



FTA releases User Guide on Clarifications

Introduction

The Federal Tax Authority (FTA) recently published a User Guide on Clarifications to enable taxpayers to seek clarification on specific matters of uncertainty and obtain written guidance or advice about the FTA's interpretation and its position. The guide lays down conditions in terms of specified persons who are qualified to apply for clarifications, matters where FTA may not provide clarification, requirements and particulars for making the application before FTA. In this update, we have summarised important aspects of the User Guide as follows:

Clarification

A Clarification is a mechanism to provide taxpayers with written guidance or advice regarding the FTA's interpretation and opinion on specific tax matters of uncertainty. It is to be noted that the response provided by FTA shall only apply to the applicant's specific transaction and cannot be construed as a precedence for any other transaction.

Qualified Persons – who can seek clarification

Any person can use clarification form to seek technical clarification on specific tax matters, provided:

- It has analysed the relevant tax law, allied regulations and guidance and the answer is still uncertain;
- It has an interest in the matter in hand i.e. genuine factual matter that has material impact on taxable person's activities;
- The matter is not covered by previous clarifications issued by FTA

It has been also stated that the clarification can be sought irrespective of whether person is a taxable person registered with FTA or necessarily require to appoint tax agent, or matter relates to a transaction which has already occurred.



Exclusions

The FTA will not provide clarification on the area of uncertainty in case:

- Stated criteria to apply for clarification are not fulfilled
- Form not correctly filled
- Content of the application form is incomplete or FTA considers more information is required to proceed with the review
- FTA does not believe that there are genuine points of uncertainty in the application
- Avoidance of tax
- Tax planning advice
- Matter is raised in a tax inspection, audit or assessment by the FTA

Qualified Persons – who can submit clarification

Apart from person who intends to seek clarification, the application can also be submitted by:

- Appointed Tax Agents;
- Appointed Legal Representatives
- Representative member of the Tax Group

It has been specifically stated that Tax Advisors (who are not registered Tax Agents) are not permitted to submit any clarification requests on behalf of another person.

Information required to make application

For making the application, following information would be required

- A duly filled and signed Clarification form
- Any tax advice received in relation to the subject matter
- A formal letter with details of facts of the case, legal references, technical views and the issue for which clarification is sought
- If a person is not registered, supporting details to identify the applicant (either Emirates ID or Passport copy) and proof of authorisation.
- If a person is registered, the email should be sent from the authorized signatory
- Estimated tax amount that will be impacted from this clarification
- Documentary evidence pertaining to the issue under consideration

Submission of Form

The application is to be submitted by e-mail with duly signed copy of the form. The supporting documents as attachment should be in specified format and should not exceed 10MB.

Response Time

It has been stated that the FTA would respond within 40 business days of submission of the clarification form by an email with an attachment in letter format.

Reconsideration

If the applicant disagrees with FTA's clarification, it can apply for reconsideration within 20 business days of receipt by submitting the reconsideration application along with detailed



reasons for disagreement. FTA would review the request and issue its final decision within 20 days of receipt of reconsideration application.

Consequence for non-compliance with FTA clarification

In case the applicant does not comply with FTA's clarification, it may be considered as violation of tax legislation and therefore entail penalties as prescribed.

Our Comments

The release of the user guide and allowing taxpayers to seek clarification on specific tax matters of uncertainty is a welcome initiative. The clarification from FTA will help taxpayers in aligning its tax positions with FTA's interpretation and avoid penal consequences in future. While it is a useful platform to seek clarification, it is important for taxpayers to ensure that the application is filled correctly along with relevant documents to avoid rejection from the FTA authorities.



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