

How to Cite:

Alhemiri, M. A. A. S., Marni, N. B., & Shehab, A. (2022). General rules regulating tax provisions in the United Arab Emirates. *International Journal of Health Sciences*, 6(S1), 857-865. <https://doi.org/10.53730/ijhs.v6nS1.4826>

General Rules Regulating Tax Provisions in the United Arab Emirates

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Abstract--The study aims to analyze the general principles of tax provisions in the UAE legislation by evaluating the UAE tax system and identifying its economic effectiveness. The study will also show the ability of UAE legislation to oblige those in charge to pay taxes, and the extent to which taxpayers are convinced of the general government policy. The study will also review the challenges facing the state in collecting taxes and ways to address legal gaps. The problem of the study lies in the challenges facing the state regarding the application of tax legislation and the insufficiency of the stipulated penalties. The researcher has used the descriptive, analytical, and historical method in his research. The study concludes with a number of results, the most important of which are that the Emirati legislator did not clarify the extent of the possibility of reconciliation in crimes of tax evasion. The UAE legislation also does not clarify all forms of crimes related to evasion from paying the value-added tax since is the most common among tax evasion crimes.

Keywords---reconciliation, tax evasion, taxes, UAE legislation.

Introduction

With the expansion of the various authorities of the state, the expansion of its area, the increase of its population, the complexity of its financial relations, and the emergence of larger and more complex financial relations, states have had to come up with legal actions, the most prominent of which is the taxation system. It

can be said that the emergence of taxes has had to do with the global economic situation, as each country seeks to meet the needs of its citizens and provide them with the best services. Taxes have become an important tool used by states for intervention, direction and control in all fields. Taxes have also become an important tool in the state's financial policy, as they represent an important resource for the state treasury. The United Arab Emirates seeks to maintain a high standard of living and provide services according to the highest international standards (Al-Amiri, 2019). This has affected in the government's budget, and therefore it is necessary to search for a way through which to increase and develop the federal budget resources in light of the increasing spending pressures and the numerous requirements of development and their reliance mainly on oil resources, especially if we realize that tax revenues will contribute a high percentage to the state's federal budget, similar to taxes in all countries of the world. States impose taxes on income and its uses, as well as on wealth increase and circulation.

It is important to point out that the state of economic recession and slow economic growth in many countries in addition to the persistent deficit in their budget and the accumulation of public debt on the one hand and the poor global economic situation on the other hand, especially in light of the expected regional, global and economic transformations have forced countries to make necessary and fundamental changes to their tax systems. The tax is an obligatory duty imposed by the public authorities. Individuals pay it immediately and they are non-reimbursable, it is considered one of the most important sources of financing for the state treasury, and it is imposed through laws and legislation that regulate the collection process. Tax collection keeps the abundance of money within the state treasury and helps to limit the increase in the tax burden on the taxpayer by achieving the principle of tax justice. In this study, we review what a tax is, its characteristics, objectives and types, and will highlight the general rules governing tax provisions in the UAE, and explain the most important obstacles that prevent the achievements of the intended purpose of tax system in the Emirates.

Literature Review

Previous studies are an important pillar of our current study, especially those related to the theoretical part, as they help in an in-depth understanding of the aspects of the subject of the study by clarifying the general rules governing tax provisions in the UAE legislation, as well as contributing to identifying the obstacles that prevent achieving the purpose of the developed tax system in the UAE. Previous studies contribute to the subject of our study by providing a set of information that helps in achieving the intended goals. This study differs from previous studies related to the subject in terms of the goals to be achieved. Here are the most important previous studies related in the subject of our study:

- [Al-Ameri \(2019\)](#), discusses in his study entitled (VAT Evasion Crimes), a comparative Study, the urgent need for taxes in light of the economic recession. The researcher indicates that the importance of his study is that it sheds light on the issue of the relatively new Emirati tax system. He also indicates that the scientific importance of the study is that it draws a

legislative comparison between the law in the United Arab Emirates and the countries that have implemented the tax, explaining that this study will be an important reference for legislators, decision-makers and concerned parties.

The researcher indicates that the problem of his study focuses on the adequacy of the legal legislations related to value added tax and their adequacy to ensure the collection of taxes from the taxpayers and whether or not the penalties approved by the UAE legislator in this context are sufficient and what the deficiencies of these legislations are. In order to achieve the objectives of his study, the researcher has used the method of comparative analytical research. The study concludes with a set of results, the most prominent of which are: the Emirati legislator has not clarified the extent of the possibility of reconciliation in the crimes of tax evasion and that Emirati legislator has not clarified the many forms of the crimes of VAT evasion.

