

THE ROLE OF TAX DISPUTES RESOLUTION COMMITTEE IN SETTLING TAX DISPUTES IN THE UNITED ARAB EMIRATES

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Abstract: *This research stems from a problem represented in the extent of the success of the UAE legislator in organizing the work of tax Disputes Resolution Committees to end the tax dispute between the taxpayer and the tax administration in a way that balances the justice of tax decisions, the preservation of tax funds and the protection of public money. The research concluded with the relative success of the UAE legislator in adopting and organizing the work of the tax disputes resolution committees, while making some recommendations, the most important of which is obligating the tax disputes resolution committees to adhere to the rules of litigation contained in the Civil Procedures Law, in addition to being satisfied with paying the undisputed tax amount, not the assessed tax, as a condition for accepting the objection. Opening the door for space appeal against the decisions of the tax disputes resolution committees without restricting them to the estimated amount of tax*

Keywords: *tax disputes in the United Arab Emirates, tax procedures, tax administration*

1. INTRODUCTION

The United Arab Emirates is a federal state, and its constitution states in Article 42 that paying taxes and public costs legally established is a duty for every citizen. The same constitution also recognizes the principle of tax legality. According to Article 133 of the Constitution, it is not permissible to impose, amend or cancel any federal taxes except by law. No one may be exempted from paying these taxes in cases other than those established by law.

Article 120 of the UAE Constitution limits the power to impose federal taxes on the federal authorities.

When talking about the federal tax legislation in the UAE, it can be:

The first stage: from the establishment of the state until the year 2016. During this stage, we find only two applicable federal taxes:

1. The tax on ships established under Article 43 of Law No. (26) of 1981 regarding the Maritime Commercial Law, where a tax of two dirhams is imposed on each ship registered in accordance with the provisions of the Maritime Commercial Law for each ton of the ships' total tonnage, provided that the tax is paid on the first of January of each year, and if the ship was registered at a later time, the tax is due in proportion to the period from the date of registration and December 31 of the same year.
2. The Unified Customs Law of the Cooperation Council Countries, which imposes a customs tax of 5% on specific goods that enter the borders of the Gulf Cooperation Council countries.

The second phase: from 2016 until now. This stage is characterized by the issuance of many tax legislations, as the Gulf and UAE thought of taxation to diversify the state's financial resources. These laws can be divided into two types:

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First: Procedural Legislation:

Federal Decree-Law No. 13 of 2016 regarding the Federal Tax Authority: According to this legislation, the Federal Tax Authority was established and granted an independent legal personality, and the order of its management was entrusted to a board of directors composed of the president (the Minister of Finance) and enough members whose appointment and remuneration decision is issued by the Council of Ministers.

Law No. (7) of 2017 on Tax Procedures: It is the legislation that defines the procedures related to the management, collection, and implementation of federal taxes by the Federal Authority.

Second: Substantive Legislation:

- Federal Decree-Law No. (8) of 2017 regarding value-added tax, which imposed a value-added tax on the supply and import of several goods and services.
- Excise Tax Law No. (7) of 2017, which imposed a tax on the consumption of a group of goods harmful to public health.

The Federal Tax Authority undertakes the process of estimating and collecting taxes and making decisions related to them, as these administrative decisions are extremely important and dangerous in the lives of taxpayers (the taxpayer), as they may reject the request.

And it may impose administrative fines, it may be subject to exemption and subject exemption, and it may be estimated arbitrarily, which requires, under justice, that taxpayers have the right to object to those decisions.

The UAE legislator has guaranteed this right and outlined its way in Tax Procedures Law No. (7) of 2017 through two stages: objection to the administration and appeal to the judiciary.

The objection before the Department is represented in the requests submitted by the taxpayers before the Department to demand the amendment or cancellation of its decisions, leading to the issuance of tax decisions in accordance with the provisions of the law.

