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TOWARDS SUSTAINABLE TAX GOVERNANCE: ANALYSING THE BALANCE BETWEEN PROCEDURAL EFFICIENCY AND TAXPAYER RIGHTS IN THE UAE MODEL

Salah Hamed Hasanien^{1*}

¹Professor of Economic Legislation and Financial Law Dubai Police Academy- UAE Professor at Faculty of law. Ain Shams University - Egypt Email: Salah.Hamed@dubaipolice.ac.ae

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Corresponding Author: Salah Hamed Hasanien
(Salah.Hamed@dubaipolice.ac.ae)

ABSTRACT

This study provides a comprehensive analysis of the United Arab Emirates' (UAE) nascent framework for tax dispute resolution, established following the introduction of Value Added Tax (2018) and Corporate Tax (2022). Addressing a critical gap in the literature on sustainable tax governance, the research examines how this hybrid system, blending civil law traditions with international best practices, navigates the complex balance between administrative efficiency, robust taxpayer rights protection, and international compliance standards to build a legitimate and effective fiscal state. Through a mixed-methods approach involving doctrinal analysis of primary legislation (Federal Law No. 28 of 2022) and comparative examination, the paper deconstructs the UAE's innovative three-stage resolution process: (1) the mandatory Administrative Stage; (2) the quasi-judicial Appeal Stage before independent Tax Dispute Resolution Committees (TDRCs); and (3) ultimate Judicial Recourse to the federal courts. Key findings reveal a sophisticated procedural architecture that effectively balances state and taxpayer interests. The research highlights landmark judicial developments, such as the shifting of the burden of proof to the tax authority, as a critical safeguard. However, the study also identifies governance challenges, including ambiguity in internal FTA adjudication bodies, the legal consequences of administrative silence, and the potential restriction on access to justice posed by the AED 100,000 threshold for judicial appeal. The study concludes that the UAE framework represents a successful governance model for emerging economies seeking to align fiscal administration with sustainable economic development. It offers evidence-based policy recommendations to enhance the system's legitimacy and effectiveness, including clarifying procedural rules, publishing redacted TDRC decisions to build precedent, and fostering a culture of cooperative compliance. The UAE's experience offers valuable insights into institutional design for dynamic economies.

KEYWORDS: Sustainable Tax Governance; Tax Dispute Resolution; Procedural Efficiency; Taxpayer Rights; UAE Fiscal Model; Hybrid Legal Systems; Administrative Justice; Emerging Economies; Institutional Design.

1. INTRODUCTION

The contemporary global tax environment is undergoing a period of profound and accelerated change. Driven by digitalization, the proliferation of cross-border economic activity, and concerted international efforts towards transparency and base erosion prevention, nations worldwide are compelled to re-evaluate their fiscal infrastructures. For emerging economies, this presents a distinctive governance challenge: constructing robust, legitimate, and efficient tax systems from a nascent stage. A critical component of such systems is the mechanism for resolving disputes between the tax authority and taxpayers, which sits at the heart of sustainable tax governance. This mechanism must reconcile the state's imperative for efficient revenue collection with the fundamental rights of taxpayers and the exigencies of international compliance. The recent strategic pivot of the United Arab Emirates (UAE)—marked by the introduction of a Value Added Tax (VAT) in 2018 and a Federal Corporate Tax in 2023—provides a seminal and timely case study. It demonstrates how a dynamic jurisdiction can architect a novel tax dispute resolution framework, integrating civil law traditions with internationally-informed best practices, to navigate these complex and often competing demands.

1.1. Research Problem and Objectives

While mature tax jurisdictions within the OECD have been extensively scrutinized in academic literature, a significant gap exists concerning the evolution of tax dispute resolution in hybrid legal systems of the Gulf Cooperation Council (GCC) and similar emerging economies. This study addresses this gap by undertaking the first comprehensive, critical analysis of the UAE's newly established framework, established under Federal Law No. 28 of 2022. The central research problem investigates how this designed system navigates the essential, yet tension-prone, equilibrium between procedural efficiency for the administration and robust procedural fairness for the taxpayer, thereby contributing to the broader objective of sustainable tax governance.

The study is guided by the following primary objectives:

1. To deconstruct the legal architecture and institutional design of the UAE's three-stage dispute resolution process.
2. To critically evaluate the framework's efficacy in achieving a functional balance between administrative expediency and the protection of taxpayer rights, a cornerstone of systemic

legitimacy.

3. To identify persistent and potential governance challenges within the system's implementation and to propose targeted, evidence-based policy recommendations for its enhancement.
4. To contribute to the theoretical discourse on institutional design for tax dispute resolution in hybrid legal systems, particularly in contexts of rapid economic transformation.

2. METHODOLOGY AND STRUCTURE

To address these objectives, the research employs a mixed-methods approach grounded in legal scholarship but attuned to interdisciplinary analysis. **This comprises:**

- **Doctrinal Legal Analysis:** A rigorous examination of primary legal sources, including Federal Law No. 28 of 2022 on Tax Procedures, its executive regulations (Cabinet Decision No. 74 of 2023), and relevant judicial principles, to establish the normative framework.
- **Comparative Legal Examination:** A contextual analysis juxtaposing the UAE model against selected regional counterparts (e.g., Saudi Arabia, Egypt) and internationally recognized benchmarks to illuminate its distinctive features and convergent trends.

The article is structured to progress from conceptual foundations to procedural mechanics. Following this introduction, the analysis unfolds in two substantive chapters:

- **Chapter 1: The Legal Nature of Tax Disputes in the UAE Context.** This chapter establishes the conceptual groundwork, defining the nature and typology of tax disputes, analyzing their common legal and factual causes, and delineating the rights and obligations of the parties involved (the Federal Tax Authority and the taxpayer).
- **Chapter 2: The Tiered Mechanism for Tax Dispute Resolution in the UAE.** This chapter provides a detailed procedural analysis of the three mandatory stages: (1) the internal **Administrative Stage** (objection and reconsideration within the FTA); (2) the independent **Quasi-Judicial Stage** (appeal before the Tax Dispute Resolution Committees); and (3) the ultimate **Judicial Stage** (recourse to the Federal Courts).

2.1. Significance And Expected Contribution

This research is positioned at the intersection of legal academia, policy studies, and governance. Its significance is twofold. First, it provides an original scholarly contribution by documenting and critically assessing a new, influential model in a rapidly evolving region, thus enriching the comparative literature on tax administration and dispute resolution beyond traditional Western contexts. Second, it yields actionable insights for policymakers and regulators in emerging economies engaged in similar fiscal state-building exercises. By elucidating how the UAE's hybrid system adapts global standards to local socio-legal realities – specifically in balancing efficiency, equity, and compliance – the study offers valuable guidance for designing legitimate and effective tax governance frameworks that support sustainable economic development.

Chapter 1: Legal Nature of Tax Disputes

Introduction And Structure

Tax disputes are conflicts between taxpayers and tax authorities concerning the interpretation or application of tax laws and regulations. These disputes may involve various parties, including individuals, corporations, and governmental tax entities. Causes of tax disputes may stem from incorrect tax assessments, disputes over deductions or exemptions, transfer pricing issues, or challenges related to tax compliance. This chapter attempts to shed light on the complexities of these disputes and the key parties involved, providing a comprehensive overview of the subject. It addresses, God willing, the definition of tax disputes, the reasons for their emergence, and the involved parties.

Section One: Conceptual Framework and Definition of Tax Disputes

Tax disputes represent a distinct category of legal conflicts arising between taxpayers and tax authorities concerning the interpretation, application, or enforcement of tax obligations. Jurisprudentially, such disputes are characterized by their foundation in public law, where the state exercises its sovereign power to impose and collect taxes. A tax dispute may be defined as *a formal disagreement between a taxpayer and a tax administration regarding the existence, scope, or amount of a tax liability, as governed by applicable tax legislation and*

*administrative practices*¹. The genesis of tax disputes often stems from divergent interpretations of legal provisions, factual discrepancies in tax assessments, or administrative actions perceived to exceed statutory authority.

Characteristics of Tax Disputes:

***Tax disputes possess distinguishing characteristics that can be summarized as follows*²:**

1. One of the parties is the state, represented by the Ministry of Finance, which enjoys the privileges of public authority that place it in a stronger position than the taxpayer, supported by means that enable it to compel the taxpayer to pay before the dispute is finally resolved.
2. Tax disputes relate to an activity carried out by the taxpayer, property managed, or work performed. Consequently, prolonged resolution of tax disputes through ordinary litigation procedures may harm the interests of the taxpayer on one hand and the public treasury on the other, necessitating expedited adjudication of these cases to protect the interests of both the taxpayer and the state.
3. Tax disputes often relate to the economic activity of the taxpayer subject to taxation under the provisions of tax law. Thus, the tax amount is due because of work performed, a transaction completed, or an investment made. Alternatively, it may involve activities that the taxpayer is keen to keep confidential, along with the secrecy of commercial or financial relationships associated with them, which competitors could use against their interests. Therefore, the legislator has guaranteed the taxpayer the right to maintain their secrets and provided a safeguard against the disclosure of their secrets by officials of financial departments, permitting the case to be heard in closed sessions when necessary.
4. The financial right that is the subject of the tax dispute is affirmed by one party to the case and contested by the other party due to the absence of a document specifying the value of this right, or because the debtor concealed true information to evade tax

¹ For more details see:

- Ault, HJ. "Improving the Resolution of International Tax Disputes." *Fla. Tax Rev.*, December 31, 2004.
- Perrou, K. *Taxpayer Participation in Tax Treaty Dispute Resolution*. December 31, 2013.

- Tran-Nam, B, and M Walpole. "Tax Disputes, Litigation Costs and Access to Tax Justice." *eJTR*, Dec. 2015.

² Dr. Ramadan Siddiq: "Resolving Tax Disputes Arising from the Application of Tax Laws or International Agreements - A Comparative Theoretical and Applied Study," Dar Al Nahda Al Arabiya, Cairo, 2006, pp. 29-36.

liability, among other reasons that may make the estimation of the tax amount subjective from one party's perspective.

5. Proving the right in a tax dispute requires special means that differ from those provided in civil law, as both testimony and oath are oral means of proof not accepted for tax purposes. In tax matters, only written means of proof are accepted in principle; thus, the tax right is established through evidence, documents, and presumptions accepted by the judiciary.

Section Two: Common Causes of Tax Disputes

The reasons leading to tax disputes between taxpayers and the tax administration are numerous and can be summarized as follows:

1. Interpretation Of Tax Laws:

Interpreting tax laws is one of the main causes of tax disputes. Tax laws are often complex, contain technical terminology, and are subject to different interpretations, leading to disagreements between taxpayers and tax authorities. For example, tax law may be ambiguous or open to multiple interpretations, resulting in differing opinions on its application³. One of the most common cases is the concept of tax exemptions, where the taxpayer attempts to expand their interpretation to include the original product or service and its components, while the tax administration adheres to a literal and narrow interpretation of the text, insisting that the exemption applies only to the explicitly stated product. In the United Kingdom, for instance, disputes have arisen over whether deepening a house's foundations should be treated as repairs (taxable) or merely an extension (thus non-taxable). In Dutch value-added

tax, smoked eel is taxed at a reduced rate, while smoked salmon is subject to the general rate, which can provoke many issues between the taxpayer and the tax administration, as the taxpayer insists that the product qualifies for the reduced rate while the administration insists on the general rate⁴.