The study concludes with a set of recommendations, the most important of which are: the researcher recommends that the Emirati legislator needs to consider adding the forms of crimes of tax evasion to the legislations in addition to detailing them, similar to the Egyptian legislator, with the need to tighten penalties for tax evaders.

In his study entitled *The Crime of Tax Evasion in UAE Legislation (2019)*, Al Kaabi discusses that taxes are an important tool in the country's financial policies as they represent an important resource for the state treasury and that the UAE has begun building a tax system structure by enacting federal tax laws and decisions that are the cornerstone of the formation the legal system. The researcher indicates through his study that the problem is the novelty of the tax system in the UAE and the absence of previous practical experiences. In order to achieve the objectives of the study, the researcher has used the method of analytical research. At the end of the study, the researcher reaches a set of results and recommendations, the most important of which is that the Emirati legislator has not specified the means or methods through which tax evasion is carried out, nor has it classified it as fraudulent crime, and has only classified them as crimes against the laws.

The results of the study show that the UAE legislator has not specified any rules related to the issue of tax reconciliation. The study also shows that the UAE legislation is devoid of any regulation regarding complementary penalties on the crime of tax evasion. The most prominent recommendation of the researcher is that it is appropriate to classify tax crimes according to the nature of their criminal behavior. The researcher also calls on the UAE legislator to approve some complementary penalties.

- [Al-Shafei \(2017\)](#), explains in his study on the legal and technical controls of income tax which is an applied comparative study on the countries of the Gulf Cooperation Council, that financial jurisprudence stipulated the necessity of adhering to a set of controls when enacting tax legislations in order to facilitate the achievement of their purpose. He indicates that the success of the tax policy in any country depends on the extent to which the

tax legislation in that country meets the necessary legal and technical foundations and controls. One of the researcher's most important objectives is to shed light on the most important public and private legal and technical controls that are missing from the current legislation applied in the Gulf Cooperation Council countries.

The study concludes with a number of results and recommendations, the most prominent of which is that the various types of taxes imposed by the state must comply with a set of legal and technical conditions and controls in order for them to be successful. The study also concludes that some GCC legislation has not imposed a tax on the income of various sectors except for the oil sector, as is the case in the UAE legislation at the local level. The most important recommendation of the author is the necessity of making several amendments to the tax legislation currently applied in the GCC countries.

Tax concept, characteristics, objectives, types

The concept of tax has gone through many changes and developments that have contributed to modernizing it in order to be in line with the role and objectives of the state since taxes are an important source of public revenue for the contemporary state as the state utilizes taxes as a tool to achieve general goals from which all members of society benefit. Taxes contribute to the implementation of new projects that provide a prosperous and decent life for the citizens.

In this part of our study, we review the concept of tax, its characteristics, objectives, and types:

The concept of tax

The legal definitions of tax have varied due to the evolution of economic, social, and political thought. The traditional thought has defined taxes as the imposition of taxes by the state on citizens and residents so that the individuals benefit from the public services provided by the state, such as education, health, etc. Tax is considered as an implicit contract between individuals on the one hand and the state on the other hand, whereby individuals are obligated to submit taxes, and the state, on its part, is obligated to achieve their public benefit in various fields.

Some has defined the tax as "a financial obligation that individuals forcibly pay to the state as a contribution from them to the public expenses without any benefit to them. The individuals have to pay taxes as a way to demonstrate their sense of belonging and religiosity. Others define it as "the direct or indirect personal or material sacrifice requested from the state and public persons and imposed on citizens to cover public burdens (Al-Baalbaki et al., 2002). Others define it, and it is the definition that I prefer, as " a monetary duty obligated by the taxable individuals by the force of law to be obtained in the interest of the state without charge and according to the tax system in force. It is a contribution from the individuals to support public costs and burdens in order to achieve public benefit" (Al-Kaabi, 2019).