Perhaps objecting to the administration achieves many benefits, the most important of which are:¹

1. Enabling taxpayers to obtain fair decisions with easy, simplified, and inexpensive procedures and without following the procedures and formalities prescribed for appeals to the judiciary and without the need to appoint a lawyer.
2. Objecting before the administration reduces the number of cases and disputes before the judiciary and reduces the burden on litigants in terms of money and effort.
3. The administrative objection helps the administration to correct its decisions without entering a judicial dispute.

The UAE legislator has made it possible to object before the administration in two successive and sequential stages:

Reconsideration and objection before the tax disputes resolution Committees.

Whereas Article (27) of the Tax Procedures Law for the year 2017 gave every natural or legal person against whom a decision was issued by the Federal Tax Authority to submit

¹ AL-SHAWABKAH, I. Sales Tax Law in Jordan: Questions of Legality and Propriety. *Arab Law Quarterly*. 2010, Vol. 24, No. 2, p. 211.

an objection to the authority if he believes that it is illegal under the title (reconsideration), whether the objection is based on the decision in its entirety or in part. from him.

The conditions for reconsideration can be summed up in:

First: The decision must be issued by the Federal Tax Authority.

Second: That the objection is reasoned, in which the objector explains the reasons for the request for reconsideration.²

Third: The request shall be submitted to the Commission within twenty working days from the date on which the person was notified of the objected decision of the Commission.

Once the request for reconsideration is submitted, the Federal Tax Authority will study it after ascertaining the fulfillment of the formal conditions and decide on it within twenty working days from the date of receiving the reconsideration request.³

The legislator was not satisfied with giving the taxpayers the right to object to the decisions of the Federal Tax Authority once administratively but gave them the opportunity once again to go to another committee he called (Tax Disputes Resolution Committee).

Hence this research comes to pose the problem of the extent of the success of the UAE tax legislator in organizing the work of the Tax Disputes Resolution Committee s to play their role in resolving disputes between taxpayers and tax administrations in a way that balances the fairness of tax-related decisions on the part of the taxpayers while at the same time preserving the tax funds allocated to satisfy public needs.

To answer this problem, it is necessary to define the nature of the Tax Disputes Resolution Committee s through the method of formation, their legal nature, and guarantees of the independence of their members before discussing the mechanism of their work.

2. WHAT ARE THE TAX DISPUTES RESOLUTION COMMITTEES?

2.1 Composition of committees and their terms of reference

The legislator required the formation of one or more permanent committees called (Tax Dispute Resolution Committee) headed by a member of the federal judicial authority and the membership of two experts from those registered in the tax experts list whose appointment is issued by a decision of the Minister of Justice in coordination with the Minister of Finance⁴ Provided that each committee appoints a judge and an expert from those enrolled in the tax experts' role as a backup.⁵

The establishment of the Tax Disputes Resolution Committee as a public administrative institution came with a serious desire from the legislator to protect tax subjects from any abuse or injustice by the tax administrations, first and second, to involve it in the activity of the tax administration aimed at creating close cooperation and a strong relationship between the parties to the tax relationship. On the one hand, it improves the relationship between taxpayers and the tax administration, on the other.⁶

² Article (27/1) of Tax Procedures Law No. (7) of 2017.

³ Article (27/2) of Tax Procedures Law No. (7) of 2017.

⁴ Article 28/1 of Tax Procedures Law No. (7) of 2017.

⁵ Article (2) of Cabinet Resolution No. (23) of 2018 issued on 1/5/2018 published on 31/5/2018.

⁶ Al-KHALAFI, H. The Effectiveness of the Role of Tax Committees in Settling Tax Disputes. *Al-Manara Journal for Legal and Administrative Studies*. 2017, Vol. 19, No. 6, p. 233.