Interpretive divergence poses a fundamental challenge in the application of tax provisions, extending beyond the realm of tax exemptions to encompass complexities arising from linguistic variations in legal texts⁵. Multilingual instruments—such as bilateral tax treaties and European Union tax directives—frequently introduce nuanced semantic differences that impact the understanding of core concepts including "permanent establishment" and "arm's length principle."⁶

This complexity is particularly evident in the context of the OECD Model Tax Convention and its accompanying Commentaries⁷. Even when treaty provisions are derived from a common model, equally authentic texts in different languages may generate divergent interpretations among contracting states⁸. Such discrepancies underscore a dual challenge for both legislators and courts: balancing the necessary flexibility to adapt to evolving economic realities with the imperative of maintaining sufficient clarity and consistency in legal application⁹.

These interpretive challenges highlight the persistent tension between dynamic legal adaptation and the foundational need for predictability in cross-border tax governance. The absence of harmonized interpretation mechanisms may lead to conflicting judicial rulings across jurisdictions, potentially resulting in instances of double taxation or non-taxation—outcomes that simultaneously undermine the fundamental objectives of both international tax

³Lynn A. Gandhi: "Commonly Used Rules of Statutory Interpretation in State Taxes". 20 June 2021, <https://www.taxnotes.com/special-reports/settlements-and-dispute-resolution/commonly-used-rules-statutory-interpretation-state-taxes-part-1/2021/06/18/76m6m> Last visit on 25-9-2025.

⁴ Liam Ebrill, Michael Keen, Jean-Paul Bodin, and Victoria Summers: "The Modern VAT", INTERNATIONAL MONETARY FUND(IMF) , WASHINGTON, D.C., 2001, p.p 78, 79. These judicial rulings are referred to in Dr. Salah Hamed's book, "Determining the Value Added Tax Base and Related Problems: An Analytical Study in Light of Jurisprudence, Comparative Tax Legislation, and Court Rulings," first edition, 2021-1441, Library of Law and Economics, Riyadh, p. 8.

⁵ See: Paolo Arginelli: " Multilingual Tax Treaties: Interpretation, Semantic Analysis and Legal Theory", June 2015, IBFD Print books. https://www.ibfd.org/sites/default/files/2021-04/15_043_Multilingual%20Tax%20Treaties%20Interpretation_final_web_0.pdf

⁶ see : Svitlana Vladyka :" MULTILINGUAL INTERPRETATION OF EU INDIRECT TAX ACTS "P.63 ,

http://www.library.univ.kiev.ua/ukr/host/viking/db/uni_v/apmv/apmv_2015_125_02.pdf

⁷ Weissbrodt, J. (2018). Financial instruments in the OECD model tax convention. [Doctoral Thesis, Maastricht University]. Maastricht University. <https://doi.org/10.26481/dis.20181123jw>

⁸ See:

- Mansour, F. (2019). The role of legal translation in the interpretation of international law documents, RUSSIAN LAW JOURNAL, Volume VII (2019) Issue 1, PP.56-86.

- Michael Livingston: "Practical Reason, Purposivism, and the Interpretation of Tax Statutes". 51 Tax. L. Rev. 677 (1995-1996), P.677.

⁹ See:

- Kuner, C. (1991). Interpretation of Multilingual Treaties: Comparison of Texts versus the Presumption of Similar Meaning. *International and Comparative Law Quarterly*, 40(4), 953-964.

- AUST HP, RODILES A, STAUBACH P. Unity or Uniformity? Domestic Courts and Treaty Interpretation. *Leiden Journal of International Law* , Volume 27 , Issue 1 , March 2014 , pp. 75 - 112.

treaties and domestic tax legislation.

2. Tax Planning Strategies:

Tax planning represents an inherent aspect of contemporary business operations, wherein taxpayers legitimately organize their affairs to minimize tax liabilities within the boundaries of legal frameworks. However, the distinction between acceptable tax optimization and aggressive tax avoidance frequently becomes blurred, creating fertile ground for disputes between taxpayers and tax authorities¹⁰. This complex interplay between taxpayer autonomy and state revenue protection constitutes a significant source of modern tax controversies.

The fundamental tension arises from the divergent perspectives of the parties involved. Taxpayers generally operate under the principle that they are entitled to arrange their transactions in a tax-efficient manner, as famously articulated in the Duke of Westminster doctrine, which posits that every individual is entitled to order their affairs so that taxes attaching under the appropriate statutes are less than they otherwise would be¹¹. Conversely, tax authorities increasingly rely on substance-over-form doctrines to challenge arrangements they perceive as artificial or abusive. This philosophical divergence from a strict interpretation of legal form creates an inherent tension in the application of tax legislation. A primary tool in this effort is the implementation of General Anti-Avoidance Rules (GAAR).

For instance, in the UAE legal system, the law empowers the Federal Tax Authority (FTA) under its GAAR provisions to review any agreement or transaction where the intent is to abuse or violate the purpose of tax laws. These rules prioritize the core purpose and economic impact of an arrangement over its legal form, ensuring the true intent and financial consequences are evaluated. A transaction must demonstrate a valid commercial or non-fiscal objective that extends beyond mere tax benefits.

¹⁰ "Large Business Tax Disputes", Institute for Fiscal Studies, The Tax Law Review Committee, September 2023, UK, P.9.

¹¹ The "Duke of Westminster principle" originated from the historic case of *Inland Revenue Commissioners v. Westminster (Duke)*, [1936] AC 1 (HL). The case involved the Duke of Westminster's strategy to reduce his tax liability by recharacterizing continuous salary payments to his servants as annual payments for past services, thus rendering them tax-deductible. No business purpose was cited for this reclassification. In this ruling, the House of Lords established the principle by siding with the duke, who had recharacterized payments to his servants to minimize his tax liability. The principle was famously articulated by Lord Tomlin, who stated: "Every man is entitled if he can to order his affairs so as that the tax attaching under the appropriate Acts is less than it otherwise would be.". for more details See:

Given that virtually all significant business decisions carry tax implications, GAAR profoundly influences decision-making processes across organizational levels. It empowers authorities to target sham transactions and contrived schemes, enabling them to counteract abusive elements even in otherwise legally valid arrangements. Historically, demonstrating 'substance' through physical presence, employee activity, or fund flows provided a strong defense against 'sham' allegations. However, under GAAR, the focus shifts decisively to 'purpose'—specifically, whether the *main purpose* of the arrangement was to obtain a tax benefit—rather than relying solely on formalistic indicators¹².

Aggressive tax planning strategies typically manifest in several forms that frequently trigger disputes. Transfer pricing manipulations represent a particularly contentious area, especially for multinational enterprises operating across multiple jurisdictions. For instance, a company may structure intra-group transactions to allocate profits to low-tax jurisdictions through questionable pricing arrangements for goods, services, or intellectual property. The Organization for Economic Cooperation and Development's Base Erosion and Profit Shifting (BEPS) project has documented numerous cases where multinational corporations used transfer pricing to artificially shift profits, resulting in significant disputes with tax authorities worldwide¹³.

Another prevalent source of controversy involves treaty shopping arrangements, where taxpayers exploit bilateral tax treaties to obtain benefits unintended by the contracting states¹⁴. A classic example emerged in the Indian case of Vodafone, where the company utilized a complex chain of entities across multiple jurisdictions to minimize capital gains tax exposure. While the taxpayer argued the arrangement was legally sound, tax authorities contended it represented an abusive practice designed solely to avoid taxes, leading to

- Vern Krishna: "The Westminster Principle", <https://kpklaw.ca/media/The-Westminster-Principle.pdf>

- https://www.ctf.ca/EN/EN/Newsletters/Canadian_Tax_Focus/2022/1/220104.aspx

¹² Overview of the General Anti-Abuse Rules -UAE perspective, Dhruva Consultants, November 2023. <https://dhruvaconsultants.com/wp-content/uploads/2025/07/GAAR-UAE-Perspective-November-2023.pdf>

¹³ <https://www.oecd.org/en/topics/base-erosion-and-profit-shifting-beps.html>

¹⁴ Ibrahim, Abdulateef, Tax Treaty Abuse and Treaty Shopping: An Analysis of Countermeasures and Best Practices (July 13, 2023). Available at SSRN: <https://ssrn.com/abstract=4539851>

protracted litigation that spanned over a decade and involved international arbitration¹⁵.

The digitalization of the global economy has further complicated tax planning landscapes, giving rise to novel dispute scenarios. Digital enterprises often leverage their ability to operate without physical presence to avoid constituting permanent establishments in high-tax jurisdictions. The OECD's Pillar One and Pillar Two proposals represent ongoing international efforts to address these challenges, but simultaneously create new grounds for potential disputes regarding nexus and profit allocation rules¹⁶.

Hybrid mismatch arrangements constitute another sophisticated planning technique that frequently generates controversies. These arrangements exploit differences in the tax treatment of entities or instruments across jurisdictions to achieve double non-taxation. For example, a payment that is deductible in one jurisdiction but not included as income in another creates opportunities for tax avoidance that authorities increasingly challenge under anti-abuse provisions¹⁷.

The evolution of disclosure requirements and transparency initiatives has simultaneously heightened detection risks for aggressive planning while creating new dispute dimensions. The implementation of Mandatory Disclosure Rules (MDR) following BEPS Action 12 requires taxpayers and advisors to report potentially aggressive arrangements, effectively providing tax authorities with advanced notice of planning strategies. This proactive approach enables earlier challenges but may also lead to disputes regarding interpretation of what constitutes "reportable arrangements" and the boundaries of professional privilege¹⁸.

The psychological dimension of tax planning disputes warrants consideration through prospect theory, which suggests that taxpayers perceive potential losses more significantly than equivalent

¹⁵ Goel, Ashish and Goel, Ashish and Goel, Shilpa, The Vodafone-India Capital Gains Tax Controversy: The Past and the Future (October 12, 2020). Tax Notes International, Volume 100, Issue 2, October 12, 2020, PP.243-246.

¹⁶ Salah Hamed: "Towards a General Theory of Tax on Income from Digital Economy Activities (A Comparative Analytical Study)," Volume 10, Issue 3 - Serial Number of Issue 3, September 2024, Pages 1832-1894

<https://doi.org/10.21608/jdl.2024.318160.1399>

¹⁷ Ibrahim, Abdulateef, Tax Treaty Abuse and Treaty Shopping: An Analysis of Countermeasures and Best Practices, op.cit , PP.3-4.

¹⁸ OECD/G20 Base Erosion and Profit Shifting Project Mandatory Disclosure Rules, ACTION 12: 2015 Final Report https://www.oecd.org/content/dam/oecd/en/publications/reports/2015/10/mandatory-disclosure-rules-action-12-2015-final-report_g1g58cee/9789264241442-en.pdf

¹⁹ See:

gains. This behavioral aspect explains why taxpayers often vigorously dispute assessments, even when the amounts involved might not justify the litigation costs from a purely economic perspective. Simultaneously, tax authorities operate under increasing pressure to demonstrate enforcement effectiveness, particularly following public outcries over prominent tax avoidance cases revealed through initiatives like the Panama Papers and Paradise Papers¹⁹.

The resolution of tax planning disputes increasingly involves sophisticated procedural mechanisms beyond traditional litigation. Advance Pricing Agreements (APAs), Mutual Agreement Procedures (MAP), and arbitration have emerged as important dispute resolution tools, particularly in cross-border contexts. However, these mechanisms themselves sometimes become subjects of controversy, as evidenced by debates surrounding the minimum standard for MAP under BEPS Action 14²⁰ and the EU's Directive on Tax Dispute Resolution Mechanisms²¹.

