UAE Tax Courts Anniversary: 41 cases, 6 favoring taxpayers (so far)

March 21, 2021

The Tax Disputes Circuits of the Federal Primary Court and Federal Appeals Court were signed into law on 18 March 2019 pursuant to Minister of Justice Decisions No. 237 of 2019 and No. 238 of 2019, respectively.

The Tax Disputes Circuit of the Federal Primary Court is responsible to hear challenges against rulings of a Tax Disputes Resolution Committee ("TDRC"). Both the taxpayer and the Federal Tax Authority ("FTA") may challenge a ruling of the TDRC before the Federal Primary Court, Federal Appeals Court, and finally the Federal Supreme Court.

As the Tax Disputes Circuits pass their first anniversaries, we look at how many cases have been lodged since March 2019 till *circa* April 2020, and how many have been in favor of the taxpayers. Taking into consideration that many cases are still pending and that there have not been any final and binding judgments by the Federal Supreme Court so far.

Cases filed at the Federal Primary Court:

- 13 cases have been filed by the FTA challenging TDRC rulings that were in favor of the taxpayer.
- 15 cases have been filed by taxpayers challenging TDRC rulings that were in favor of the FTA.

The Federal Primary Court has so far ruled in favor of taxpayers in 5 cases, reversing penalties applied by the FTA in 4 cases. Other cases have either been in favor of the FTA

or are pending.

Wasel & Wasel is counsel to various taxpayers in cases before the Federal Primary Court. In early 2020, Wasel & Wasel obtained two judgments at the Federal Primary Court reversing penalties applied by the FTA, in addition to various other rulings obtained by Wasel & Wasel at the TDRC stage reversing penalties.

Cases filed at the Federal Appeals Court:

- 4 cases filed by the Federal Tax Authority appealing a Federal Primary Court judgment in favor of the taxpayer.
- 5 cases filed by taxpayers appealing a Federal Primary Court judgment in favor of the FTA.

Cases filed at the Federal Supreme Court challenging a judgment of the Federal Appeals Court:

- 1 case filed by the Federal Tax Authority appealing a Federal Appeals Court judgment in favor of the taxpayer.
- 2 cases filed by the taxpayers appealing a Federal Appeals Court judgment in favor of the FTA.
- 1 case filed at the Constitutional Circuit of the Federal Supreme Court challenging the ‘pay now, argue later’ rule.

The Execution Circuit of the Federal Primary Court is responsible for enforcing payment against taxpayers. So far, there have been 9 execution applications against taxpayers.

The industries of taxpayers involved in litigation before the Federal Courts have included tobacco, construction, manufacturing, e-commerce, banking and insurance, exhibitions, education, and trading.

The values in dispute before the Federal Courts have ranged from six-figures to nine-figures. Rulings by the TDRCs under

six-figures (i.e. AED 100,000) are final and cannot be challenged before the Federal Primary Court.

A substantial number of the cases that were ruled in favor of the FTA by the Federal Courts were due to the taxpayers having failed to adhere to procedural requirements; such as failing to pay the taxes and penalties in dispute prior to objecting before the TDRCS, or objecting before the TDRCs after twenty working days of receiving the FTA's decision on a reconsideration request.

Statistics are approximate figures as of mid-April 2020.

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

Lawyers and consultants.
Tier-1 services since 1799.
www.waselandwasel.com
business@waselandwasel.com