Indeed, a committee has been formed to settle tax disputes in the Emirate of Abu Dhabi, another in Dubai, and another in Sharjah.⁷

Provided that the term of membership in these committees is one year starting from the date of the effective date of the decision to form them, and it may be extended for a similar period or periods, not exceeding three years, and if the period expires without a decision to renew the membership, the work of the committee continues until a decision is issued to renew it or to re-form the committee.⁸

As for the committees' competencies, it is useful to point out that tax disputes have two concepts: a broad one that extends to include all the problems and differences that arise between taxpayers and the tax administration, whether related to the imposition or collection of tax and the imposition of any penalties because of it or related to the legal status of taxpayers, this concept includes all disputes arising from the tax process, during it, or on its occasion, and the rules that govern the decision on it, from an objective or procedural point of view.

As for the narrow concept, it is limited to those disputes related to tax assessment or collection.⁹

It seems that our UAE legislator took the broad concept of tax disputes and considered every dispute related to the application of the tax as a tax dispute. This seems clear by defining the competencies of the tax dispute resolution committees, where the tax legislator defined the competence of the tax dispute resolution committees as follows:¹⁰

1. Deciding on the objections submitted to the Authority's decisions regarding requests for reconsideration, which were submitted in relation to all decisions issued regarding the tax process with all its details.
2. Deciding on the applications submitted to the Federal Tax Authority and the Authority has not taken a decision regarding them.

It is not permissible in any case to submit an objection request that was previously submitted and one of the other committees has decided on its subject.¹¹

However, the territorial jurisdiction of each committee is determined based on the place where the address of the person indicated in his tax registration file is located. As an exception to this, the Tax Disputes Committee in the Emirate of Sharjah has jurisdiction if the address of the objector shown in his tax registration file is in the Emirate of Sharjah, or the Emirate of Ras Al Khaimah, or the Emirate of Ajman, or the Emirate of Fujairah, or the Emirate of Umm Al Quwain.

If the objector is a foreign company and its address indicated in its registration file with the Authority is outside the country, the Tax Dispute Resolution Committee in the Emirate of Abu Dhabi is competent to decide on the objections submitted by it. When there is any problem related to a conflict of jurisdiction, the formed circuit in the Abu Dhabi Court of Appeal shall decide this matter.¹²

⁷ Minister of Justice Decision No. 35 of 2019 dated 3/1/2018.

⁸ Article (2/3/4) of Cabinet Resolution No. 23 of 2018.

⁹ ABDEL-AAL, K. *Ending Income Tax Dispute by Agreement*. PhD Thesis, Assiut University, 2012, pp. 8–9; ABDEL-RAOUF, M. *Tax Dispute in Egyptian and Comparative Legislation, first edition*. Dubai: Dar Al-Nahda Al-Arabiya 1988, pp. 23-24; BAYOUMI, Z. *Tax Disputes in Tax Assessment and Collection*. Cairo: Cairo University Press and University Book, 1990, p. 3.

¹⁰ Article (6) of Cabinet Resolution No. (23) of 2018.

¹¹ Article (6) of Cabinet Resolution No. (23) of 2018.

¹² Article (3) of Cabinet Resolution No. (23) of 2018.

2.2 Legal nature of Tax Disputes Resolution Committees

Jurisprudence differed in determining the legal nature of the committees that settle tax disputes in the stage prior to the judicial appeal. In this regard, three doctrinal trends can be monitored.

The first trend considers these committees as purely administrative bodies in view of their administrative formation and their loss of independence and impartiality on the one hand, and the lack of judicial work conditions in the work of these committees on the other hand.¹³

As for the second trend, it gives these committees a purely judicial character based on considerations related to empowering the committees with the authority to decide the tax dispute between the taxpayers and the tax administration and those who stand before them alike without discrimination or restriction, and the decisions of these committees are considered binding without the need for approval by an administrative authority. These committees cannot withdraw from their decisions or retract them after their issuance except by challenging them before the courts.¹⁴

As for the third trend, which is the most acceptable to jurisprudence, the committees for the settlement of tax disputes are considered administrative bodies with judicial jurisdiction, based on that they have the authority to settle all tax disputes by adopting the judicial methods of the courts.¹⁵

In my opinion, it is possible to benefit from this doctrinal discussion in adapting the tax disputes resolution committees in the UAE by considering them as administrative bodies with judicial jurisdiction, based on the following arguments:

It is not possible to accept the purely administrative nature of these committees, as they are headed by a judge from the federal judiciary who enjoys the independence and impartiality that is proven to the judiciary. It is also not possible to accept the purely judicial nature, given that the rest of its members are tax experts and not judges.