The dynamic interplay between evolving business models, developing tax regulations, and enforcement priorities ensures that tax planning will remain a perennial source of disputes. As governments worldwide face increasing fiscal pressures and public demands for corporate tax fairness, the boundaries of acceptable tax planning continue to shift, guaranteeing that this area will generate ongoing controversies requiring sophisticated legal and administrative responses.

This expanded analysis demonstrates that tax planning-related disputes transcend simple questions of legal interpretation, encompassing complex interactions between legal systems, economic incentives, psychological factors, and evolving international norms. The resolution of such disputes increasingly requires specialized expertise in both substantive tax law and alternative dispute

- Arthur Cockfield: "SECRETS OF THE PANAMA PAPERS: HOW TAX HAVENS EXACERBATE INCOME INEQUALITY", COLUMBIA JOURNAL OF TAX LAW, [Vol: 13:45, 2021, PP.46-76.

- Frederik Obermaier and Bastian Obermayer: "The Panama Papers: A Political Earthquake and its Unfinished Legacy", Brown Journal of World Affairs, volume xxxi, issue I , 2024, PP.8-20.

- PETER BERGLEZ and AMANDA GEARING: "The Panama and Paradise Papers: The Rise of a Global Fourth Estate", International Journal of Communication 12(2018), 4573-4592.

²⁰ <https://www.oecd.org/en/topics/dispute-resolution-in-cross-border-taxation.html>

²¹ Eddie Morris, Janelle Sadri and Jen Breeze :" The rise and rise of mutual agreement procedures in the EU" , September 24 2020 ,

<https://www.internationaltaxreview.com/article/2a68rfy5bw2ycq1ybdoij/the-rise-and-rise-of-mutual-agreement-procedures-in-the-eu>

resolution mechanisms, highlighting the growing sophistication of this contentious area of tax practice

3. Reporting Errors and Tax Returns:

A substantial proportion of tax disputes stem from inadvertent errors and inaccuracies in tax filings. These reporting deficiencies, while frequently unintentional, create material discrepancies between the legally mandated tax liability and the amount self-assessed by taxpayers. Such variances automatically trigger examination procedures by tax authorities and may escalate into formal legal contests.

The typology of these errors encompasses a spectrum of issues, ranging from basic computational mistakes to more complex misapplications of tax provisions. Common examples include the omission of taxable income, misclassification of revenue or expenses, incorrect application of tax credits or deductions, and misunderstandings of specialized regimes such as transfer pricing regulations or capital allowance mechanisms. While digital compliance platforms have reduced elementary arithmetic errors, they have concurrently introduced new challenges related to data integrity and algorithmic interpretation.

From a jurisprudential perspective, the fundamental distinction rests upon the concepts of *mens rea* (criminal intent) and negligence. Contemporary tax administrations, empowered by advanced data analytics and international information-sharing frameworks, demonstrate heightened capability in detecting discrepancies. Although penalty structures may distinguish between genuine errors and willful disregard of compliance obligations²², the initial administrative response typically involves revised assessments with accrued interest and potential penalties. Critically, the evidentiary burden often shifts to taxpayers to demonstrate the exercise of reasonable care in their reporting practices²³.

Consequently, reporting inaccuracies represent a significant friction point in taxpayer-authority relationships. Beyond immediate financial adjustments, these errors can undermine trust and precipitate comprehensive audits of the taxpayer's affairs. Implementing robust internal controls, obtaining specialist advice on complex transactions,

and utilizing voluntary disclosure mechanisms constitute essential risk mitigation strategies against this persistent source of tax litigation.

Documentation Discrepancies:

The adequacy and accuracy of supporting documentation constitute a fundamental pillar of tax compliance and a frequent source of contention between taxpayers and authorities. Discrepancies in documentation—whether through omission, inaccuracy, or insufficiency—directly challenge the veracity of the income, deductions, and credits reported in a tax return. Such deficiencies provide the legal grounds for tax authorities to issue assessments, leading to formal disputes²⁴.

The legal principle underpinning this issue is the **burden of proof and the substantive documentation requirement** embedded in most tax codes. Tax laws universally impose an affirmative obligation on taxpayers not merely to file a return but to **maintain contemporaneous records** that substantiate every transaction claimed. The absence of such documentation, even for legitimate transactions, effectively nullifies the claim in the eyes of the auditor. Common failings include missing invoices for claimed expenses, inadequate contracts supporting transfer pricing policies, lack of payroll records, or failure to document the business purpose of large or unusual expenses. For Example, Transfer pricing documentation serves a multiplicity of purposes. Primarily, it furnishes the rationale underpinning the pricing of intercompany transactions, thereby demonstrating adherence to the Arm's Length Principle. Furthermore, it functions as an instrument of transparency, affording tax authorities insight into the economic substance of said transactions, the methodologies employed, and the comparability data utilized.

Notwithstanding its fundamental role as a compliance mechanism, such documentation constitutes a critical asset in the context of tax disputes. Upon the emergence of a dispute, the burden of proof frequently rests upon the taxpayer to substantiate the appropriateness of its transfer pricing positions. The existence of comprehensive and robustly structured documentation effectively shifts this burden of proof, thereby compelling the tax authorities to demonstrate why the taxpayer's approach is deficient or inconsistent with the Arm's

²² David Elkins: "Rules, Standards, and the Value of Certainty in Tax Law", 22 Berkeley Bus. L.J. 40 (2025), PP.30-32. DOI: <https://doi.org/10.15779/Z386M33561>.

²³ Charles T. Clotfelter: "Tax Evasion and Tax Rates: An Analysis of Individual Returns", The Review of Economics and Statistics, Vol. 65, No. 3. (Aug., 1983), pp. 363-373.

²⁴ See for Example: Giulia Mascagni, Denis Mukama and Fabrizio Santoro: "An Analysis of Discrepancies in Taxpayers' VAT Declarations in Rwanda", ICTD Working Paper 92, March 2019, PP.3-30.

Length Principle. Conversely, the absence of substantiating documentation renders Multinational Enterprises vulnerable to potential adjustments and associated penalties²⁵.

The challenge is exacerbated by the **subjective interpretation of "adequacy."** What a taxpayer deems sufficient may be judged incomplete by an auditing officer. This is particularly acute in complex areas like **transfer pricing**, where regulations explicitly require extensive, contemporaneous documentation to prove arm's-length dealings. Similarly, claims for research and development (R&D) tax credits or capital asset classifications demand specific, technical documentation that goes beyond standard bookkeeping.

From a procedural standpoint, documentation failures shift the **evidentiary burden** decisively onto the taxpayer²⁶. During an audit, the authority's request for documentation is a primary tool of verification. The inability to produce requested documents is often construed as *prima facie* evidence that the underlying transaction either did not occur or did not occur as claimed. This can lead to the disallowance of deductions, the reclassification of income, and the imposition of penalties for negligence, significantly increasing the tax liability²⁷.

Therefore, robust document retention policies are not merely an administrative task but a critical risk management strategy. Proactive measures, including implementing standardized procedures for document creation and storage, conducting internal reviews to ensure compliance with specific statutory requirements, and seeking advance rulings on the acceptability of documentation for complex transactions, are essential for mitigating this pervasive trigger of tax disputes.

Section Three: Parties To Tax Disputes

When a tax dispute arises, it involves various parties with distinct roles and interests. Understanding the interplay between these parties is crucial for resolving tax disputes. The following

²⁵ Dr Daniel N. Erasmus : Documentation and Burden of Proof: Insights from Transfer Pricing Disputes , 4 December 2024 , Availale at : <https://www.taxriskmanagement.com/transfer-pricing-documentation-burden-of-proof/> Last Visit On 27-9-2025.

²⁶See:

- Philip N. Jones: "The Burden of Proof 10 Years After the Shift", TAX NOTES, October 20, 2008, PP.287-309.
- Marie-Hélène Tremblay : "Is the burden of proof in tax litigation always on the taxpayer?" , Article in <https://www.millerthomson.com/en/insights/corporate-tax/burden-proof-tax-litigation-taxpayer/> Last Visit On 27-9-2025.

sections outline the roles and responsibilities of the key parties involved in tax disputes: the tax administration, the taxpayer, and external parties.

1. Tax Administration:

The tax administration is the government authority or agency responsible for enforcing and administering tax laws. Its responsibilities include collecting taxes, conducting audits, issuing tax assessments, providing taxpayer services, and ensuring compliance with tax laws. Its name varies from country to country; in Egypt, it is called the Egyptian Tax Authority²⁸, In the United Arab Emirates, it is called the Federal Tax Authority²⁹, in Qatar the General Tax Authority³⁰, in Saudi Arabia the Zakat, Tax and Customs Authority³¹, in the United States the Internal Revenue Service³² (IRS) , in the United Kingdom Her Majesty's Revenue and Customs³³ (HMRC), in Australia the Australian Taxation Office³⁴ (ATO), in Russia the Federal Tax Service³⁵ (FTS), and in Canada the Canada Revenue Agency³⁶(CRA).

The tax administration typically establishes rules and regulations related to tax returns, payment deadlines, and any required documents or reports. It also has the authority to conduct audits and investigations to verify the accuracy and completeness of tax returns and to take legal action against non-compliant taxpayers.

The tax administration plays a key role in initiating and resolving tax disputes.

Key aspects of the tax administration in any tax dispute include:

- **Auditing and Investigation:** The tax administration conducts audits and investigations to ensure compliance with tax laws. Audits and tax examinations may be triggered by discrepancies in tax returns, suspected tax evasion, or random sampling.

²⁷ Jozef Sábo: "The Reasoning about Evidence in Tax Matters", XVI International Scientific Conference "The Optimization of Organization and Legal Solutions concerning Public Revenues and Expenditures in Social Interest", January 2018, PP.579-587. DOI:[10.15290/oolscrepi.2018.42](https://doi.org/10.15290/oolscrepi.2018.42)

²⁸ <https://www.eta.gov.eg/>

²⁹ <https://tax.gov.ae/>

³⁰ <https://www.gta.gov.qa>

³¹ <https://zatca.gov.sa/>

³² <https://www.irs.gov>

³³ <https://www.gov.uk>

³⁴ <https://www.ato.gov.au/>

³⁵ <https://www.nalog.gov.ru/eng/>

³⁶ <https://www.canada.ca/en/revenue-agency.html>

- **Assessment and Determination of Tax Liability:** After the audit process, the tax administration assesses the taxpayer's tax liability based on the findings. This assessment forms the basis of the tax dispute and can lead to disagreements between the tax administration and the taxpayer.
- **Issuing Notices and Assessments (Tax Assessment Process):** The tax administration issues tax notices, assessments, and payment demands to inform the taxpayer of their tax liabilities. These documents are crucial in formalizing the tax dispute process.
- **Dispute Resolution Mechanisms:** The tax administration is responsible for providing mechanisms for resolving tax disputes, such as administrative appeals, mediation, negotiation, and others. These mechanisms aim to address disagreements between the tax administration and the taxpayer in an organized manner.

