

UAE Corporate Tax Private Clarifications - Tax Procedures



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On 18th November 2024, the Federal Tax Authority (FTA) published a Corporate Tax (CT) Guide on “Tax Procedures for Private Clarifications”, aiming to provide general guidance to taxpayers on when and how to file for a Private Clarification.

The objective of this guide is to provide clarity on ways and means to file a Private Clarification and in what circumstances a Private Clarification can be filed and rejected by the FTA.

The key highlights of the Guide are outlined below:

What is a Private Clarification

Private Clarifications are clarifications issued by the FTA in the form of **documents that are stamped and signed by the Director General or his delegate/representative**, in relation to specific tax technical matters. These documents are issued to a specific taxpayer, according to the Clarification request submitted on EmaraTax and the documents attached to the request.

Eligibility Criteria



There are two types of eligibility criteria to consider, firstly whether the **relevant person is eligible** to submit a Clarification Request and secondly whether the **specific request is eligible** to be considered under the Clarification Process.

Eligible Persons

- The person seeking clarification on a tax matter of uncertainty may apply for a Clarification. In the case of a **tax group**, only the **representative member** of that tax group is permitted to request the Clarification, i.e., none of the other tax group members are allowed to submit a Clarification request.
- **Tax Agents and Legal Representatives:** The person's (or tax group's) tax agent or legal representative may apply on behalf of the person. Note that only a tax agent registered with the FTA for the specific tax type the request relates to may submit the Clarification Request on behalf of the person.
- **Tax Affairs of Another Person:** Clarifications will only address the tax matters of uncertainty of the Applicant and not the tax affairs of any other person. In exceptional cases, more than one person may submit a joint Clarification Request.

Eligible Matters

The taxpayer (or its authorised signatory, tax agent, legal representative, or the representative member / parent company of the specific tax group) may only submit a Clarification Request if the following requirements are met:

- The request relates to **federal taxes or relevant penalties**
- The request clearly indicates the **relevant tax type** the request relates to
- The request relates to tax legislation as applied to the **facts and circumstances of the taxpayer** (or in exceptional cases, taxpayers) submitting the request, i.e., the Clarification issued by the FTA is not applicable to a third party
- The request contains all the **relevant information the FTA needs to consider** for deciding on the correct tax treatment of the subject of the request.

Grounds for Rejection



Cases Where the Applicant is Not Eligible to Submit the Clarification Request

The Clarification Request is submitted by:

- A person representing the Applicant (e.g., the authorised signatory) but the relevant **proof of authorisation is not provided**.
- A tax agent but the request does **not include the taxpayer's details**, such as the taxpayer's name and Tax Reference Number (TRN).
- A **natural person** is reflected as the Applicant, but the **Clarification Request pertains to a juridical person**.
- A **member** of the relevant tax group **other than the representative member / parent company** of that tax group.
- The Applicant requests a Clarification relating to **Corporate Tax** but is **not registered** for Corporate Tax. The only exception is where the Clarification Request relates to registration.

Out of Scope Cases

The FTA will reject Clarification Requests submitted for the following, as these fall outside the scope of the Clarification Process:

- Administrative exceptions
- Payment of administrative penalty in instalments
- Waiver of administrative penalty
- Use of a special apportionment method
- Commercial Activity Certificate
- Tax Assessment review
- Tax Residency Certificate (TRC), unless the request relates to whether a person is eligible to apply for a TRC
- Reconsideration
- IT System issues/queries
- Advance pricing agreements

Cases of Incomplete or Incorrect Clarification Requests

A Clarification Request may also be rejected wherein the request for a **Clarification Form is not correctly completed or is incomplete.**

Cases that Do Not Represent a Tax Matter of Uncertainty

The FTA may reject a Clarification Request if the specific tax matter was **already previously clarified.**

Tax Audits and Assessments Cases

The FTA may reject Clarification Requests if:

- A **tax assessment** on the same specific tax matter was **previously issued** to the same Applicant.
The Applicant is subject to a **Tax Audit, Assessment or Inspection** by the FTA, and the subject
- matter of the Clarification Request is related to the matter under Tax Audit, Assessment, or Inspection.

Other Cases

The FTA may also reject Clarification Requests for the below:

- The Clarification Request is based on a **hypothetical scenario** that has not been seriously considered by the Applicant.
- The Clarification Request relates to **more than one tax** but is not in respect of the same specific tax matter
- The Clarification Request addresses issues that the FTA suspects may constitute **Tax Planning, Tax Avoidance or Tax Evasion, General Anti-Abuse Rules**, or similar provisions under double taxation agreements.

Clarification Process



Submitting the Clarification Request

The Applicant can save draft versions of the request. However, the request must be **submitted within 40 business days** from the date the Applicant initiated the request mechanism on EmaraTax, otherwise the request will be closed.

Withdrawal of a Clarification Request

Applicants are **allowed to withdraw** their Clarification Request and also **avail a refund** if the request is withdrawn **within two business days** from the date the request was submitted or else the request fee would be forfeited.

Issuance of Clarifications

The FTA will issue Clarifications related to **Indirect Taxes (i.e., Excise Tax and VAT)** within **50 business days** from the date the Clarification Request was received. If further information was requested, the Clarification will be issued within 50 business days from the date the further information was received.

In the case of **Corporate Tax**, Clarifications will be issued within **60 business days** from the date the request was received. If further information was requested, the Clarification will be issued within 60 business days from the date the further information was received.

About FAME Advisory



About FAME Advisory DMCC

With three decades of market presence, FAME Advisory has remained the UAE's most trusted and leading tax advisory and management firm.

Along with that, FAME excels in various domains, such as corporate services, succession planning, and corporate structuring. Our primary aim is to align our solutions with the client's problems, educate them, and empower them to take informed decisions.



Vision

To be the region's first choice for tax compliance and advisory in various aspects of the business.



Mission

We at FAME Advisory aim to solve businesses' tax compliance issues and provide advisory services that help them achieve the milestones they dreamt of.

Our Team



Mr. Nirav Shah

Director at FAME Advisory

With over two decades of experience in corporate advisory, consultancy, and compliance, CA Nirav Shah is a qualified Chartered Accountant and a stalwart in the industry, being recognized as amongst the top corporate structuring, international tax, and compliance experts in the UAE, India, and other countries.

For more than 15 years, Mr. Nirav has had a distinguished journey consulting global clients on Corporate Structures and Governance and family asset holding structures and has served as a specialist in providing strategic inputs to organizations.



Udit Chokshi

Manager- Corporate Tax and VAT Advisory

Udit Chokshi is a Taxpert, helping businesses all across the UAE in getting tax audit-ready, streamlining their VAT and accounting processes, and shield them against tax evasion. Being an active listener, Udit absorbs and understands the client’s problem and situation and communicates the facts and solutions honestly.

As a customer service-oriented person, he believes in providing utmost dedication and availability to customers.



Hemang Agravat


Manager – Business Development

As a Business Development Manager at FAME, Hemang has had a long professional career with a focus on growing the company’s client base.

He holds a successful track record of nurturing clients & has been instrumental in building high-performing teams. He specializes in building programs that add value to the client relationships. Hemang brings in a wealth of experience bridging the gap between Sales & Advisory teams.



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