UAE Federal Court rules no penalties on voluntary disclosures related to unintentional tax errors

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Overview

The taxpayer filed its tax return with incorrect amounts by mistakenly calculating the tax rate at a different value than the standard rate of 5%, resulting in an incorrect tax amount.

The taxpayer submitted a voluntary disclosure to correct the error, and the Federal Tax Authority imposed a penalty for the difference between the incorrect and correct tax amounts.

The Federal Primary Court, adjudicating the dispute, ruled that what the taxpayer did in the original form of submitting the voluntary disclosure subject to the contested tax is nothing more than a correction of the error it made when calculating the tax imposed on it for its activity at a different rate instead of the standard rate of 5%, and it is not a voluntary disclosure of errors in the value of the tax return or tax assessment, for which the penalties prescribed in Cabinet Resolution No. 40/2017 and its amendments are due, and therefore the imposition of penalties loses its legal basis.

The Court reasoned that the voluntary disclosure subject of this dispute, is merely a correction of an “unintentional error in calculating the tax”. Instead of using a 5% rate, the company mistakenly applied a different rate in the tax return.

The judgment confirms that this voluntary disclosure is not a “disclosure of errors in the tax return or assessment”, which would warrant penalties as per Cabinet Decision No. 40/2017 and its amendments.

As a result, the Federal Primary Court found that the imposition of penalties lacks a valid legal basis.

Significance

This judgment comes as a relief to taxpayers in the UAE because it provides a more lenient interpretation of the tax regulations and reduces the likelihood of penalties for honest mistakes. By differentiating between an “unintentional error in calculating the tax” and “a voluntary disclosure of errors in the tax return or assessment” the Court ruling essentially provides taxpayers with a more forgiving approach to correcting their tax filings.

In the given ruling, the Federal Primary Court treats the voluntary disclosure submitted by the taxpayer as a correction of an unintentional error rather than a voluntary disclosure of errors in the tax return or assessment. This interpretation has significant implications for taxpayers in terms of reduced penalties.

According to Cabinet Decision No. 40/2017 and its amendments, penalties can be imposed on taxpayers for errors in tax returns or assessments. By treating certain voluntary disclosures as a correction of an unintentional error, the court effectively eliminates the legal basis for imposing such penalties.

Overall, the judgment is a relief to UAE taxpayers because it offers a more favorable interpretation of the tax regulations, reduces the likelihood of penalties for unintentional errors, and encourages voluntary disclosure and correction of such errors.

Author: Mahmoud Abuwasel
Title: Partner – Disputes
Email: mabuwasel@waselandwasel.com
Profile: https://waselandwasel.com/about/mahmoud-abuwasel/

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www.waselandwasel.com
business@waselandwasel.com