2. Taxpayer:

The taxpayer refers to the individual or entity legally obligated to pay taxes to the government. In the case of individual income tax, the taxpayer is the natural person who earns income and is taxed based on their income levels. In the case of corporate tax, the taxpayer is the legal entity—such as a company or institution—responsible for paying tax on its profits. The term for the taxpayer varies from country to country; some tax laws refer to them as the "taxpayer" (such as Egyptian law), while some countries use the term "liable person" (such as Qatari, Saudi, Lebanese, and Jordanian laws). Key aspects of the taxpayer's role in a tax dispute include³⁷:

- **Compliance and Reporting:** Taxpayers are responsible for complying with tax laws, filing accurate tax returns, and reporting income, deductions, and other relevant information to the tax administration. Non-compliance can lead to tax disputes.
- **Response to Dispute and Communication:** When facing a tax dispute, taxpayers must respond to notices, assessments, and inquiries from the tax administration in a timely manner. Effective communication and cooperation are

- essential for resolving tax disputes.
- **Appeal and Defense:** Taxpayers have the right to appeal tax assessments and defend their positions in tax disputes. Legal representation and defense are common in complex tax disputes involving large amounts or legal complexities.

3. External Parties:

These are individuals, entities, or organizations not directly involved in the tax dispute but with an interest in its outcome.

These parties can play various roles in tax disputes and influence the resolution process. Common examples of external parties in tax disputes include:

- **Tax Advisors and Experts:** Tax advisors, accountants, and external consulting experts provide specialized advice, representation, and support to taxpayers in tax disputes.
- **Witnesses and Experts:** By providing testimony, evidence, or expert opinions on tax matters. Their testimony and opinions can be valuable in substantiating claims, clarifying issues, or resolving disputes.
- **Government Agencies and Regulatory Bodies:** Other government agencies or regulatory bodies may intervene in tax disputes, especially in cross-border issues. Coordination between different entities may be required to effectively address complex tax matters, particularly those associated with the application of international treaties or linked to the concept of foreign investment.

In conclusion, tax disputes involve multiple parties with distinct roles, interests, and responsibilities. Effective communication, cooperation, and engagement between the tax administration, taxpayers, and external parties are essential for efficiently and fairly resolving tax disputes. Understanding the dynamics between these parties is crucial for promoting transparency, compliance, and trust in the tax system.

2.2. Balancing Efficiency and Fairness

The foundational pillar of a robust and equitable tax system resides in its capacity to meticulously balance two seemingly competing imperatives: the

³⁷ See for Example:

- Katerina Perrou: "Taxpayer Participation in Tax Treaty Dispute Resolution", IBFD, March 2014, PP.199-243.
- W. Edward Afield : "Moving Tax Disputes Online Without Leaving Taxpayer Rights Behind" , *The Tax Lawyer*, Vol. 74, No. 1,

2020 , *Georgia State University College of Law, Legal Studies Research Paper No. 2021-06*, PP.3-34.

- Iryna Vasylieva: "GUARANTEE OF PROTECTION OF RIGHTS AND INTERESTS OF TAXPAYERS IN TAX DISPUTES", *Baltic Journal of Economic Studies*, Vol. 8 No. 2, 2022, PP.36-43. <https://doi.org/10.30525/2256-0742/2022-8-2-36-43>

state's legitimate authority to collect revenue efficiently and the taxpayer's fundamental right to be shielded from arbitrary or excessive administrative power. This equilibrium is not merely an administrative convenience but a prerequisite for the system's legitimacy and long-term efficacy. An overemphasis on the state's prerogative risks descending into fiscal oppression, eroding voluntary compliance and undermining the very social contract that justifies taxation. Conversely, a system overly weighted in favor of the taxpayer, lacking effective enforcement mechanisms, would cripple the state's ability to function and provide essential public services. Therefore, the objective is to construct a legal and procedural framework that facilitates effective revenue collection while embedding robust safeguards against administrative transgression.

When this delicate equilibrium is absent, an inequitable tax system generates disproportionate fiscal burdens, which in turn stimulates the expansion of the informal economy and fosters widespread tax avoidance, ultimately eroding the revenue base. This dynamic exacerbates tangible and prospective threats to the nation's economic security. The underlying factors that precipitate such systemic imbalance not only hinder the capacity to meet projected budgetary allocations but also fundamentally undermine the state's ability to achieve its broader strategic objectives. Principal among these destabilizing factors are the inequitable allocation of the tax burden³⁸.

The state's interest is primarily safeguarded through the grant of specific statutory powers to the tax administration. These powers commonly include the right to conduct comprehensive audits and investigations, the authority to demand the production of books and records, and the power to impose penalties for non-compliance, late payment, or underreporting of liability. Furthermore, the administration is typically endowed with tools for debt enforcement, such as the ability to place liens on property or garnish wages, and to charge interest on outstanding amounts. The principle of the "presumption of correctness" often attaches to assessments issued by the administration, placing the burden of proof upon the taxpayer to demonstrate error. These powers are essential for maintaining the integrity of the tax system and ensuring that all taxpayers contribute their fair share, thereby preventing a deficit in public finances.

In counterbalance, the protection of the taxpayer

from potential arbitrariness is achieved through the entrenchment of clearly defined rights and access to judicial review. These rights, which must be codified in law, encompass the right to be informed, the right to confidentiality, the right to seek advance rulings, and the right to be heard. Crucially, the principle of due process must govern all administrative actions. The right to appeal an assessment through an independent tribunal, followed by access to the general court system, constitutes the ultimate check on administrative power, ensuring that the administration's actions remain within legal bounds and are supported by substantive evidence.

A powerful manifestation of this judicial oversight is evident in the UAE Federal Supreme Court ruling (Case No. 212 of 2023, *Administrative Division*). The Court articulated a pivotal doctrine regarding the burden of proof, stating: *"It is established that the burden of proof lies upon the claimant... [however] the administrative judiciary's departure from this principle... occurs only when the documents necessary for ruling on the case are exclusively in the administration's possession."* This ruling establishes a critical exception, procedurally shifting the burden to the Federal Tax Authority (FTA) when it is the sole holder of essential evidence. The court further held that if the authority fails to respond to a taxpayer's challenge, *"the court may rule on the basis of a presumption that the taxpayer's claim is correct."* This principle prevents the FTA from using its informational advantage to undermine the right to a fair hearing, ensuring that the right to contest an assessment is substantive and effective.

The practical achievement of this balance relies on key mechanisms. The principle of legality requires that any coercive administrative action have a clear basis in law. Transparency and predictability, fostered through published guidelines and consistent application of the law, reduce uncertainty. Furthermore, fostering a culture of cooperative compliance, where the administration provides guidance and the taxpayer maintains accurate records, can prevent disputes from arising. Ultimately, a tax system perceived as fair – where state power is exercised responsibly and individual rights are respected – fosters voluntary compliance. This voluntary compliance is the most efficient and sustainable method of revenue collection, benefiting both the state and the taxpayer by minimizing costly litigation. Consequently, the strength of a tax system is measured not solely by its revenue yield, but by its

³⁸ Iryna Vasylieva: "BALANCING THE INTERESTS OF TAXPAYERS AND TAX AUTHORITIES AS THE METHOD OF MINIMIZING TAX DISPUTES", Baltic Journal of Economic

unwavering commitment to justice and procedural fairness.

2.3. Summary Of Chapter One

Tax disputes arise from a variety of factors, including the interpretation of tax laws, tax planning strategies, reporting errors, and documentation discrepancies. By understanding these causes and learning from practical examples, taxpayers can proactively address potential areas of dispute and maintain compliance with tax laws. Effective communication and cooperation between taxpayers and tax authorities are essential for amicably resolving tax disputes and promoting a fair and transparent tax system.

Chapter Two: The Legal Framework for Tax Dispute Settlement in the United Arab Emirates Tax legislations differ in determining the competent judicial authority for tax disputes. Some jurisdictions entrust this matter to the ordinary judiciary, such as the British³⁹, Tunisian⁴⁰, and Sudanese legislation⁴¹. Others assign it to the administrative judiciary, as Egypt⁴², Lebanon⁴³, and Portugal⁴⁴. Another group divides judicial jurisdiction between the ordinary and administrative judiciaries, whereby the ordinary judiciary specializes in cases related to indirect taxes, while disputes arising from direct taxes fall under the jurisdiction of the administrative judiciary – this is the case in France⁴⁵. A category of contemporary tax legislations has emerged, tending to establish specialized judiciary bodies to adjudicate tax disputes due to their unique nature, as seen in Jordan⁴⁶, Germany⁴⁷, and the United States of America⁴⁸. Some legislative systems have established quasi-judicial committees or administrative committees with judicial jurisdiction tasked with resolving tax disputes, whose decisions are final and not subject to appeal before any other judicial body – this is the situation in the Kingdom of Saudi Arabia⁴⁹.

The settlement of tax disputes within the United

Arab Emirates' legal system is governed by a meticulously structured procedural framework, primarily established by Federal Decree-Law No. 28 of 2022 Concerning Tax Procedures. This legislative instrument forms the cornerstone of the tax dispute resolution mechanism, with its fourth chapter (Articles 28 to 37) specifically dedicated to regulating the processes for assessment review, objections, and appeals. This framework is further supplemented by a suite of pertinent decisions issued by the UAE Cabinet, the Ministry of Justice, and the Federal Tax Authority (FTA), culminating in the comprehensive Executive Regulation issued by Cabinet Decision No. 74 of 2023.

A thorough analysis of the Emirati legislative landscape reveals that the tax appeals process is designed as a sequential, multi-stage journey, ensuring that disputes are addressed through increasingly formal and independent channels. This structured progression begins with administrative remedies within the FTA itself, advances to a specialized technical-judicial committee, and culminates, if necessary, in judicial recourse before the competent courts.

This chapter is accordingly divided into three distinct sections to dissect this procedural hierarchy. The first section will delve into the initial **Administrative Stage**, which entails the submission of specific requests directly to the FTA without external intervention. This stage encompasses two primary instruments: the **Request for Review of Tax Assessment** and the **Request for Reconsideration**. The second section will analyze the subsequent **Appeal Stage before the Tax Dispute Resolution Committee**, an independent body that serves as a crucial filter before entering the judicial sphere. Finally, the third section will examine the ultimate **Judicial Recourse** available before the federal courts, representing the final arbiter for unresolved tax disputes. By examining each of these stages in detail, this chapter aims to provide a holistic understanding of the rights, procedures, and

³⁹ [OECD](#) : "Tax Administration 2017 Comparative Information on OECD and Other Advanced and Emerging Economies", OECD Publishing, 2017, P.115.

⁴⁰Chapter 54 of the Tunisian Tax Procedures Code.

⁴¹Article 95 of the Sudanese Income Tax Act of 1986.

⁴²Egyptian Tax Procedures Law No. 206 of 2020.

⁴³Article 96 of the Lebanese Income Tax Law No. 144 of 1959 stipulates that the State Shura Council has jurisdiction over tax disputes.

⁴⁴ [OECD](#) : "Tax Administration 2017 Comparative Information on OECD and Other Advanced and Emerging Economies", OP.CIT, P.111.

⁴⁵ Dr.Hussein Khilaf: "The Extent of the Jurisdiction of the Administrative Judiciary to Consider Tax and Fee Disputes in

France and Egypt," a study published in the State Council Journal, second year, 1951, p. 336.

⁴⁶ www.moj.gov.jo

⁴⁷ Mahendra P. Singh: "German Administrative Law: In Common Law Perspective", Springer – Verlage Berlin Heidelberg, Germany, 2013, P.111

⁴⁸Website of the Federal Tax Court of the United States of America:<https://www.ustaxcourt.gov>.

