDRC has discouraged taxpayers from submitting an objection if no response on a reconsideration application is obtained from the FTA within the timeframe.

In 2020, however, more taxpayers may develop tax refundable positions with credit held by the FTA that could be debited against tax and administrative penalty liabilities, or refunded to the taxpayer – which could possibly result in a higher rate of objections against unresponded to reconsideration applications as taxpayers pursue closure on outstanding liabilities or stabilization of their liquidity and balance sheets.

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