Characteristics of the tax

The tax has a set of characteristics, namely:

- The tax is a monetary obligation, meaning that the tax is paid in monetary terms and not in kind as was common in ancient times. This characteristic makes it easy to pay and transfer among taxpayers.
- Tax is a compulsory obligation in the sense that the tax is a compulsorily duty imposed by the public authorities whereby these authorities have the right to determine the value of the tax, the date of payment of the tax, and the method of collection of this tax from the taxpayers
- The tax is free of charge meaning that the individuals assigned to pay it will not get a specific or special service in exchange for their payment of this sum tax amount, and that the individual has to pay the tax as he/she is part of the society in which they live, and that in return for this tax, the state provides services to society as a whole, such as infrastructure services.
- Tax is a tool to cover public burdens: it is common knowledge that tax in the current era is considered the most important source of revenue for the state meaning that it is an important part of the state budget to cover public expenditures ([Hamdallah, 2005](#)).

Tax objectives

The governments of countries seek, through imposing taxes on private or legal persons, to achieve a set of different goals. These goals have evolved as a result of the evolving of these countries as a result getting into various fields. The objectives of these countries are no longer limited to achieve financial objectives only. Rather, the objectives of these countries have expanded to include other objectives, including economic, political, and social objectives.

Economic objectives

It is one of the most important objectives of tax in our time, as the tax deduction impacts consumption, production, savings, and investment. Therefore, governments use it to encourage productive activities, to address economic stagnation, and prevent monopolization of economic projects, as well as encouraging investment and savings.

Political objectives

The state can achieve political objectives by imposing the taxes as they are closely linked to the general economic and social development plans. Imposing high customs duties on some countries' products and reducing them on other products is considered a use of the tax to achieve political objectives. Likewise, the state's adoption of a tax system stimulating and supportive of the applied policy in the state leads to gaining the confidence tax payers, which will contribute, even indirectly, to political decision-making and the exercise of state sovereignty ([Al-Shaibani, 2014](#)).

Social objectives

Some of these objectives are represented in the redistribution of national income to benefit the low-income poor. For example, the tax legislator may decide to reduce tax burdens, such as exempting some institutions and associations that provide social services. The tax may contribute to maintaining the possibility of acquiring some commodities of large consumption by imposing low-rate taxes and eliminating some commodities such as tobacco and alcohol by imposing high taxes on their manufacture and sale. It also contributes to addressing the housing crisis by exempting the capital invested in this sector from taxes for a specific period (Al-Kaabi, 2019).

Types of taxes

The types of taxes differed from one period to another, depending on the changing economic, social, and political conditions. The public financial lawyers have divided taxes into several divisions.

Single and multiple taxes

Single taxes mean imposing only one tax on individuals by the state, while multiple taxes mean imposing more than one tax on a single individual depending on the activity this individual practices (Hamdallah, 2005).

Taxes on persons and taxes on funds

Taxes on people have been known since ancient times, as they were imposed on everyone, while taxes on funds were imposed on individuals' money. Taxes on money are fairer than the taxes on persons, but it has a great potential for tax evasion.

Direct taxes and indirect taxes

This is the common division at the present time, and to distinguish between direct and indirect taxes, the financial lawyers have developed a set of standards as follows:

- Standard of stability of the taxable material: if the material on which the tax is imposed is constant and continuous, it is considered a direct tax such as income tax, but if it is variable and non-continuous, it is indirect taxes such as value-added tax and consumption tax.
- Collection criterion: This criterion is based on the administrative body that collects the tax or the method by which the collection is made, and this standard differs from one country to another.
- The criterion for shifting the tax burden: If the tax is borne by the taxpayer permanently, it is considered a direct tax like income tax, but if it is transferred from one taxpayer to another, it is considered an indirect tax such as production tax.

Here we point out that developed countries depend on direct taxes such as an "income tax". As for developing countries, they rely mainly on indirect taxes, such as value-added tax and customs taxes.

The general rules governing tax provisions in the UAE

The UAE is one of the Arab countries most concerned with developing and implementing legislation in all areas of life to achieve the public interest. This is evident when reviewing the federal laws enacted by the legislator and through which legislation has given the seven Emirates the authority to issue decisions and laws that contribute to the advancement of the state. Among those topics that the legislator has sought to develop and advance is the issue of tax, as tax is one of the most important tools that enable the state to carry out its activities to achieve the public interest. The importance of the tax is evident as it is the main source of financing the state treasury and an important factor in achieving its objectives.