⁴⁹ Rules of Operation of Zakat, Tax and Customs Committees, Circular No. 25711, dated 4/8/1445 AH, Umm Al-Qura, Year 101, Issue No. 5004, Friday, Rabi' al-Thani 12, 1445 AH - October 27, 2023 AD.

safeguards available to taxpayers within the UAE's evolving tax jurisprudence.

These mechanisms can be summarized in the

Option kept from the Old Tax Procedure Law



following chart, which outlines the sequential hierarchy of tax dispute resolution avenues.⁵⁰

New Additional Option



Figure:

Section One: The Administrative Stage in Tax Dispute Adjudication

1. Introduction

The evolution of the UAE's fiscal legislation has culminated in a robust system that prioritizes the administrative settlement of tax disputes. Federal Law No. 28 of 2022 represents a significant advancement in this domain, introducing a structured, multi-tiered approach to grievances. This administrative stage constitutes the foundational and compulsory phase within the tax dispute resolution framework, governed by the principle of prior administrative recourse. This principle obligates taxpayers to seek remedy directly from the Federal Tax Authority (FTA)—the entity that issued the contested decision—before escalating the matter to an independent body. This initial phase is strategically designed to facilitate a prompt, cost-effective, and specialized review within the administrative structure, with the objective of resolving a substantial volume of disputes amicably and efficiently. The UAE legislator has meticulously organized this stage around two distinct yet

procedurally interconnected legal instruments: the **Request for Review of Tax Assessment** and the **Request for Reconsideration**, which function as essential filters in the dispute resolution process.

2. Cases Requiring A Tax Assessment By The Federal Tax Authority

Pursuant to Article 23 of the Federal Decree-Law No. 28 of 2022 Concerning Tax Procedures, the Federal Tax Authority (FTA) is obligated to issue a **Tax Assessment** to determine the amount of tax due for payment, the amount of tax eligible for refund, and any other matters specified by the relevant Tax Law or its Executive Regulation. This assessment must be notified to the taxable person within ten (10) business days from the date of its issuance in any of the following cases:

A. Mandatory Tax Assessment Scenarios

The FTA shall issue a tax assessment in the following circumstances:

1. **Failure to Register for Tax:** If a **taxable person** fails to apply for registration within the period specified under the relevant Tax Law.

⁵⁰ <https://www.pgplaw.com/analytics-and-brochures/articles-comments-interviews/a-new-remedy-in-tax-disputes-in-the-uae-a-review-of-an-assessment/> Last visit on 21-9-2025.

2. **Failure to File a Tax Return:** If a **registrant** fails to submit a tax return within the period specified under the relevant Tax Law.
3. **Failure to Pay Tax Declared:** If a **registrant** fails to pay the tax amount declared as payable in a tax return that was submitted within the period specified under the relevant Tax Law.
4. **Submission of an Incorrect Tax Return:** If a **taxable person** submits an incorrect tax return.
5. **Failure to Collect Tax on Behalf of Another:** If a **registrant** fails to account for tax on behalf of another person when legally required to do so under the relevant Tax Law.
6. **Tax Evasion or Complicity:** If there is a shortfall in the tax due payable as a result of a person's **tax evasion**, or as a result of tax evasion in which the person was **complicit**.
7. **Other Statutory Cases:** In any other cases provided for under the relevant Tax Law.

B. Discretionary (Estimated) Tax Assessment

Furthermore, if it is not possible to determine the actual amount of tax due or to verify the accuracy of a tax return, the FTA is empowered to issue a tax assessment on an **estimated basis** to evaluate the tax due for payment and the tax eligible for refund.

3. FOUNDATIONAL PRINCIPLES FOR CHALLENGING TAX ASSESSMENTS: A COMPARATIVE PERSPECTIVE

Prior to examining the specific administrative procedures, it is crucial to establish the substantive legal principles that form the basis for any challenge. Comparative jurisprudence has consistently upheld that the tax authority must adhere to a set of fundamental legal controls and evidential standards when issuing a tax assessment. A failure to follow these principles renders the assessment legally vulnerable to challenge. These principles, while drawn from comparative law, underpin the concept of a "reasoned" appeal and are reflected in the UAE's own legal framework.

• 3.1. The Burden of Proof for Economic Activity:

The fundamental burden of proving that a taxable person has conducted a taxable activity rests with the tax authority. This is particularly critical in cases where the taxpayer denies the activity or disputes the date of its commencement. The authority is not

absolved of this burden even in circumstances where proof is challenging, such as with verbal contracts in the private sector. As emphasized by the Egyptian Court of Cassation, conducting business with the public sector does not automatically imply similar activities with the private sector, and the authority's inability to prove its case does not shift the burden of proof onto the taxpayer. In a ruling (UAE Federal Supreme Court Case No. 212 of 2023, Administrative Division), the Court articulated a pivotal doctrine on the allocation of the burden of proof, grounding its reasoning in the principle of procedural fairness. The judgment explicitly states: "**It is established that the burden of proof lies upon the claimant... [however] the administrative judiciary's departure from this principle... occurs only when the documents necessary for ruling on the case are exclusively in the administration's possession.**" This ruling creates a critical exception to the general rule, effectively shifting the procedural burden to the Federal Tax Authority (FTA) when it is the sole holder of evidence essential to the case. The court further clarified the consequence of non-compliance by the administration, ruling that "**if a taxpayer challenges the legality of the contested decision... and the administrative authority fails to respond or produce evidence... the court may rule on the basis of a presumption that the taxpayer's claim is correct.**" This principle prevents the FTA from leveraging its informational monopoly to undermine a taxpayer's right to a fair hearing, thereby upholding the integrity of the administrative justice system by ensuring that a taxpayer's ability to contest an assessment is substantive rather than merely theoretical.

• 3.2. Reliance On Conclusive and Admissible Evidence:

Tax assessments must be based on tangible evidence and robust, objective indicators, not on weak presumptions or unverified assumptions. Comparative tax appeal committees have frequently rejected reliance on insufficient evidence. For instance, electricity consumption records were deemed inadmissible if not conclusively linked to the specific tax period under dispute. The cornerstone of assessment must be certainty and material facts, not conjecture or speculation. If a taxpayer notifies the authority of ceasing operations and subsequent inspections confirm the absence of activity during the disputed years, the very foundation for the tax liability is negated.

• 3.3. Prohibition On Hearsay and Media Reports:

It is impermissible for a tax authority to base an assessment on hearsay, rumours, or unverified media reports. Unsubstantiated or vague allegations cannot form a legal basis for estimating tax liability unless supported by concrete and irrefutable material evidence.

• 3.4. The Imperative of Formal Notification and a Reasoned Assessment:

Formally notifying the taxpayer of the issued assessment is a fundamental procedural safeguard, ensuring the taxpayer's right to defense and appeal. Failure to provide proper notification constitutes a violation of these essential procedural rights. Article 20 of the UAE's Executive Regulation to the Federal Decree-Law No. 28 of 2022 explicitly mandates No. 74 of 2023 that a tax assessment must clearly state:

- **The Reasons and Basis:** A clear articulation of the reasons, alongside the factual and legal grounds for the assessment. This ensures transparency and upholds the taxpayer's right to understand the justification for the determination.
- **The Net Tax Amount:** The precise net amount of tax due from the person, or conversely, the amount to be refunded by the Authority.
- **Payment Details:** The due date for payment and the acceptable methods of settlement.

The legal consequence of notification is significant: once a person is formally notified of the tax assessment, the specified amount becomes a legally due debt payable to the FTA, triggering enforceable obligations, potential penalties for delay, and the Authority's right to initiate compulsory collection measures.

4. The Request for Review: A Preliminary and Optional Mechanism

4.1. Nature And Purpose

Stipulated under Article 28 of Federal Decree-Law No. 28 of 2022, the Request for Review serves as an optional, preliminary administrative mechanism. It is characterized by its **optional and non-mandatory** nature, meaning it is not a prerequisite for advancing to subsequent appeal stages. Its core legislative intent is to function as an initial filter, enabling the prompt rectification of potential inaccuracies in the FTA's assessment directly by its internal departments, thereby promoting efficiency and reducing the need for more formal proceedings.

4.2. Jurisdictional Scope

The application of this mechanism is narrowly tailored and deliberately restricted. It is exclusively permissible against decisions pertaining to a **Tax Assessment** and its directly linked **Administrative Penalties**. It cannot be invoked to challenge other categories of decisions issued by the FTA, such as registration-related decisions for tax agents or taxable persons, which distinguishes it from the broader mechanism of reconsideration.

4.3. Procedural Requirements

The legislator has imposed specific formal conditions for a valid Request for Review⁵¹:

- **Time Limit:** The request must be formally submitted within a stringent deadline of **forty (40) business days** from the date of the taxpayer's notification of the contested assessment and penalties.
- **Substantiation:** The request must be **duly reasoned**. The taxpayer is obligated to clearly articulate the factual and legal grounds justifying the review, outlining the perceived inaccuracies in the assessment.
- **Form:** Submission must adhere to the official form and mechanism prescribed by the FTA.

4.4. Financial Precondition

A pivotal characteristic of this request is its **cost-free nature**. The legal framework does not require the taxpayer to settle the disputed tax or penalty amounts as a condition for its submission, ensuring broad accessibility and encouraging its use as a first step in resolving disagreements.

4.5. Adjudication And Timeline

The FTA retains jurisdiction over these requests. The Authority is legally bound to examine the request and render a **reasoned decision within forty (40) business days** of its receipt. The taxpayer must be formally notified of this decision within five (5) business days of its issuance. A failure by the FTA to issue a decision within the stipulated timeframe empowers the taxpayer to proceed directly with a Request for Reconsideration, integrating an efficiency incentive into the process.

5. The Request for Reconsideration: The Mandatory Administrative Appeal

5.1. Nature And Purpose

Governed by Article 29 of the Law, the Request for Reconsideration constitutes the principal and **mandatory** administrative appeal avenue. In

⁵¹ Article 28 of Federal Decree-Law No. 28 of 2022

contrast to the Request for Review, it is **obligatory**. Its purpose is to provide a formal administrative review of the FTA's decisions, serving as a critical filter that must be exhausted before a taxpayer can lodge an objection with the independent Tax Dispute Resolution Committees, aiming to resolve disputes without judicial intervention.

5.2. Jurisdictional Scope

This mechanism boasts a **broader application**. It can be initiated against **any decision** issued by the FTA, not being limited to tax assessments and penalties. This includes, but is not limited to, decisions on registration, deregistration, and refunds, thereby establishing it as the universal administrative remedy for all taxpayer grievances.

5.3. Procedural Requirements

The procedural mandates are **stringent**⁵²:

- **Time Limit:** Submission is required within **forty (40) business days** from the date of notification of the decision being challenged.
- **Substantiation:** The request must be **comprehensive and reasoned**, presenting a full legal and factual argument against the FTA's decision.
- **Form:** It must be filed using the official FTA platform and designated form.

5.4. Financial Precondition

Mirroring the Request for Review, this

mechanism is also **gratuitous**; no pre-payment of the disputed tax or penalties is required at this stage, maintaining accessibility.

5.5. Adjudication And Timeline

The FTA is mandated to study the request and issue a **reasoned decision within forty (40) business days** of receipt. The decision must be communicated to the applicant within five (5) business days of its issuance. If the FTA remains silent and fails to issue a decision within this period – a phenomenon known as administrative silence – the taxpayer acquires the right to file an objection with the Tax Dispute Resolution Committees.