1. These committees settle tax disputes without the need for the approval of their decisions by the tax administration.
2. The taxpayer and the tax administration stand before these committees alike, and whoever wants to complain about their decisions has no choice but to resort to the judiciary, as the adjudication committees have no authority to return from their decisions in disputes that they have previously settled without judicial intervention.
3. The administrative subordination of these committees to the Ministry of Justice, which supervises them from the administrative and financial points of view,¹⁶ and a decision is issued by the Council of Ministers to determine the remuneration of the members of these committees. The legislator also required the management of tax

¹³ AMIN MEDHAT, A. *Income Tax in Iraqi Legislation*. Baghdad: Section One, 1997, pp. 2020-203; AL-HAJ M., FALAH, H. *The most important aspects of income tax disputes in Jordan*. Ph.D. thesis, Ain Shams University, 1999, p. 237.

¹⁴ HASHISH, A. *Mediator in Income Taxes*. Cairo: Egyptian Universities House, pp. 468–469; AMIN, A. *Evaluating the Effectiveness of the Tax Accounting System for Income Tax in Iraq*. Ph.D. Thesis, College of Administration and Economics, Al-Mustansiriya University, 2000, p. 200.

¹⁵ AJINA, S. *Income Tax in Iraq*. Cairo: International Press, 1965, pp. 547–548; Wafa Abdul, B. *Tax Disputes According to the Provisions of Income Tax Law No. 91 of 2005*. Dubai: Dar Al-Nahda Al-Arabiya, 2005, p. 237.

¹⁶ Article (4/1) of Cabinet Resolution No. 23 of 2018.

disputes resolution committee s to provide the Judicial Inspection Department with reports every three months on the summary of the work of the dispute resolution committees, including the number of objections, the regularity of the committees' holding, and their sessions, the number of postponed sessions, the reasons for the postponement, the compilation of the principles that the committees have settled on and their circulation for reference, as well as providing solutions to problems and difficulties facing its work.¹⁷

The members of these committees are subject to the controls and restrictions to which judges are subject, including the dismissal and dismissal of judges, as Article (2/2) of Cabinet Resolution No. 23 of 2018 requires that committee members who are not judges be subject to all the controls and obligations to which they are subject and that judges are bound by. and the like in accordance with the laws, regulations, and decisions in force.

2. 3 Guarantees of the independence of Tax Disputes Resolution Committees

The legislator provided the Tax Disputes Resolution Committee s with many guarantees of independence.

First: To subject committee members who are not judges to all the controls and obligations to which they are subject and to which judges and those in their position are bound in accordance with the laws, regulations, and decisions in force.¹⁸

Second: No conflict of interest – the legislator prohibits any member of the Tax Disputes Resolution Committee s from participating in the work of any committee when considering any objection that he personally or his spouse has a direct or indirect interest, or the objector was a relative of any member by lineage or affinity up to the fourth degree, or the objector was a current agent or formerly in his own business or as his legal representative, or custodian.¹⁹

Third: Resignation of Committee Members – any member of the committees, in the event of any of the cases of conflict of interest described previously, shall step down and be replaced by the reserve committee member.²⁰

Fourth: The response of the committee members – the legislator has authorized the objector or the Federal Tax Authority to request the response of any of the committee members,²¹ provided that the response request is submitted to the competent department

¹⁷ Article (16) of Cabinet Resolution No. 23 of 2018.

¹⁸ Article (2/2) of Cabinet Resolution No. 23 of 2018.

¹⁹ Article (5/1) of Cabinet Resolution No. 23 of 2018.

²⁰ Article (5/2) of Cabinet Resolution No. 23 of 2018.