The United Arab Emirates has begun to build a tax system structure by issuing federal and local tax laws and regulations that are the cornerstone in the formation of any legal system. The beginning of the legal regulation in the Emirates of tax rules and provisions was made pursuant according to Decree No. 13 of 2016 regarding the establishment of the Federal Tax Authority. This decision represents the cornerstone of building the tax structure in the United Arab Emirates. This decree was followed by Federal Law No. 7 of 2017 on tax procedures and its executive regulations, and then Federal Decree No. 7 of 2017 in the matter of selective tax and its executive regulations, as well as Federal Law No. 8 of 2017 on the matter of value-added tax.

These laws were followed by a set of relevant resolution, the most important of which is Resolution No. 38 of 2017 on selective goods, the tax rates imposed on them, and how the selective price is calculated, and Decision No. 40 of 2017 on administrative fines imposed for violating tax laws in the country, and a decision Cabinet No. 39 of 2017 on fees for services provided by the Federal Tax Authority, followed by Cabinet Resolution No. 36 of 2017 on the executive regulations of Federal Law No. 7 of 2017 on tax procedures

Here, we point out that the Emirati legislator, through the tax legislation referred to above, imposes criminal penalties as well as administrative penalties on regular or legal persons who violate the obligations imposed on them, but has not addressed the issue of tax reconciliation and has not characterized the crime of tax evasion and this calls for intervention to address this shortcoming.

Obstacles and challenges

There is a set of obstacles and challenges that prevent the Emirati legislation from achieving its goal from establishing the tax system, which can be summarized as follows:

- A large number of legal loopholes: the existence of any loopholes in the sales tax law tempts some, especially those who looking for any legal loopholes, to capitalize from these loopholes and evade paying all or part of the tax.
- The ambiguity of legal texts: The lack of clarity of the texts of the law, instructions, and regulations explaining these laws and instructions, in addition to the difficulty of their procedures, lead the tax payers to committee unintended acts as a result of their ignorance of these laws. Legally, these acts are considered tax evasion crimes and they may incur fines. This category of people may resort to illegal methods to justify or hide these unintended mistakes.
- The weakness of the tax-based administration, its poor organization, and the low efficiency of its employees: the weakness of the administration's capacity to apply tax laws is an opportunity for some to cheat and manipulate the law, especially with the lack of effective competencies in detecting tax evasion.
- Multiplicity and diversity of taxes: then the taxpayers find themselves subject to more than one type of tax and their financial burdens are constantly increasing, they will undoubtedly resort to tax evasion, especially when there is double taxation to reduce the financial burdens they bear.

The Social perception of the crime of tax evasion: society's perspective of the income tax evasion process directly affects the decision of the taxpayer to evade paying the tax. The phenomenon of tax evasion increases dramatically in societies where tax evasion is socially acceptable behavior (Al-Masry, 2012; Helaili, 2016; Zahran, 1997).

Conclusion

Based on the above, and after a thorough reading of the general rules governing tax provisions in UAE legislation, the study concludes with a number of findings and recommendations, the most important of which are:

- The impact of tax reform in the UAE is not limited to the effectiveness of tax collection to cover public expenditures, but goes beyond it to be an important means for achieving economic and social goals.
- Tax exemptions have an influential role in various fields, whether at the investor or state level. Tax exemptions are one of the important means of attracting investors.
- The UAE legislator did not clarify the extent of the possibility of reconciliation in the crimes of tax evasion.
- The UAE legislator has not specified the means or methods through which tax evasion takes place, has it classified them as fraudulent crimes, and has only classified them as crimes against the laws.
- The UAE legislation is devoid of any regulation on supplementary penalties regarding the crime of tax evasion.
- Poor performance of income tax employees and poor qualification of tax staff negatively affect the degree of commitment of the taxpayers to submit a self-assessment statement.

Recommendations

The study concludes with a number of recommendations that may be a key factor in promoting and advancing tax legislation in the UAE, and these recommendations focus on the following:

- The UAE legislator should review the legislation governing tax by adopting the reconciliation system in tax evasion and adding forms of tax evasion crimes in addition to detailing and clarifying these forms with the need to tighten penalties for tax evaders.
- The necessity of increasing cooperation between various bodies and organizations for the success of implementing the tax, in addition to the necessity of investing in technology and developing existing systems to automate the tax process.
- Classifying tax crimes according to the nature of their criminal behavior and adopt complementary penalties.
- The necessity of holding training courses for employees and spreading awareness among citizens of the role of tax, and the necessity of adopting a set of supportive policies such as direct taxes and others.
- Not imposing exaggerated taxes, with the necessity to conduct reforms in the field of tax administration, address tax problems and reduce the tax burden on investors.

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