5.6. Sequential Relationship

The legislator has established a clear procedural sequence between the two mechanisms. If a taxpayer has previously filed a Request for Review concerning a tax assessment, they are precluded from filing a Request for Reconsideration on the identical subject matter until a definitive decision on the review has been issued or the statutory response period has elapsed. This prevents parallel proceedings and ensures an orderly process.

A Comparative Analysis: Distinguishing the Two Mechanisms

A comparative examination reveals a deliberate legislative design to create a hierarchical and distinct grievance procedure:

Table

Feature	Request for Review	Request for Reconsideration
Legal Nature	Optional, Preliminary	Mandatory, Prerequisite for further appeal
Jurisdictional Scope	Narrow (Tax Assessments & linked Penalties only)	Broad (Any FTA decision)
Procedural Sequence	First-stage, optional filter	Second-stage, mandatory step
Legal Consequence	Partial review may imply acceptance of non-contested parts	No such implied acceptance; sequential dependency on Review Request exists.
Financial Precondition	Cost-free	Cost-free
Adjudication Timeline	40 business days for FTA decision	40 business days for FTA decision

Practical Challenges and Legal Implications

Despite the clarity of the legislative text, practical challenges persist. A primary concern is the lack of explicit specification regarding the **internal competent body** within the FTA that adjudicates these requests. The Law is silent on whether specialized internal committees or individual officers are responsible, potentially impacting consistency,

expertise, and perceived impartiality.

Furthermore, the phenomenon of **administrative silence** – where the FTA fails to respond within the statutory deadline – creates legal uncertainty. While the law rightly grants the taxpayer the right to proceed to the next stage, the absence of an explicit legal fiction deeming silence as an implicit rejection can lead to complications in defining the precise

⁵² Article 29 of Federal Decree-Law No. 28 of 2022

object and legal grounds of any subsequent appeal to the Committees.

8. Conclusion and Recommendations

The administrative stage, operationalized through its dual mechanisms of review and reconsideration, encapsulates the UAE legislator's policy of fostering administrative settlement. This mandatory, sequential process effectively balances the FTA's need for efficient revenue collection with the fundamental rights of taxpayers to accessible and fair appeal procedures, forming the essential first pillar of a holistic tax dispute resolution system.

From a comparative perspective, this approach contrasts with alternative models, such as the Saudi framework where committees established by ZATCA Board Decision No. (24-02-05) serve as a dedicated **Alternative Dispute Resolution (ADR)** mechanism. The Saudi model allows for a parallel, voluntary settlement track for disputes on issues like tax base determination and penalties, which can even suspend ongoing litigation. This highlights a different philosophical emphasis on **consensual dispute resolution** that exists alongside, rather than within, the formal administrative appeal hierarchy. The UAE's structured, mandatory process prioritizes procedural certainty and a definitive administrative record, while other models offer greater flexibility for negotiated outcomes⁵³. Recognizing this comparative context enriches the understanding of the UAE's strategic choice to embed settlement within its mandatory administrative phase.

To further enhance this framework and address the identified challenges, it is recommended that the Executive Regulation and subsequent ministerial decisions:

1. **Clarify the Adjudicating Bodies:** Explicitly define the internal departments or committees within the FTA responsible for reviewing these requests, ensuring specialization, independence, and consistent application of the law.
2. **Codify the Effects of Administrative Silence:** Introduce a clear legal presumption that FTA inaction beyond the statutory deadline constitutes an implicit rejection, thereby clarifying the legal status of the dispute for any subsequent appeal.

⁵³ Rules and procedures for the work of the Zakat, Tax and Customs Dispute Settlement Committees, Zakat, Tax and Customs Authority, available at the following link:

https://zatca.gov.sa/ar/RulesRegulations/Documents/Zatca_Lijan.pdf

3. Develop Detailed Procedural Guidelines:

Issue comprehensive guidelines to standardize the examination process, including evidence submission, hearing procedures (if any), and communication protocols, thereby bolstering transparency and legal certainty.

4. Invest in Specialized Training:

Implement ongoing training programs for FTA personnel handling these requests, focusing on legal analysis, evidence evaluation, and decision-drafting to ensure high-quality, consistent, and well-reasoned outcomes.

By addressing these areas, the UAE can solidify its position as a jurisdiction with a modern, efficient, and just administrative tax dispute resolution system.

Section Two: The Tax Dispute Resolution Committees in the UAE Legal Framework

1. Introduction

The Tax Dispute Resolution Committees (TDRCs) constitute a cornerstone of the administrative settlement framework for tax disputes in the United Arab Emirates. They represent an advanced hybrid model that merges specialized administrative expertise with judicial safeguards. The legal framework governing these committees has evolved significantly, from Federal Law No. (7) of 2017 on Tax Procedures to the current Federal Law No. (28) of 2022 and its Executive Regulation No. (74) of 2023. Their operations are further detailed by Cabinet Resolution No. (23) of 2018⁵⁴, and more recently, Cabinet Resolution No. (12) of 2025⁵⁵, which specifically regulates the procedures for objections and appeals by government entities in tax disputes.

2. Legal Nature of the Committees

The TDRCs belong to the category of administrative bodies endowed with judicial jurisdiction, commonly referred to in legal doctrine as quasi-judicial tribunals.

This dual nature is derived from several key elements:

- **Administrative Character:** This is evident in their institutional affiliation with the Ministry of Justice, under whose administrative and financial supervision they operate. Legally,

⁵⁴ Official Gazette, No. 631, May 31, 2018, date of issuance of the legislation: May 1, 2018, date of entry into force of the legislation: May 1, 2018.

⁵⁵ Official Gazette, No. 793, February 14, 2025, date of issuance of the legislation: February 10, 2025, date of entry into force of the legislation: April 15, 2025.

their decisions are classified as administrative decisions, not judicial rulings, thereby subjecting them to the oversight of the administrative judiciary.

- **Quasi-Judicial Character:** This manifests in their composition, which includes members of the judiciary, their adherence to procedures that closely resemble judicial processes, their functional independence in exercising their jurisdiction, and their issuance of decisions that are binding on the parties.

The UAE system is distinguished by its clarity and precision, as the legislator has explicitly defined the legal nature of these committees.

3. Formation And Organizational Structure

Federal Law No. (28) of 2022 and Cabinet Resolution No. (23) of 2018 meticulously regulate the formation of the TDRCs. Article 30 of the Law stipulates:

"One or more permanent committees shall be formed, chaired by a member of the judiciary, and with the membership of two experts registered in the register of tax experts."

The members are appointed by a decision of the Minister of Justice in coordination with the Minister of Finance for a renewable term of one year, not exceeding a maximum of three years⁵⁶.

- **Membership Requirements:**
 - For the Committee Chairman: Must be a judge (a member of the judiciary).
 - For the Expert Members: Must be registered in the register of tax experts.
- **Reserve Members and Guarantees of Independence:** Cabinet Resolution No. (23) of 2018 provides for the appointment of reserve members under the same conditions. It safeguards the members' independence through functional immunity, regulations for recusal and dismissal, and the determination of remuneration commensurate with the nature of the work.

4. Jurisdictions And Powers

The new law has expanded the jurisdictions of the TDRCs compared to its predecessor.

Article 31 of Federal Law No. (28) of 2022, along with other regulatory texts, establishes the

following jurisdictions:

- **Primary Jurisdiction:** Adjudicating objections raised against the decisions of the Federal Tax Authority (FTA) concerning Requests for Reconsideration, whether these decisions are explicit or implicit.
- **Subsidiary Jurisdiction:** Adjudicating Requests for Reconsideration that were submitted to the FTA but not decided within the legal timeframe of forty-six business days from the date of submission.

The Law grants the Committees discretionary authority to evaluate evidence and presumptions, estimate the due tax value in disputed cases, and take all necessary measures to adjudicate the dispute, including requesting documents, hearing witnesses, and appointing experts.

- **Geographical Jurisdiction:** The Executive Regulation has distributed geographical jurisdiction among three main committees in Abu Dhabi, Dubai, and Sharjah.
- **Substantive Scope:** It is crucial to note that the stage of reviewing a tax dispute before the TDRCs is not a stage of litigation *per se*⁵⁷, but rather a stage of re-examining the disagreement between two parties before resorting to the judiciary. The legislator has endowed these committees with judicial authority to settle the dispute between the taxpayer and the tax administration, regardless of the cause of the disagreement, be it related to figures or the very principle of imposing the tax⁵⁸. They also hold the power to estimate profits in case of disagreement between the taxpayer and the FTA. The committee may correct material errors even if it worsens the taxpayer's position, as material errors hold no legal authority⁵⁹.

5. Procedures And Litigation

The Executive Regulation No. (74) of 2023 precisely regulates the procedures before the TDRCs:

- **A. Conditions for Accepting an Objection:**
 - Prior submission of a Request for Reconsideration to the FTA.
 - Submission of the objection within forty business days from the date of notification of the FTA's decision or the lapse of the legal

⁵⁶ Article 2 of Cabinet Resolution No. 23 of 2018

⁵⁷ Appeal No. 3721 of 60 Q, Session of April 2, 1998, Egyptian Court of Cassation.

⁵⁸ Appeal No. 1309 of 48 Q, Session of 2/28/1983, Egyptian Court of Cassation.

⁵⁹ Appeal No. 288 of 50 Q, Session of 4/30/1984, as well as Appeal No. 167 of 36 Q, Session of 11/28/1973, Tax Cassation Court, p. 699.

period for a decision.

- Payment of the full amount of the disputed tax. **For government entities**, according to Cabinet Resolution No. (12) of 2025, they are not required to pay the full tax or administrative penalty related to the objection when filing it and until a decision is issued by the Committee, without prejudice to any administrative penalties that may be imposed under Law No. (28) of 2022⁶⁰.
- Submission of all supporting documents and evidence.
- **B. Objection Filing Procedures:**
- Submitting the approved objection form to the competent committee.
- Attaching all supporting documents.
- Payment of prescribed fees, if any.
- **C. Case Progression Procedures:**
- Registration of the case in a special register.
- Exchange of memoranda and responses.
- Holding sessions and hearing arguments.
- Preparation of expert reports when necessary.

Special Procedures for Objections by Government Entities:

For objections filed by government entities, the Committee must⁶¹:

1. Study the objection and issue a decision within twenty business days of receipt.
2. Notify the government entity and the FTA of its decision within three business days of its issuance.
3. The Committee's decision is final if the total due tax and administrative penalties do not exceed AED 100,000.
4. The lapse of the specified period without a decision from the Committee is considered a rejection of the objection.

Case Adjudication Timeline: The Committee shall study the objection submitted to it and issue a decision thereon within a period of **twenty (20) business days** from the date of receiving the objection. The Committee shall notify the objecting party and the Authority of the decision it has issued within **five (5) business days** from the date of its issuance⁶².

Issuance of the Decision: The decision must be reasoned, signed by all committee members, and

include the factual and legal grounds upon which it is based. Final decisions in disputes not exceeding AED 100,000 are considered enforceable instruments. Decisions in disputes exceeding AED 100,000 become enforceable instruments if not appealed before the competent court within forty business days of notification. Final decisions with the force of an enforceable instrument are executed by the execution judge at the competent court⁶³.