²¹ Article 114 of the Civil Procedures Law of 1992 (1) If the judge is not fit to hear the case, he is prohibited from hearing it, even if none of the litigants rejects him in the following cases:

a – If he is a spouse of one of the litigants, or if he is a relative or in-law up to the fourth degree.

b – If he or his wife has an existing litigation with one of the litigants or with his wife

c – If he is an agent of one of the litigants in his private business, or a trustee or custodian of him, or it is assumed that he will inherit it, or he is the spouse of the guardian or custodian of one of the litigants, or if he is related to the fourth degree by kinship or affinity with this trustee or trustee, or a member of the board of directors of the competent company, or one of the its managers and this member or manager had a personal interest in the case.

d – If he, his wife, one of his relatives or in-laws on the line of descent or for whom he is his representative, trustee or trustee has an interest in the existing case

e – If he and one of the circuit judges are related to the fourth degree by kinship or affinity, in which case the nearest judge shall step aside.

formed in the Abu Dhabi Federal Court of Appeal²² accompanied by the reasons for the response and the supporting documents, where the Department of Tax Dispute Resolution Committees notifies the concerned committee on the first working day of receiving it The response request, and that committee must stop deciding on the objection until a decision is made on the response request.

The request shall be referred to the formed circuit at the Abu Dhabi Court of Appeal within three working days from the date of its receipt.²³ The department shall decide on it within three working days from the date of its receipt, and its decision in this regard shall be final.

If the recusal request of any of the committee members has accepted in such a way that it is not possible to complete the quorum, the reserve member of judges and experts replaces the one who has been rejected to consider the objection.

However, if the response decision is issued against all members of the committee, this decision must include a referral to another committee of Tax Disputes Resolution Committees without considering the provisions of the local jurisdiction.

3. THE MECHANISM OF WORK OF THE COMMITTEES FOR ADJUDICATION OF TAX DISPUTES

The judiciary cannot consider a case that is replaced by a decision of the Federal Authority unless it has passed the administrative objection stage, and the tax dispute resolution committees initially decided on it, which gives the objection stage special importance, so missing the stage of the administrative objection makes the decisions of the Federal Tax Authority final and not subject to appeal.

3.1 Objection Terms

The conditions for objection can be summed up in the following points:

First, the objection – the objection may only be made to the authority's decisions regarding requests for reconsideration submitted to it or in requests submitted to the au-

f – If there is a relationship between him and the representative of the Public Prosecution or the defender of one of the litigants.

g – If he had given a fatwa, pleaded for one of the litigants in the case, or wrote in it, even if that was before he worked in the judiciary, or if he had previously examined it as a judge, expert, and arbitrator, or had given testimony in it.

h – If a compensation claim is filed against the applicant for restitution, or a notification is submitted against him to the competent authority.

2 – The judge's work or judgment in the previous cases shall be null even if it was done with the agreement of the litigants.

3 – If this invalidity occurred in a judgment issued in an appeal in cassation, the litigant may request the court to cancel this judgment and to re-examine the appeal before a circuit in which the judge who made it does not have the reason for the invalidity.

²² Article (15) of Cabinet Resolution No. (23) of 2018. Formed by a decision of the Minister of Justice directly at the Abu Dhabi Court of Appeal, it is competent to consider applications for the response of members of the tax dispute resolution committees and disputes of jurisdiction, which are received by the Tax Dispute Resolution Committees Department at the Ministry of Justice

²³ Article 14/1/2/3 of Resolution No. 23 of 2018.

thority and the Federal Authority has not taken decisions in their regard. It is also not permissible in any case to submit an objection request that was previously submitted to another committee and whose issue has been decided upon.²⁴

Secondly, the objection date – the legislator made it possible to submit objection requests within twenty working days from the date of notification of the Commission's decisions in requests for reconsideration.²⁵ The notification is made according to the address at the Commission.

