Understanding Tax Group Liability: Key Lessons from Recent Dubai Court Cases

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In recent years, the intricacies of **liability among members of tax groups** have become increasingly relevant in commercial dealings. Several judgments from the Dubai Courts provide profound insights into this subject, highlighting the **nuanced interpretations** and applications of the law. This article delves into three pivotal cases, underscoring the complexities of liability within tax groups and their implications for commercial transactions.

Dubai Primary Court Judgment No. 95 of 2021: Individual Liability Within a Tax Group

This case revolves around a **contractual dispute** involving Company A (Free Zone) and another company within the same tax group. The court noted, “It is legally established that a contractor agreement is a contract whereby one party undertakes to perform a task or make something in return for compensation agreed upon by the other party” (Article 872 of the Civil Transactions Law). The judgment highlighted that the client is obligated to pay the compensation upon delivery of the agreed-upon work unless otherwise stipulated by agreement or custom (Article 885).

In this case, the court emphasized the **burden of proof**, stating, “The claimant must prove their right, and the defendant must refute it” (Article 1 of the Evidence Law). The

judgment further clarified that **commercial account statements** maintained by a trader in their commercial books hold evidentiary weight, placing the burden of disproving the entries on the defendant. This is particularly significant in the context of tax groups, where **intercompany transactions** and their documentation can be contentious.

Despite their tax group affiliation, the court found that the **second defendant was individually liable** for the amount owed based on the specific contractual obligations and performance of services by the plaintiff. The court upheld the claim against the defendant, asserting, “The second defendant, a sister company within the same tax group, failed to fulfill its contractual obligations, resulting in a liability of AED 99,855.”

Dubai Primary Court Judgment No. 2702 of 2020: Separate Legal Personalities in Tax Groups

This case delves deeper into the concept of **tax group liability**. It involved Company B, part of the same tax group as Company C. The dispute centered on **purchase orders** issued by Company C, directing invoices to be made out to Company B. However, the court found no evidence that Company B had received or acknowledged the goods or issued any orders to the claimant. The judgment stated, “The relationship of the defendant to the contract in question is limited to the fact that the purchase orders directed the invoices to be issued in its name.”

The court concluded that being part of the same tax group does not **automatically transfer liability** between companies. Each company retains its **separate legal personality**. Since Company B had an independent legal personality from the company issuing the purchase orders, it could not be held liable for the claim, underscoring the distinct legal identities within a

tax group.

Dubai Primary Court Judgment No. 7794 of 2019: Unified Obligations Due to Intercompany Dependency

This case addressed the broader implications of **VAT laws** on tax groups and examined the relationship between the companies within a tax group. The court explained, “Value Added Tax (VAT) is imposed on the import and supply of goods and services at each stage of production and distribution.” It further clarified that a tax group comprises two or more entities registered as a single taxable entity with the Federal Tax Authority, sharing **economic, financial, and organizational ties**.

The court took a different position in this case because it looked into the **intercompany dependency** between the tax group members. The judgment elaborated on the intercompany relationships, noting, “The tax group is treated as a single taxable person for VAT purposes, and all members are **jointly and severally liable** for the group’s VAT obligations.” In this case, the court found that the companies within the tax group were not financially or organizationally separate, stating, “The tax group members are **united in their obligations**, and the group’s restructuring decisions and financial statements reflected their collective responsibility.” Consequently, the court held the tax group members jointly liable for the VAT liabilities.

These judgments collectively underscore the critical importance of understanding the **legal and financial relationships** within tax groups in commercial dealings. They highlight that while tax group members may operate as separate legal entities, their collective obligations and responsibilities, especially concerning VAT, can blur these distinctions. This has significant implications for businesses

operating within such structures, emphasizing the need for meticulous documentation and clear contractual terms to navigate the complexities of liability.

Moreover, these cases illustrate the courts' approach to interpreting **contractual obligations** and the evidentiary requirements in commercial disputes involving tax groups. The emphasis on the burden of proof, the evidentiary weight of commercial records, and the distinct legal personalities within tax groups provides a comprehensive framework for understanding liability in these contexts.

In conclusion, the liability of tax group members in commercial dealings is a **multifaceted issue** that requires careful legal and financial consideration. The insights from the Dubai Court judgments provide valuable guidance for businesses and tax practitioners navigating these complexities. Understanding the interplay between contractual obligations, tax laws, and the collective responsibilities of tax group members is crucial for mitigating risks and ensuring compliance in commercial transactions.

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