This mechanism finds a clear parallel in Brazilian law. Specifically, the UAE's approach resembles that of Brazil, where the jurisdiction of the Administrative Council for Tax Appeals (CARF) – the administrative body responsible for adjudicating tax disputes between taxpayers and the tax authority – is final and not subject to judicial appeal, provided the disputed amount does not exceed one million, three hundred and two thousand Brazilian Reais. This means tax cases involving amounts below this threshold result in final and judicially unappealable decisions, a provision established by the legislative amendment introduced through Law No. 2,384/2023, issued on August 30, 2023⁶⁴.

However, some legal commentators argue that by raising the financial threshold for appeals, the system inherently favors large taxpayers while simultaneously restricting access to CARF for small taxpayers. This situation is viewed as violating the principle of equality and deprives taxpayers of the opportunity to have their tax credit reviewed by the tax administration regarding the correct application of legislation. Setting such an excessively high jurisdictional amount is considered entirely unreasonable and disproportionate, particularly as two taxpayers could find themselves in identical legal circumstances facing adverse decisions, yet one might be denied this administrative right due to lack of economic and financial capacity. Consequently, a taxpayer's financial capability effectively becomes a discriminatory factor in accessing the Administrative Council for Tax Appeals (CARF)⁶⁵.

However, from my personal perspective, I believe that this criticism of restricting the appeal of committee decisions based on a specific monetary threshold is exaggerated. This mechanism, in fact, serves to stabilize legal positions on one hand, and on

⁶⁰ Article 4, Clause 3 of Cabinet Resolution No. 12 of 2025.

⁶¹ Article 5 of Cabinet Resolution No. 12 of 2025.

⁶² Article 33 of the Tax Procedures Law.

⁶³ Article 6 of Cabinet Resolution No. 12 of 2025.

⁶⁴ <https://www.trenchrossi.com/en/legal-alerts/brazil-senate-approves-the-return-of-the-tie-breaking-rule-in-favor-of-the-tax-authorities-at-the-administrative-level-carf/> Last visit on 8-8-2024.

⁶⁵ <https://www.ronaldomartins.adv.br/en/2023/02/23/carf-administrative-council-for-tax-appeals-the-new-decisions-with-casting-vote-now-in-favor-of-the-federal-tax-authority/> Last visit on 8-8-2024.

the other hand, it curbs procedural delays and prevents the prolongation of disputes by re-litigating the entire case before the judiciary—a practice that overburdens the courts with numerous low-value cases.

Furthermore, it would be possible to allow judicial appeals against committee decisions whose value falls below the legally prescribed threshold, provided that the appeal is strictly on points of law and does not involve a complete re-examination of the entire dispute. In legal terms, courts in such instances would function as courts of law, not courts of fact. Consequently, the grounds for appeal would be limited, similar to a cassation appeal or an appeal before a supreme court, to specific legal grounds such as violation of the law, misapplication of legal provisions, flawed reasoning, or insufficient justification in the decision—without delving into the factual merits of the case, re-assessing evidence, or re-weighing probative value, as such substantive debates are not within the purview of a court of law.

The Committees are obliged to observe the general principles of litigation⁶⁶, including the rule against bias, the principle of confrontation between the parties, and the right to a proper defense. The rules for the recusal of judges apply to the committee members insofar as they are practicable⁶⁷. The Committees follow civil procedure rules where possible but cannot impose the penalties mentioned in the Civil Procedures Law. Their decisions acquire the authority of *res judicata* once they become unappealable⁶⁸.

6. CONCLUSION

The Tax Dispute Resolution Committees in the UAE represent a successful model for the administrative settlement of tax disputes, blending specialized expertise with judicial safeguards. The precise regulation under Federal Law No. (28) of 2022 and Executive Regulation No. (74) of 2023 has significantly developed the efficacy of these committees.

Despite the challenges they face, the future promises further development and enhancement, especially given the increasing importance of their role in balancing the interests of the public treasury and the rights of taxpayers, thereby fostering a favorable investment climate through effective and fair mechanisms for resolving tax disputes. Continuous study and evaluation remain essential in

light of ongoing developments in the UAE tax system and the increasing complexity of tax transactions and disputes, necessitating the continual improvement of these committees' performance and procedures.

Section Three: Judicial Recourse and Appeals Mechanism

The United Arab Emirates' tax dispute resolution framework establishes a structured judicial recourse process as the final stage in its hierarchical system. Governed primarily by Article 36 of Federal Decree-Law No. 28 of 2022, this mechanism provides for appeals to the competent Federal Primary Court, ensuring judicial oversight while maintaining respect for the specialized nature of the preceding administrative and quasi-judicial stages.

1. Right To Judicial Appeal and Time Limits

Pursuant to Article 36(1), both the Federal Tax Authority (FTA) and the taxpayer possess the right to challenge a decision of the Tax Dispute Resolution Committee (TDRC) before the competent court. This appeal must be filed within a stringent period of **forty (40) business days** from the date of notification of the TDRC's decision. The law explicitly grants this right in two key scenarios: first, for an appeal against the TDRC's decision, whether in whole or in part; and second, in the event of a failure by the TDRC to issue any decision on an objection submitted to it, a situation known as administrative silence.

2. Financial Preconditions and Grounds for Dismissal

A distinctive and critical feature of the UAE's system is the establishment of financial preconditions for admissibility. Article 36(2) mandates that the court shall dismiss an appeal filed by a taxpayer in the following cases:

- a. If the objection before the TDRC was itself inadmissible under the grounds stipulated in the law.
- b. If the taxpayer fails to provide proof of having paid the **full amount of the disputed tax** to the FTA.
- c. If the taxpayer fails to pay at least **fifty percent (50%)** of the administrative penalties stipulated in the TDRC's decision, either through cash payment or by providing a bank guarantee approved in favor of the FTA.

⁶⁶ Appeal No. 340 of 53 Q, session of 1/12/1988, Egyptian Court of Cassation.

⁶⁷ For example, appeal No. 3983 of 60 Q, session of May 21, 1998. Egyptian Court of Cassation.

⁶⁸ Appeal No. 2026 of 57 Q, session of 6/12/1994. Egyptian Court of Cassation.

This framework underscores a legislative policy that prioritizes the collection of undisputed core tax revenues while allowing for judicial review on the merits, albeit with a significant financial commitment from the taxpayer regarding penalties. The Cabinet reserves the power to amend the amounts and percentages mentioned in these preconditions based on a proposal from the Minister of Finance.

3. Jurisdictional Threshold and Finality Principle

Complementing the admissibility criteria is the principle of finality for smaller disputes. As established in the procedures for the TDRCs, a committee's decision becomes final and non-appealable if the total value of the due tax and administrative penalties does not exceed **AED 100,000**. This monetary threshold serves the dual purpose of ensuring judicial economy by limiting court congestion and providing swift finality for lower-value disputes, though it inherently restricts full judicial review for a segment of taxpayers.

4. Scope Of Judicial Review and the Referral Mechanism

The Federal Primary Court exercises a comprehensive but defined review authority over TDRC decisions. The judicial examination typically encompasses procedural validity, legal conformity, and proper factual characterization. A fundamental characteristic of this review, reflective of the civil law tradition, is the court's limited authority upon annulment. If the court annuls the TDRC's decision—for instance, on procedural grounds or an error in law—it generally cannot substitute its own decision on the substantive tax liability. Instead, it must refer the case back to the TDRC for re-examination and a new decision based on the court's legal guidance. This referral mechanism acknowledges the Committee's specialized technical expertise and maintains the institutional balance between judicial oversight and administrative specialization.

A taxpayer holds the statutory right to submit a request for the reconsideration or cancellation of penalties imposed by the Federal Tax Authority (FTA), as empowered by the law. However, the exercise of this right is contingent upon filing the request within a strictly defined statutory timeframe—now set at **forty (40) business days** pursuant to Federal Law No. 28 of 2022—from the date of gaining definitive knowledge of the FTA's decision. Failure to adhere to this prescribed timeframe grants the FTA the legitimate authority to reject the request as time-barred.

Disputes may arise between the FTA and the taxable person regarding the calculation of this limitation period. UAE tax procedural law provides explicit clarification: this period is calculated exclusively in **business days**, excluding official holidays. Furthermore, for the limitation period to commence, the taxpayer must have received **official and unequivocal notification** of the decision. The period begins on the day following the date of such definitive knowledge. Consequently, without formal notification, the objection period does not start, even if a significant amount of time has passed since the decision was issued.

This fundamental legal principle was authoritatively affirmed by the UAE Federal Supreme Court in Appeal No. 853 of 2020 (Administrative), dated 24 March 2021. The Court held: "Whereas it is established that the concerned party may submit an objection before the Tax Disputes Resolution Committee against the reconsideration decision issued by the Federal Tax Authority within twenty business days from the date of being notified of the Authority's decision... Consequently, the aforementioned objection period shall run from the day following the date of official notification and definitive knowledge thereof..." It is crucial to note that this timeframe has since been amended and extended to forty (40) business days under the provisions of Federal Law No. 28 of 2022.

In summary, the UAE legislature has established precise legal parameters to govern and scrutinize the FTA's decisions. This framework enshrines the right of taxable persons to challenge administrative actions before the competent judicial bodies whenever their rights are infringed or they sustain harm as a result.

5. Judicial Discretion and Procedural Measures

The judicial review extends to the validity of the procedures followed, the conformity of the Committee's decision with the law, and the correct legal characterization of the facts. In application thereof, the Federal Supreme Court ruled in one of its judgments that the appellant's error in not initially registering under the partnership only entails a penalty on the appellant prescribed for the registration error according to Item 3 of Schedule No. (1) attached to Cabinet Decision No. 40 of 2017. However, the mentioned erroneous procedure did not cause damages to the Authority in collecting its tax dues, considering that the returns, although submitted individually for the jointly owned properties, were submitted within their legally prescribed deadlines. Consequently, the Authority's right to a penalty is limited to collecting the penalty

prescribed for the erroneous registration – which the Authority did not impose on the appellant – without this right extending beyond that to impose other penalties for returns that were submitted within the legally prescribed deadline without delay⁶⁹.

It is noteworthy here that the appeal is directed specifically against the decision issued by the Tax Dispute Resolution Committee, to the exclusion of other administrative decisions issued by the Authority related to the subject of the dispute. In concise legal terms, the scope of the litigation and judicial appeal is confined to what was presented before the Appeal Committee, without extending to other facts or decisions that were not subject to appeal before the Committee. Consequently, if a taxpayer appeals to the court regarding the issue of additional tax, for example, and this issue was not raised or argued before the Committee, the court shall rule the appeal inadmissible for falling outside the scope of the dispute and for being raised through a channel not prescribed by law. Furthermore, if the court overturns the formal dismissal of the dispute by the Committee, it does not adjudicate the merits but refers it back to the Committee for a ruling, as the Committee has not yet exhausted its jurisdiction. This is also a settled principle in the jurisprudence of the Egyptian Court of Cassation, which ruled that if the court annuls the formal decision of the Appeal Committee, it returns the case files to the Tax Appeal Committee to assess the profits *ab initio* because it had not exhausted its jurisdiction in considering the appeal⁷⁰. The court may, in the reasoning of its judgment, refer to the decision of the Appeal Committee, provided that it upholds it and it becomes an integral part of the judgment⁷¹.