Thirdly, payment of tax and fines incurred by taxpayers – the legislator did not arrange for the submission of objection requests to stop the payment of the tax and administrative fines due or to pay the undisputed amount of tax, but rather required the acceptance of the objection to pay the full amount of the assessed tax and the full administrative fines imposed as a prerequisite for accepting the objection.²⁶

In fact, here we find a contradiction with the text of Article (60) of the Public Finance Law for the year 2019 which stipulates:²⁷

Not to collect public revenues such as taxes except after the facts establishing them have been established.

Disputes related to the tax debt do not stop its payment, but the undisputed amount is paid from it.

The Tax Procedures Law issued in 2017 requires the payment of the full assessed tax to accept the objection, while the Public Finance Law of 2019 requires payment of the undisputed amount by the subject when he disputes the amount of the assessed tax.

In fact, this conflict is resolved by applying the Finance Law regarding this point, as it is required to accept the reconsideration to pay the amount of tax recognized by the taxpayer, based on the general rules, for the subsequent legal text supersedes the previous one. This was confirmed by Article 85 of Finance Law No. 26 of 2019 by canceling every provision that contradicts the provisions of the Finance Law. This means that rejecting the objections due to non-payment of the full amount of the assessed tax is not a legal matter according to what we have previously concluded. The condition for accepting the objection is then to pay the undisputed amount of the tax amount.

A person has challenged the unconstitutionality of the text of item (b) of the second paragraph of Article 30 of Federal Law No. 7 of 2014 regarding tax procedures referred to above, including the necessity of paying the tax and fines objected to as a condition for accepting the objection to the decision of the Federal Tax Authority. The appeal was based on the fact that the application of the aforementioned text would deprive taxpayers of exercising their rights guaranteed under the state constitution and constitute a restriction and obstacle to exercising the right to complain and litigation, in violation of Article 41 of the constitution and As well as a violation of the text of Article 68 of the Constitution, which guarantees that every litigant has easy access to the judiciary that is not burdened by financial burdens and is not prevented by procedural obstacles. In addition to this, the

²⁴ Article (6) of Cabinet Resolution No. (23) of 2018.

²⁵ Article 30/1 of Tax Procedures Law No. (7) of 2017.

²⁶ Article 30/3 of Tax Procedures Law No. (7) of 2017.

²⁷ Article (60) of Law No. (26) of 2019 Public Finance Law.

requirement to pay the full amount of tax and administrative fines in dispute before considering the objection and before filing the case. It creates a differentiation between cases in the same legal position, according to which the exercise of the right to object and litigation becomes a monopoly on those who are financially able to pay and deprive them of those who are unable to pay the tax, which is a violation of the principles of equality and social justice, which the constitution considered among the basic pillars of society.

The court ruled that the case was not accepted because its papers were devoid of an explicit decision issued by the trial court in which it presented and accepted the defense of unconstitutionality and set a date for it to file the case before the Federal Court, which is a necessary procedure and a prerequisite for the integrity of the Federal Supreme Court's communication with the case.²⁸

In fact, in my opinion – and with the removal of the contradiction between the texts, which was previously clarified and the judge that it is necessary to pay the amount of tax recognized by the taxpayer as a condition for accepting the administrative objection to the decisions of tax assessment, not paying the amount of the assessed tax in full – what the legislator approved in this field does not constitute a restriction on the litigation came because the tax funds were attached to public funds, which were allocated to meet public expenditures, whether they were capital or current, in order to maintain the operation of state facilities and their provision of public services.²⁹

Also, so that the objection to the tax is not exploited to become a method of procrastination in its payment, even if it is in an instantaneous form. Some legislation goes even further in imposing a fine for each day of delay in paying the disputed tax amount, which the courts did not recognize the taxpayer's entitlement to his quarrel, The tax administrations in some countries have noticed that some taxpayers deliberately dispute the tax assessment decisions before the administration and the courts for a long time and exploit the disputed tax funds in their trade, as if they are paying the tax from the profits of the disputed amounts.

