UAE Federal Court Restricts Time Limit on Tax Reconsideration Requests

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Brief

One of the most common questions asked regarding tax reconsideration requests is the consequence of not receiving a response from the Federal Tax Authority ("FTA") within the statutory timeframe of twenty-five weekdays.

The UAE Federal Courts have recently addressed this issue in opining that – if no decision is taken on the reconsideration request – the time limit to object before the tax dispute resolution committees commences at the expiry of the twenty-five weekdays.

This essentially means that once a person submits a reconsideration request, if no decision is received within twenty-five weekdays, the twenty-weekday time limit to object before the tax dispute resolution committee commences at that point.

Recap on Time Limits

Briefly recapping the tax dispute resolution procedure; if a person disagrees with a decision made by the FTA, the first step to trigger the dispute resolution procedure is to submit a reconsideration request to the FTA against that decision.

Subsequent to the reconsideration procedure, there are four stages that the dispute would be subject to; the tax dispute resolution committees, the tax dispute circuits of the Federal

Primary Court and the Federal Appeals Court, and finally the Federal Supreme Court.

There are time limits between each stage and non-compliance with the time limits results in rejection of the dispute on a procedural basis.

The time limit to submit a reconsideration request is twenty weekdays as of the date of the decision subject of the reconsideration.

Upon submission of the reconsideration request, the FTA has twenty weekdays to decide and five days thereafter to communicate the decision to the requestor; twenty-five weekdays in total.

If the requestor does not agree with the reconsideration decision, they must object before the competent tax dispute resolution committee within twenty weekdays as of the date of the reconsideration decision.

The Federal Courts have now clarified that if no decision is received from the FTA on the reconsideration request within twenty-five weekdays, the time limit of twenty weekdays to object before the tax dispute resolution committee commences.

Was this expected?

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

The general rule for decisions on government grievances is legislated under Article 84 of the Civil Procedures Law which 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."

The general rule, such as that under the Civil Procedures Law, can notwithstanding be altered by subject matter legislation.

For example, the Country-by-Country Reporting 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 weekdays "…then the appeal will be deemed to have been successful and any penalty imposed shall be canceled."

So, we see the original position under the Civil Procedures Law is that a non-response is deemed a rejection, whilst in the CbCR subject matter legislation a non-response is deemed an acceptance.

The Tax Procedures Law, on the other hand, is silent on whether no response from the FTA on reconsideration requests is to be deemed a rejection or acceptance of the application.

Where a subject matter legislation, such as the Tax Procedures Law, does not provide for an explicit variation to the original rule – then the original rule applies.

Moreover, the Tax Procedures Law and the Cabinet Decision forming the tax dispute resolution committees grants the committees jurisdiction to decide on reconsideration requests that were submitted to the FTA to which the FTA has not decided upon.

The Federal Courts have now confirmed this and have taken the position that if a person wishes to object against a reconsideration request that has not been decided upon, they must do so within twenty weekdays as of the expiry of twenty-five weekdays since the submission of the reconsideration request.

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