Comparative jurisprudence has consistently held that when a court considers a dispute, its jurisdiction is confined to hearing the appeals presented to it within the confines of the Appeal Committee's decision⁷². It is not entitled to rule on grounds not appealed or to assess taxable profits because it lacks the jurisdiction to do so⁷³. Furthermore, the court may not address matters not presented to the Appeal Committee or where the appellant's right to raise them has been forfeited because they have acquired the authority of a *res judicata*, such as a committee decision considering the appeal as null and void due

to the taxpayer's failure to appear at the scheduled session despite being notified. Consequently, the taxpayer may not file a new lawsuit to reconsider this matter and re-assess the profits⁷⁴.

If the law requires the taxpayer to follow a specific procedure and they fail to do so, they may not subsequently challenge the conduct of the Authority or the Appeal Committee when it rejects their request as contrary to law. Therefore, the UAE federal judiciary has established that an objection for exemption from or installment of a penalty imposed on a taxable person must be made by resorting to the committee stipulated in Cabinet Decision No. 105 of 2021, *ratione materiae*, considering it a procedural decision that must be implemented immediately upon its issuance and the cessation of the effect of previous decisions. Proof that the appellant did not resort to this committee with any request, or to the Tax Dispute Resolution Committee for exemption or reduction of penalties, results in the challenge to the judgment for error in not applying Cabinet Decision No. 49 of 2021 in this regard being deemed unfounded and unacceptable⁷⁵.

Court's Discretionary Powers: The court enjoys discretionary power in examining documents and relying on their content or disregarding it⁷⁶, as well as in accepting or rejecting an expert's report, or referring the case to another expert⁷⁷, and in interpreting contracts⁷⁸. Contesting these matters constitutes a substantive dispute that may not be raised for the first time before the Supreme Court. While the trial court has full authority to ascertain and comprehend the facts of the case from the evidence presented and to prefer some evidence over others, it is subject to the scrutiny of the Supreme Court regarding the legal characterization of this understanding and the application of the appropriate legal provisions⁷⁹.

The UAE federal judiciary has also established that the relationship between the Federal Tax Authority and the taxable person is a regulatory relationship, not a contractual one. This means that the legally specified date for tax payment is unrelated to the tax returns submitted by the taxable person or the assessments conducted by the Authority. Proof that the appellant failed to pay the tax by the legally prescribed deadline, and then submitted a voluntary

⁶⁹ Federal Supreme Court, Appeals No. 227 and 265 of 2022 Administrative, Session of March 16, 2022.

⁷⁰ Appeal No. 442 of 68 Q, Session 2/12/2009, Tax Cassation Rulings, p. 311.

⁷¹ Appeal No. 1233, Decision No. 58, Session of 5/31/1999.

⁷² Appeal No. 10393 of 77 Q, session 3/9/2009.

⁷³ Appeal No. 10393 of 77 Q, session 3/9/2009.

⁷⁴ Appeal No. 341 of 57 Q, session of 11/26/2002.

⁷⁵ Federal Supreme Court, Appeal No. 39 of 2023 - Administrative

⁷⁶ Appeal No. 39 of 2023 - Administrative, Federal Supreme Court, Collection of Rulings, 2023, p. 237, and also in the same matter, Egyptian Court of Cassation, Appeal No. 9328 of 65 Q, Session of 12/25/2007.

⁷⁷ Appeal No. 458 of 68 Q, session of 11/27/2008.

⁷⁸ Appeal No. 3866 of 65 Q, session of 11/27/2007.

⁷⁹ Appeal No. 126 of 72 Q, session 4/8/2008.

disclosure confirming its commission of the violation stipulated in Item 9 of the Schedule attached to Cabinet Decision No. 40 of 2017, renders a challenge to the judgment for violating the mentioned Decision and the inapplicability of the violation to the incident unacceptable. The penalty prescribed for submitting a voluntary disclosure differs from the penalty for delay in paying the due tax differences. Each penalty has its own scope of application and effect. Consequently, failure to pay the due tax by its specified deadline, whether stated in the original return or the voluntary disclosure, obligates the imposition of the prescribed delay penalty⁸⁰.

Appeal and Suspension of Execution: Filing an appeal does not automatically suspend the execution of the Committee's decision, unless the court orders a stay of execution upon the request of an interested party.

Finally, The UAE's judicial recourse mechanism, as articulated in Article 36, represents a carefully calibrated system that balances multiple objectives: ensuring legal correctness through judicial review, maintaining the primacy of specialized technical assessment, achieving procedural efficiency through financial preconditions and monetary thresholds, and protecting the state's revenue interests. This multifaceted approach reflects the evolving nature of tax dispute resolution in a dynamic civil law jurisdiction.

Conclusion, Findings, and Recommendations

Conclusion

This study has provided a comprehensive critical analysis of the United Arab Emirates' tax dispute resolution framework, evaluating it not merely as a procedural construct but as a foundational pillar of sustainable tax governance in a rapidly transforming economy. The research substantiates that the meticulously designed, multi-tiered mechanism – progressing from mandatory administrative review to independent quasi-judicial adjudication and culminating in judicial recourse – represents a deliberate institutional innovation. It transcends the basic function of conflict resolution to actively reconcile the state's imperative for procedural efficiency and revenue certainty with the non-negotiable principles of taxpayer rights protection and substantive fairness.

The analysis confirms that the system, anchored in Federal Law No. 28 of 2022, is a dynamic and evolving entity. Its strength lies in its hybrid character, which successfully integrates civil law codification with adaptive, internationally-informed best practices. Furthermore, the emerging

jurisprudence, exemplified by landmark rulings such as the Federal Supreme Court's articulation of the **burden of proof**, demonstrates a vital judicial role in dynamically calibrating the power equilibrium between the individual and the tax authority. This ongoing institutional dialogue is crucial for the framework's legitimacy and maturation.

Furthermore, the UAE's framework presents a critical case study for the **digital dimension of scientific culture in governance**. As tax administrations globally, including the FTA, increasingly adopt big data analytics, artificial intelligence for risk assessment, and blockchain for transaction transparency, the principles embedded within this dispute resolution model – **transparency, the right to evidence, and reasoned decision-making** – will become even more vital. The system's capacity to ensure that technological efficiency does not eclipse fundamental rights will be a key test of its long-term sustainability and a relevant lesson for **digital culture in modern state institutions**. Ultimately, the UAE model offers a seminal paradigm for **emerging economies**. Its significance extends beyond technical efficiency; it demonstrates how a jurisdiction can architect a **legitimate fiscal state** capable of supporting economic diversification and global integration. The system's ultimate efficacy will be measured by its capacity to foster voluntary **compliance** through perceived fairness, predictability, and transparency. While challenges related to procedural clarity and precedent dissemination persist, the framework's core architecture provides a resilient foundation for **sustainable tax governance**. Future refinements focused on enhancing cooperative compliance culture and institutional transparency will solidify the UAE's position as an instructive case study in balancing authoritative capacity with constitutional safeguards in the modern fiscal state.

7. FINDINGS

Based on the doctrinal and comparative analysis conducted, this research yields the following principal findings:

1. **A Governance-Oriented Procedural Architecture:** The UAE has established a clear, sequential hierarchy for tax dispute resolution that serves the **dual governance objectives of efficiency and legitimacy**. The delineation between the optional Request for Review and the mandatory Request for Reconsideration

⁸⁰ Appeal No. 39 of 2023 - Administrative, Federal Supreme Court, Collection of Judgments, 2023: p. 237

functions as an effective administrative filter, promoting timely resolutions while safeguarding access to remedy.

2. **The Quasi-Judicial Pillar as an Institutional Innovation:** The Tax Dispute Resolution Committees (TDRCs) represent the system's core innovation for **balancing expertise with fairness**. Their hybrid composition—integrating judicial leadership with technical specialists—ensures adjudication by a body equipped with both legal authority and fiscal acumen, a model crucial for **sustainable tax administration** in a complex economy.
3. **Judicial Oversight with a Governance Trade-off:** While judicial appeal provides essential oversight, the AED 100,000 threshold for finality of TDRC decisions introduces a **potential governance tension** between judicial economy and unrestricted access to justice. This design choice warrants ongoing evaluation against principles of **equitable fiscal governance**.
4. **Dynamic Jurisprudence Enhancing Systemic Fairness:** Emerging jurisprudence, particularly the principle of shifting the burden of proof to the FTA when it controls evidence, demonstrates the judiciary's role in **actively calibrating procedural equity**. This is a critical development for **building taxpayer trust** and mitigating power asymmetry.
5. **Procedural Ambiguities as Governance Gaps:** The research identifies operational challenges—such as ambiguity in internal FTA adjudication bodies and the legal status of administrative silence—as **governance gaps** that can undermine predictability and procedural certainty, essential components of a **legitimate system**.
6. **A Model of Balanced Priorities for Emerging Economies:** Overall, the framework successfully **institutionalizes a balance** between state efficiency and taxpayer rights. Its hybrid design, aligning international standards with local context, positions it as an **instructive model of sustainable tax governance** for dynamic, emerging economies.

8. RECOMMENDATIONS

To consolidate the UAE's framework as a benchmark for sustainable tax governance, the following evidence-based recommendations, derived from the findings, are proposed:

1. **Strengthen Procedural Governance:**
 - o **Clarify Adjudicating Bodies:** Specify the

internal FTA body handling administrative reviews via Executive Regulation to enhance **transparency and institutional accountability**.

- o **Codify Administrative Silence:** Legislate that silence on a Reconsideration Request constitutes a deemed rejection, closing a **procedural loophole** and strengthening **legal certainty**.
- 2. **Enhance the Legitimacy and Impact of the Quasi-Judicial Stage:**
 - o **Publish Redacted TDRC Decisions:** Create a repository of anonymized decisions to build a **predictable body of precedent**, fostering consistent application of law and **cooperative compliance**.
 - o **Invest in Specialized Capacity:** Implement advanced training for TDRC members on complex topics (e.g., transfer pricing) to ensure **institutional expertise** keeps pace with economic evolution.
- 3. **Optimize the Judicial Interface for Justice and Efficiency:**
 - o **Review the Monetary Threshold:** Periodically assess the AED 100,000 judicial appeal threshold to ensure it aligns with the **principle of accessible justice** without overburdening courts.
 - o **Empower Courts on Merits in Clear Cases:** Allow courts to decide substantive merits upon annulling a TDRC decision on purely procedural grounds where facts are established, **preventing procedural circularity** and enhancing finality.
- 4. **Cultivate a Culture of Cooperative Compliance (A Governance Imperative):**
 - o **Institutionalize Alternative Dispute Resolution (ADR):** Formalize mediation options within the administrative and TDRC stages to **reduce adversarial friction** and promote efficient, relational resolutions.
 - o **Develop Proactive Public Guidance:** The FTA should issue detailed guidelines on audit procedures and key legal interpretations to **prevent disputes at source**, moving from pure enforcement to **shared compliance governance**.

By adopting these recommendations, the UAE can transition its effective system into a mature and self-reinforcing pillar of sustainable tax governance. This would not only solidify domestic legitimacy but also establish the UAE's model as a leading reference for institutional design in aspiring fiscal states, demonstrating that economic dynamism and robust procedural justice are

mutually reinforcing goals.

5. Prepare for Digital Dispute Resolution:

- o **Develop Protocols for Digital Evidence:** Establish clear guidelines for the submission, authentication, and assessment of digital evidence (e.g., data from ERP systems, blockchain records, electronic invoices) within

the TDRC and judicial processes.

- o **Build Capacity in Digital Forensics:** Ensure TDRC members and FTA staff receive training on the technical aspects of digital taxation and forensic accounting to competently adjudicate disputes arising from an increasingly digitized economy.

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