3.2 PROCEDURES FOR SUBMITTING AN OBJECTION

The objection request shall be submitted to the Tax Dispute Resolution Committees Department at the Ministry of Justice and may also be submitted electronically on the form prepared by the Federal Tax Authority.³⁰

The objection must include the following documents and data:³¹

- Name, data, and address of the applicant.
- A summary of the subject matter of the application and the applications submitted.
- Documents and documents supporting the application.
- The electronic notification addresses of the legal representative or the tax agent, in addition to another electronic address specified by the objector.
- Any other documents related to the reasons for the objection.

²⁸ Judgment of the Federal Supreme Court, Constitutional Chamber in Appeal 2 of 2019 constitutional.

²⁹ AL-SALIHI, B. *Appealing the Income Tax Assessment Decision. A Comparative Study*. Master Thesis submitted to the College of Law, University of Baghdad, 1999, pp. 114-115.

³⁰ Article 7/1 of Cabinet Resolution No. (23) of 2018.

³¹ Article 7/2 of Cabinet Resolution No. (23) of 2018.

Once the objection is received, it is recorded in the records prepared for this according to the date of its receipt, and the objector is provided with the objection submission data, including the objection number and the committee concerned with examining it.³²

The Tax Dispute Resolution Committees Department is obligated to send the objection within a period not exceeding two working days following the date of its submission.³³

3.3 Adjudication of objection

The competent committee shall study the objection, ensure that its conditions are met, and decide on it within a period not exceeding twenty working days from the date of its receipt by the committee³⁴ unless the committee decides to extend the period for a period not exceeding twenty additional working days or considers that there are reasonable grounds for the purposes of deciding on the objection.³⁵

The committee may, on its own or at the request of the objector, allow sessions to be held in the presence of the objector, his legal representative, or his tax agent, and at the same time he may decide on the objection based on the documents submitted without holding such sessions.

The committee may allow the objector to submit new documents that were not attached to the objection request, based on excuses acceptable to the committee, or the committee deems these documents necessary for deciding on the objection.³⁶

In this regard, we record that the legislator has given him that wide discretionary power of the committee to hold its sessions in the absence of the taxpayer.³⁷ The principle is that he is invited as a general asset and given full authority to show the content of his objection and evidence of the illegality of the tax administration's decisions. Therefore, we call on the legislator to intervene with the explicit text that obliges the committee to investigate the objection in the presence of the taxpayer, while regulating the reporting procedures in this regard. We also hope that the dismissal committee's decisions should be justified if any decision is taken not to accept new documents if they are submitted. In all cases, the Tax Dispute Resolution Committee may issue one of the following decisions:

1. Formal rejection of the objection:

If the committee finds that the objected decision has not previously been submitted for reconsideration or that the objector has not paid the due taxes and imposed administrative fines, the committee may reject the objection in form and without examining its merits.³⁸

2. Formal acceptance and substantive rejection:

The committee, after accepting the objection in form and examining its subject matter, approves what is stated in the decision subject of the objection without modification.

³² Article 7/3 of Cabinet Resolution No. (23) of 2018.

³³ Article 7/4 of Cabinet Resolution No. (23) of 2018.

³⁴ Article 8/1 of Cabinet Resolution No. (23) of 2018.

³⁵ Article 8/3 of Cabinet Resolution No. (23) of 2018.

³⁶ Article 8/2 of Cabinet Resolution No. (23) of 2018.

³⁷ Article 8/4 of Cabinet Resolution No. (23) of 2018.

³⁸ Article 9/1 of Cabinet Resolution No. (23) of 2018.

3. Formal and substantive acceptance:

The committee, after accepting the objection in form and examining its subject matter, responds to the objector's requests to amend the objected decisions in whole or in part or cancel them as initially requested by the objector.

We must point out here that, in my opinion, the competence of the adjudication committees to consider is the same as the powers of the judiciary. The committees are not allowed to adjudicate other than the requests of the taxpayers, and they also do not have the right to increase the amount of the assessed tax based on the rule that no one can be challenged, and how I wish the legislator would include a special text that requires the committees must abide by the rules of litigation while carrying out their work and exercising their powers.

The decisions of the committee are final regarding the objection if the total tax due and administrative fines related to that tax does not exceed one hundred thousand dirhams.³⁹ Where these issued decisions are considered an implementation document in accordance with the provisions of the law,⁴⁰ and other decisions that have not been judicially challenged are considered executive documents as soon as twenty working days have passed from the date of rejection of the objection without being challenged.⁴¹

In all cases, the decisions of the committees are subject to appeal to the Federal Court, within whose jurisdiction the Authority's headquarters or one of its branches falls, based on the provisions of the Tax Procedures Law if the value of the dispute exceeds one hundred thousand dirhams.

On this basis, the Minister of Justice, by virtue of his Decision No. 237 of 2019 issued on March 18, 2019, and published in the Official Gazette on February 31, 2019, established a department specialized in hearing tax cases in the Abu Dhabi Court of First Instance.

This necessarily means that the jurisdiction rests with the Special Circuit in considering tax cases in the Abu Dhabi Federal Court of First Instance, regardless of the committee for the resolution of tax disputes issued by the contested decision, whether the committee for the resolution of tax disputes is in Abu Dhabi, Dubai, or Sharjah.

In this, I think that, in order to alleviate the litigants, another tax department should be established in the Federal Court of First Instance of Sharjah to specialize in appeals against the decisions of the Tax Dispute Resolution Committee in the Emirate of Sharjah, especially since the legal text allows this, as it has given jurisdiction to consider federal tax disputes to the federal courts that fall within its jurisdiction is the headquarters of the Federal Tax Authority or one of its branches. And the legislator, as we mentioned previously, considers the decisions of the Committee for the Resolution of Tax Disputes, if the value of the tax does not exceed one hundred thousand dirhams, as final decisions that do not accept judicial appeal. The tax has been paid, and satisfying the instinct of justice is a necessity, especially since whoever files the lawsuit and loses it will be the one who is harmed in paying its fees and costs, especially in cases where the taxpayer submits a request for reconsideration and the committees for adjudication of tax disputes have not decided on

³⁹ Article 10/1 of Cabinet Resolution No. (23) of 2018.

⁴⁰ Article 10/2 of Cabinet Resolution No. (23) of 2018.

⁴¹ Article 10/3 of Cabinet Resolution No. (23) of 2018.

it. Also, opening the appeal in this case to the Federal Tax Authority helps preserve the treasury funds and imposes on the representatives of the authority to be careful and follow up on its transactions, whether the amount is less or more. The authority will not accept the appeal – and it is the owner of the documents and evidence – except after the availability of all the data that proves the financial rights of the state. The department established for the consideration of tax disputes in the Abu Dhabi Federal Court of First Instance considers the case and issues its judgment in it, and in that and the ability of its judgments to be appealed is subject to the general provisions contained in the Federal Judicial Law, meaning that the judgments of the tax department in the Abu Dhabi Court of First Instance are subject to appeal and cassation in accordance with the provisions established before Federal courts.

4. CONCLUSION

The UAE legislator did the best in creating tax disputes resolution committees and including one of the federal judges and two tax experts to consider the tax objections raised to them and made the tax objection obligatory and a prerequisite for accepting the judicial challenge against the decisions of the Federal Tax Authority.

The tax legislator has succeeded in organizing the work of these committees with relative success without the presence of statistics on the number of separated cases and those that have been challenged before the judiciary. Therefore, we recommend, for the completion of this success, to clearly stipulate the commitment of the dispute's resolution committees to the rules of litigation contained in the Code of Civil Trial Procedures and to amend the Tax Procedures Law in to accept the administrative objection, the payment of the disputed tax amount, not the assessed tax, shall be determined as a condition for accepting the case.

It would also be desirable to make the decisions of tax disputes settlement committees subject to the judicial appeal review regardless the amount of estimated tax amounts.